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1 P-R-O-C-E-E-D-I-N-G-S

2 10:59 a.m.

3 CHAIRPERSON ANDERSON: The next case
4 on our calendar is Case Number 20-CIT-00569, La
5 Molienda, License Number 60398. Ms. Andrews, can
6 you please elevate the rights of the parties in
7 this case, please?

8 MS. ANDREWS: Sure. Stand by. Ms.
9 Jordan, your rights have been elevated. Mr.
10 Ayala, your rights have been elevated.
11 Investigator Puente, your rights have been
12 elevated. That's all, Mr. Chair.

13 CHAIRPERSON ANDERSON: Thank you very
14 much, Ms. Andrews.

15 MS. ANDREWS: Mr. Cohen, you can go
16 ahead and log off.

17 MR. AYALA: Hello? Hello? Good
18 morning.

19 CHAIRPERSON ANDERSON: I'm sorry.
20 Hold on one minute, please. I will call -- Mr.
21 Ayala, you're there. Just hold on one minute,
22 please.

23 MR. AYALA: Okay.

24 CHAIRPERSON ANDERSON: Mr. Ayala, can
25 you please mute your microphone, please?

1 MR. AYALA: What you say?

2 CHAIRPERSON ANDERSON: Mute your
3 microphone, please, sir.

4 MR. AYALA: Oh, okay.

5 CHAIRPERSON ANDERSON: All right.

6 Good morning, everyone. This is a show cause
7 hearing for La Molienda. If you're not speaking,
8 I'm asking that everyone mute your telephone.
9 When you need to speak, you should unmute your
10 line. If you have a camera, please turn your
11 camera on so -- I like to see the parties that
12 I'm speaking to. If you have a camera, please
13 turn your camera on. If you do not have a
14 camera, then that is fine.

15 So let's start with Ms. Jordan.
16 Please state and spell your name for the record,
17 please.

18 MS. JORDAN: Good morning, Board
19 members. Janika Jordan on behalf of the
20 government, J-A-N-I-K-A J-O-R-D-A-N.

21 CHAIRPERSON ANDERSON: Good morning,
22 Ms. Jordan. Mr. Ayala, can you please spell and
23 state your name for the record and your
24 relationship?

25 MR. AYALA: Yes. My name is Teofilo

1 Ayala. It's T-E-O-F-I-L-O. Ayala is A-Y-A-L-A.
2 And I'm the owner of the place.

3 CHAIRPERSON ANDERSON: Mr. Ayala, do
4 you have a camera you can turn on, sir?

5 MR. AYALA: Well, I had some troubles
6 to connect with the computer, you know, using my
7 cell phone.

8 CHAIRPERSON ANDERSON: Sir, if you
9 don't have a camera that's fine. All right. All
10 right. Ms. Jordan, if we go to a hearing, does
11 the Board have any witnesses that they wish to
12 identify -- does the Agency have a witness they
13 wish to identify and if they do, who is that
14 person?

15 MS. JORDAN: Yes. The Agency has
16 Investigator Kevin Puente.

17 CHAIRPERSON ANDERSON: Mr. Puente, can
18 you please identify yourself for the record by
19 spelling and stating your name, please?

20 MR. PUENTE: Yes, sir. Kevin Puente,
21 K-E-V-I-N P-U-E-N-T-E, investigator with ABRA.

22 CHAIRPERSON ANDERSON: Good morning,
23 Mr. Puente. I'm sorry. Mr. Ayala, do you have
24 any witnesses? If this matter goes to a hearing,
25 do you have any witnesses you plan to call?

1 MR. AYALA: No.

2 CHAIRPERSON ANDERSON: Oh, just
3 yourself. Okay, fine.

4 MR. AYALA: Yes.

5 CHAIRPERSON ANDERSON: All right. Ms.
6 Jordan, are there any preliminary matters in this
7 case?

8 MS. JORDAN: There are no preliminary
9 matters.

10 CHAIRPERSON ANDERSON: All right. All
11 right. So this is an opening statement. So, Mr.
12 -- I'm sorry. This is a show cause hearing. Mr.
13 Ayala, this is the way that the matter will
14 proceed today.

15 The Government will go first. The
16 Government will have -- they will have -- they
17 will provide an opening statement. You also
18 would have an opportunity to provide an opening
19 statement.

20 An opening statement is not -- you're
21 not testifying. You're just going to say this is
22 the case, and these are the witnesses I will call
23 or these are some of the defenses that I will
24 make. You do not have to make an opening
25 statement at this time. You can make an opening

1 statement once you present your case.

2 So the Government will make an opening
3 statement. You can make an opening statement if
4 you so wish. The Government will call its first
5 witness. When the Government calls its witness,
6 the Government will conduct direct examination
7 off its witness, Mr. Puente.

8 Once the Government has concluded its
9 direct examination of Mr. Puente, then you will
10 have an opportunity to ask questions of Mr.
11 Puente based on the incident that occurred.

12 Once the Government has concluded its
13 case with its witness, then you can present your
14 case. And what I will also do once you present
15 your case, I will swear you in. You will present
16 your case. If you have any witnesses you wish to
17 call, you will call them. The Government will
18 then cross-examine you, ask questions of you and
19 the Board might ask questions of you also.

20 Once that's done, both parties will
21 make closing statements and the Board will then
22 take this matter under advisement for a
23 determination. But the Board will conclude the
24 case, and we will go into executive session. And
25 we will make a determination, and we will issue a

1 decision within 90 days of today.

2 Do either side have any questions that
3 they wish to ask of me prior to us starting this
4 case?

5 MS. JORDAN: No, Mr. Chairman.

6 CHAIRPERSON ANDERSON: Mr. Ayala, do
7 you have any questions, procedural-wise, how this
8 matter will go today?

9 MR. AYALA: No.

10 CHAIRPERSON ANDERSON: All right.
11 Thank you. All right. Does the Government wish
12 to make an opening statement?

13 MS. JORDAN: Yes. Thank you.

14 OPENING STATEMENT

15 MS. JORDAN: Good morning, Board
16 members. We are here today in the show cause
17 matter of Los Brothers, Inc., trade name La
18 Molienda, located at 3568 14th Street Northwest.

19 The Show Cause Notice issued in this
20 matter concerns the charges that the licensee
21 operated after allowed hours, did not place
22 tables more than 6 feet apart, permitted more
23 than six patrons be seated as a table, did not
24 keep a reservation log and permitted patrons to
25 sit at a staffed bar in violation of 23 DCMR

1 Section 810 and that the licensee served patrons
2 closed containers of alcohol in violation of 23
3 DCMR Section 7213.

4 The evidence will show that on Sunday,
5 November 1, 2020, at approximately 12:30 a.m.
6 Alcohol Beverage Regulation Administration
7 Investigator Kevin Puente and Supervisory
8 Investigator Mark Brashears were monitoring
9 establishments on 14th Street Northwest when they
10 observed a crowd inside the establishment.

11 They entered and observed patrons
12 sitting at tables and at a staffed bar consuming
13 alcoholic beverages.

14 The patrons were being served
15 alcoholic beverages at the bar and at tables.
16 The tables were not 6 feet apart and more than 6
17 patrons were at a table.

18 The investigators identified
19 themselves to owner, Mr. Ayala, and when they
20 requested to see a reservation log, the owner was
21 unable to provide one.

22 The evidence will also show that the
23 establishment's patrons were being served alcohol
24 in closed containers. Thank you.

25 CHAIRPERSON ANDERSON: Mr. Ayala, do

1 you wish to make an opening statement now or you
2 will reserve to make an opening statement once
3 you present your case, sir?

4 MR. AYALA: Yes. I can do it later
5 when I present my case, yes.

6 CHAIRPERSON ANDERSON: All right.
7 That's fine. All right. Does the Government
8 have a witness in which to call?

9 MS. JORDAN: The Government would like
10 to call Investigator Kevin Puente.

11 WHEREUPON,

12 KEVIN PUENTE
13 was called as a witness by Counsel for the
14 Government and, having been first duly sworn,
15 assumed the witness stand, was examined and
16 testified as follows:

17 CHAIRPERSON ANDERSON: Go ahead. Your
18 witness, Ms. Jordan.

19 DIRECT EXAMINATION

20 BY MS. JORDAN:

21 Q Could you please state and spell your
22 first and last name again for the record?

23 A Kevin Puente, K-E-V-I-N P-U-E-N-T-E.

24 Q Where are you currently employed?

25 A The Alcoholic Beverage Regulation

1 Administration.

2 Q And what's your position at Alcoholic
3 Beverage Regulation Administration?

4 A Investigator.

5 Q How long have been an investigator?

6 A Approximately 6-1/2 years.

7 Q What are your duties and
8 responsibilities as an investigator?

9 A I conduct inspections and
10 investigations of licensed ABC establishments in
11 the District of Columbia.

12 Q Are you familiar with La Molienda?

13 A Yes.

14 Q How are you familiar with the
15 establishment?

16 A I visited the establishment on
17 November 1, 2020.

18 Q And what happened at that visit?

19 A At approximately 12:30 a.m. in the
20 morning, myself and Supervisory Investigator Mark
21 Brashears were monitoring establishments along
22 14th Street Northwest when we observed a crowd
23 inside of La Molienda.

24 We approached the establishment. We
25 observed people sitting at the bar. We observed

1 alcoholic beverages being consumed and bartenders
2 making alcoholic beverages.

3 MS. JORDAN: Investigator Puente, I'm
4 going to stop you for one moment. I think we
5 have lost Mr. Ayala.

6 CHAIRPERSON ANDERSON: Oh, I'm sorry.
7 Thank you. Mr. Ayala, are you there? Ms.
8 Andrews --

9 MR. AYALA: Hello. Can you hear me?

10 CHAIRPERSON ANDERSON: Yes, Mr. Ayala.

11 MR. AYALA: I'm here.

12 CHAIRPERSON ANDERSON: Is there
13 something going on with your Internet? I mean,
14 we need to make sure that you're always there.
15 Are you in and out?

16 MR. AYALA: Yes. I hear everything,
17 yes.

18 CHAIRPERSON ANDERSON: All right.
19 Okay. So just mute your microphone, sir. And
20 you did not show up on your screen. That's one
21 of the reasons -- our screen, that's why we
22 stopped. So that's one of the reasons why I
23 prefer to see folks so therefore if they
24 disappear from my screen, I can always tell that
25 they're not there. All right. Okay. You're

1 fine. Go ahead, Mr. Puente.

2 BY MS. JORDAN:

3 Q Mr. Puente, if you can just go back
4 and describe your visit on November 1.

5 A Yes. So myself and Supervisory
6 Investigator Mark Brashears, we approached the
7 establishment. We observed patrons sitting at
8 the bar. We observed a bartender making
9 alcoholic beverages. We observed alcohol being
10 consumed at tables as well as closed containers
11 of alcohol sitting in buckets on the tables.

12 Q And about what time did you enter the
13 establishment?

14 A We entered at approximately 12:35 a.m.

15 Q What else happened?

16 A We went inside. We identified
17 ourselves to the owner, Mr. Ayala. I observed
18 that the tables were not 6 feet apart, more than
19 six patrons were sitting at the table. We asked
20 Mr. Ayala if he was aware of the mayor's
21 emergency order during our coronavirus pandemic
22 and that all establishments had to close at
23 midnight.

24 Mr. Ayala advised me that it was
25 daylight savings time so he could stay open until

1 2 o'clock. I advised him that during the mayor's
2 order all holidays and daylight savings time
3 hours were not allowed due to the mayor's
4 emergency order.

5 I asked Mr. Ayala to see the
6 reservation log. He could not produce one. We
7 also observed many tables had closed containers
8 of the alcohol in buckets on the tables.

9 MS. JORDAN: If I can have permission
10 to share content?

11 CHAIRPERSON ANDERSON: Ms. Andrews,
12 can you please allow Ms. Jordan to share her
13 screen, please?

14 MS. ANDREWS: Sure. Stand by. Okay,
15 Ms. Jordan, you can now share your screen.

16 MS. JORDAN: Thank you.

17 BY MS. JORDAN:

18 Q I'm going to show you a document
19 marked as Government Exhibit 1 for
20 identification. I'll scroll through briefly just
21 so we can chat briefly. Do you recognize this
22 document?

23 A Yes.

24 Q And what is this document?

25 A That's my case report I generated.

1 Q Is it part of your job as an
2 investigator to draft case reports?

3 A Yes.

4 Q Is this a fair and accurate
5 representation of the case report that you
6 created for La Molienda in Case Number 20-CIT-
7 00569?

8 A Yes.

9 MS. JORDAN: Mr. Chairperson, at this
10 time the Government would like to move Government
11 Exhibit 1, the Case Report, into evidence.

12 CHAIRPERSON ANDERSON: It's so moved.
13 And one of the reasons why I'm not asking the
14 permission of the licensee because it's part of
15 the Agency's record. So we don't need a
16 licensee's permission to move our own documents
17 into the record. So moved.

18 (Whereupon, the above-referred to
19 document identified as Government
20 Exhibit 1 was received into evidence.)

21 MS. JORDAN: Thank you.

22 BY MS. JORDAN:

23 Q Investigator Puente, directing your
24 attention to Exhibit 1 of the Case Report, what
25 is this document?

1 A This is a photograph. It shows
2 several patrons sitting at the bar. You will
3 observe a bucket of alcohol right on the bar with
4 closed containers inside the bucket.

5 Q And, Investigator Puente, directing
6 your attention to Exhibit 4 of the case report,
7 what is this document?

8 A This is another photo that we took
9 outside that shows patrons sitting at the bar
10 consuming beverages as well as the bartender
11 behind the bar making alcoholic beverages.

12 Q And directing your attention to
13 Exhibit 6 of the case report, what is this
14 document?

15 A A photograph of patrons sitting at
16 tables not 6 feet apart, tables with patrons more
17 than 6 as well as closed containers of alcohol on
18 the tables.

19 Q And directing your attention to
20 Exhibit 7 of your case report, what is this
21 document?

22 A This is my regulatory inspection I
23 conducted.

24 Q And can you describe this document?

25 A Oh, yes. This is what we check when

1 we go into establishments during the mayor's
2 emergency order. We had a regulatory form
3 drafted to check all the requirements for the
4 mayor's emergency order that shows if an
5 establishment has a reservation system for
6 preparing food items, 50 percent occupancy,
7 seating no more than 6 feet apart or 6 at a
8 table.

9 Q And can you quickly run through the
10 fines and violations noted on this document?

11 A Yes. Seating was not spaced 6 feet
12 apart, more than six at a table, alcohol service
13 after midnight, no reservation log, patrons
14 seated at the bar and alcohol being served in
15 closed containers.

16 MS. JORDAN: Thank you. The
17 Government doesn't have any further questions.

18 CHAIRPERSON ANDERSON: Mr. Ayala, do
19 you have any questions of Mr. Puente?

20 MR. AYALA: Yes. When he come in, I
21 explained to him, you know, that there was a
22 change in time.

23 CHAIRPERSON ANDERSON: Mr. Ayala,
24 remember, you're asking a question to Mr. Puente.
25 So remember, you're not asking me a question.

1 MR. AYALA: Okay. Okay.

2 CHAIRPERSON ANDERSON: You're asking
3 him a specific question. Any questions on his
4 testimony, sir?

5 CROSS-EXAMINATION

6 BY MR. AYALA:

7 Q Well, you know, the only question I
8 can ask him and tell him, you know, is, you know,
9 those guys that were sitting at the bar, they
10 moved from one table to talk to the waitress.
11 She was behind the bar. And that's why they were
12 sitting there. And I think the distance, it was
13 6 feet.

14 CHAIRPERSON ANDERSON: No. Mr. Ayala,
15 I'm sorry. You're not testifying. You're asking
16 Mr. -- so why don't you ask him how did he know
17 that -- you're saying that you think it was 6
18 feet.

19 So why don't you ask him how was he
20 assured that the folks were not sitting -- how
21 did he know that folks were not -- there wasn't a
22 6 feet distance between them. Ask him that
23 question. I think that's what you're trying to
24 ask him. So ask him that.

25 MR. AYALA: Yes. That's, you're

1 right. You know, that's the question.

2 CHAIRPERSON ANDERSON: Ask him that
3 question, sir.

4 BY MR. AYALA:

5 Q Him, you know, that how he did
6 determine, you know, there was not 6 feet because
7 we set up --

8 CHAIRPERSON ANDERSON: No, Mr. Ayala.
9 Yes. So, remember, you're not having a
10 conversation. You're asking him a question. I
11 know what you're asking, and I'm not supposed to
12 -- so just what you're saying, just ask that in
13 the form of a question to Mr. -- so how did he
14 know that the witnesses, that the occupants were
15 not 6 feet apart? You ask him that, sir.

16 BY MR. AYALA:

17 Q Yes. That's what I asked him, you
18 know. I mean, that's what I'm trying to ask him,
19 how he determine he was not 6 feet, he being
20 across from all the tables, you know. And how --

21 CHAIRPERSON ANDERSON: Give him a
22 chance to answer the question, now, sir.

23 MR. AYALA: All right.

24 BY MR. AYALA:

25 A Yes, sir. We observed patients could

1 barely walk in between the chairs. A person is
2 not 6 feet wide. So that's how we could tell.

3 CHAIRPERSON ANDERSON: Do you have any
4 other questions you wanted to ask him, sir?

5 MR. AYALA: No. That's the only thing
6 I can ask then because, you know, when I set up
7 the tables from center is about 6 feet. But
8 these people, you know, sometime they move the
9 chairs and things like that, you know, and that's
10 what I think has happened, you know. They don't
11 organize it, you know, seating properly. And
12 that's what has happened all the time, you know,
13 and --

14 CHAIRPERSON ANDERSON: Mr. Ayala, I'll
15 give you an opportunity to explain your case when
16 you present your case.

17 Now Mr. Puente just testified, and he
18 testified about what he observed and what he
19 observed, why is it that he wrote you a
20 correction. So this is your opportunity to
21 question why he wrote you to state that you did
22 something incorrect?

23 I'll give you an opportunity, and I'm
24 going to swear you in and then you can state what
25 your position is. But just now you're asking

1 questions of Mr. Puente. Do you have any other
2 questions of Mr. Puente?

3 MR. AYALA: You see, I had to -- then
4 I can ask him, you know, is the same thing that I
5 asked him before, you know, how he determine, you
6 know, that it was not 6 foot?

7 CHAIRPERSON ANDERSON: Well, he
8 testified that --

9 MR. AYALA: Well, that's the only
10 thing.

11 CHAIRPERSON ANDERSON: Okay.

12 MR. AYALA: That was.

13 CHAIRPERSON ANDERSON: All right.
14 Thank you. Mr. Puente, how were the licensees
15 informed that they had to -- that the occupants
16 had to be -- that the participants in the -- I'm
17 sorry, that the customers had to be six feet
18 apart that separates them. How did he know --
19 how did this licensee specifically know that this
20 was the requirement?

21 MR. PUENTE: During the emergency
22 order, ABRA made an effort to send out mailers as
23 well as investigators going around advising
24 establishments as well as ABRA hosting training
25 sessions about the mayor's emergency order and

1 the requirements of 6 feet apart.

2 CHAIRPERSON ANDERSON: Do you know
3 whether or not this particular licensee was
4 provided that notice?

5 MR. PUENTE: I do not, sir.

6 CHAIRPERSON ANDERSON: Any other
7 questions? Any other questions by any other
8 participants and, I'm sorry, any of the Board
9 members?

10 MEMBER GRANDIS: Mr. Chairman?

11 CHAIRPERSON ANDERSON: Yes, Mr.
12 Grandis.

13 MEMBER GRANDIS: Is it appropriate to
14 ask Inspector Puente some questions at this
15 point?

16 CHAIRPERSON ANDERSON: Yes, sir. It's
17 your opportunity to ask him questions, yes, sir.

18 MEMBER GRANDIS: Thank you.
19 Investigator Puente, we want to thank you for
20 your presentation and your providing us the
21 Administrative Case Report. So thank you for
22 that.

23 Looking at the pictures that are
24 exhibits to your report, did you have any
25 observations about wearing masks by the patrons

1 and the staff? Did you have any observations on
2 that?

3 MR. PUENTE: I saw when I was there
4 most of the patrons didn't have masks on because
5 they were consuming the alcoholic beverages when
6 we walked in.

7 MEMBER GRANDIS: And I noticed in
8 exhibit -- on several exhibits, but Exhibit, I
9 think 1, if I can read that properly, and Exhibit
10 5, it looks like those are photographs that
11 include the bar area. Is that correct?

12 MR. PUENTE: Yes, sir.

13 MEMBER GRANDIS: And under the mayor's
14 emergency, what was the policy on bar service in
15 relationship to this particular bar and patrons
16 sitting at it?

17 MR. PUENTE: During the mayor's
18 emergency order, if there was a staffed bar by
19 employees, no patrons could be allowed to be
20 seated at the bar.

21 MEMBER GRANDIS: And from your
22 knowledge, was this a staffed bar or was this a
23 bar that patrons could be sitting at?

24 MR. PUENTE: When we walked there was
25 a bartender making beverages behind the bar.

1 MEMBER GRANDIS: And I think you also
2 observed something about this was the evening
3 that daylight savings time was taking effect?

4 MR. PUENTE: Yes, sir.

5 MEMBER GRANDIS: And how were
6 licensees notified that daylight savings time
7 would not be allowed under this particular
8 mayor's order?

9 MR. PUENTE: ABRA sent out emailers
10 notifying licensees that due to the mayor's
11 emergency order there was no holiday extended
12 hours or the extension of the one hour for
13 daylight savings.

14 MEMBER GRANDIS: Notification was via
15 email from the Agency to licensees?

16 MR. PUENTE: Yes. We sent out a
17 generic email notifying people of holiday hours
18 and extensions. But during the emergency order
19 for that entire year, there was no holiday
20 extended hours of daylight savings extension.

21 MEMBER GRANDIS: Inspector Puente, did
22 you research whether or not this particular
23 licensee's email was part of that drop?

24 MR. PUENTE: No, sir, I did not.

25 MEMBER GRANDIS: Do you have knowledge

1 on whether or not the Agency has this licensee's
2 email?

3 MR. PUENTE: I do not, sir, no.

4 MEMBER GRANDIS: Chairman, thank you.

5 CHAIRPERSON ANDERSON: Thank you, Mr.
6 Grandis. Any other questions by any of the Board
7 members? All right. Mr. Ayala, do you have any
8 questions of Mr. Puente based on the questions
9 that I asked and Mr. Grandis asked?

10 MR. AYALA: No.

11 CHAIRPERSON ANDERSON: All right. Ms.
12 Jordan, do you have any questions of Mr. Puente
13 based on the questions that were asked by the
14 Board?

15 MS. JORDAN: No, Mr. Chairperson,
16 thank you.

17 CHAIRPERSON ANDERSON: All right.
18 Thank you. All right. Thank you. Does the
19 Government have another witness?

20 MS. JORDAN: The Government does not
21 have another witness at this time.

22 CHAIRPERSON ANDERSON: Does the
23 Government rest?

24 MS. JORDAN: The Government rests but
25 would like to make a closing argument when

1 appropriate.

2 CHAIRPERSON ANDERSON: I know. I
3 know.

4 MS. JORDAN: Okay.

5 CHAIRPERSON ANDERSON: I know. All
6 right. Sorry. So you rest at this moment, yes?

7 MS. JORDAN: Yes.

8 CHAIRPERSON ANDERSON: All right. Mr.
9 Ayala, this is your opportunity to explain your
10 position.

11 WHEREUPON,

12 TEOFILO AYALA

13 was called as a witness for La Molienda and,
14 having been first duly sworn, assumed the witness
15 stand, was examined and testified as follows:

16 CHAIRPERSON ANDERSON: Say whatever
17 you want to say, how to prepare us.

18 DIRECT TESTIMONY

19 MR. AYALA: Okay. On that particular
20 day, you know, I didn't receive any notice from
21 the ABRA concerning holidays. But I know we had
22 to close at 12:00, you know. But we were very
23 sure staying open because we're -- I feel like we
24 can use that hour. Had we know, we don't close
25 curtain. We don't close anything. We are open

1 because I thought we can use that hour, you know,
2 and that's what I state.

3 I never been happen anything, penalty
4 or fine in that type of situation for 17 years
5 there in this place. So that's the only reason
6 that we stayed until the time.

7 On the other hand, you know, I tell
8 him, you know, there was a guy there in the bar
9 that was sitting, he was asking for a drink, and
10 we cannot move and that's why he stayed sitting
11 there.

12 And the other guy they moved from the
13 table to the bar, asking things, you know, and
14 back to the beer -- I don't know what he was, you
15 know, really. I don't remember. I was right
16 there.

17 And that's the only thing I explained
18 to the inspector, you know, that the reason that
19 I stayed that hour was we were going to close at
20 1:00 that night, you know. And that's the only,
21 I can explain, you know, and I say, you know,
22 that it was wrong I find out. But I do it
23 because I feel like we can use that hour. That's
24 the only situation that crossed my mind.

25 CHAIRPERSON ANDERSON: Anything else

1 that you wish to say, sir?

2 MR. AYALA: What?

3 CHAIRPERSON ANDERSON: Anything else
4 you want to say?

5 MR. AYALA: No.

6 CHAIRPERSON ANDERSON: Ms. Jordan, do
7 you have any questions that you want to ask Mr.
8 Ayala?

9 MS. JORDAN: Yes, Mr. Chairperson. I
10 just have a couple questions.

11 CROSS-EXAMINATION

12 BY MS. JORDAN:

13 Q First I wanted to ask Mr. Ayala, how
14 has the ABRA been communicating with you
15 regarding this ongoing case?

16 A What? Could you repeat again? How?

17 Q Yes. What method has ABRA used to
18 communicate with you regarding this case?

19 A Well, they send a letter you know,
20 they come in with the letter to the restaurant.

21 Q Has ABRA also been communicating with
22 you by email?

23 A Yes, lately, yes. I consented in that
24 case through this time, you know, they
25 communicated with the email.

1 MS. JORDAN: No further questions, Mr.
2 Chairperson. Thank you.

3 CHAIRPERSON ANDERSON: Any other
4 questions by any of the Board members? Mr.
5 Ayala, how long has your restaurant been open?
6 How long has this establishment been open?

7 MR. AYALA: It's been open 17 years.

8 CHAIRPERSON ANDERSON: Seventeen
9 years.

10 MR. AYALA: Yes.

11 CHAIRPERSON ANDERSON: And were you
12 aware of COVID?

13 MR. AYALA: Yes.

14 CHAIRPERSON ANDERSON: Were you aware
15 of the --

16 MR. AYALA: (Simultaneous speaking.)

17 CHAIRPERSON ANDERSON: I'm sorry, you
18 said what?

19 MR. AYALA: I say in fact, I get COVID
20 one month later, and I stayed 14 days in the
21 hospital.

22 CHAIRPERSON ANDERSON: I'm sorry to
23 hear that, sir. Were you aware of the
24 restrictions that the Government and the mayor
25 and now ABRA imposed based on COVID to

1 businesses? Were you aware of those
2 restrictions?

3 MR. AYALA: Yes, yes.

4 CHAIRPERSON ANDERSON: So how were you
5 aware of these restrictions, sir?

6 MR. AYALA: Well, I don't remember,
7 but I hear on the news, and I read it in the
8 media, you know, in Facebook, things like that,
9 you know, showing another person, and I get it
10 from there. But I don't remember exactly how I
11 get it, but I got it.

12 CHAIRPERSON ANDERSON: So tell me
13 technically, prior to COVID, what were your
14 hours? Tell me about your restaurant. How did
15 your establishment operate prior to COVID?

16 MR. AYALA: Well, we open, very
17 normally, we open at 11:00 and we close at 2:00
18 in the morning Sunday through Thursday and Friday
19 and Saturday until 3:00 in the morning.

20 CHAIRPERSON ANDERSON: And so during
21 COVID, what were your hours?

22 MR. AYALA: It was different times
23 because sometimes in the beginning we opened for
24 carry-out. But then, you know, after, you know,
25 the 23rd of December, it was only carry-out. We

1 decide to close the whole place for a month, you
2 know, a whole month until January, I think, it
3 was 22 of this year.

4 CHAIRPERSON ANDERSON: So --

5 MR. AYALA: From December 21, mm-hmm.

6 CHAIRPERSON ANDERSON: So how did you
7 know you could only do carry-out? How did you
8 know -- who told you you could -- I mean, you
9 established -- you were running your
10 establishment and people were able to come in and
11 sit and buy food, is that correct, prior to
12 COVID? Is that correct?

13 MR. AYALA: Yes.

14 CHAIRPERSON ANDERSON: So how did you
15 know you could only do carry-out?

16 MR. AYALA: I hear the news, you know,
17 and I take it from the internet, you know, the
18 information, you know.

19 CHAIRPERSON ANDERSON: So you used
20 that information --

21 MR. AYALA: Everybody knows, you know,
22 that it is going to be like that when the mayor
23 say, you know, it's going to be only open for
24 carry-out.

25 CHAIRPERSON ANDERSON: So everybody

1 knew that the mayor said that you could only do
2 carry-out. Is that correct?

3 MR. AYALA: Yes, yes.

4 CHAIRPERSON ANDERSON: And is it
5 correct that everybody knew that the mayor said
6 what time you could close your business?

7 MR. AYALA: Yes. I expected that. I
8 explained what was my situation, you know, that I
9 get confused about the change in hours. Because
10 always, always, you know, we used that hour
11 before the COVID.

12 CHAIRPERSON ANDERSON: All right. So
13 why did you close your business down for a
14 significant period of time? Why did you do that?

15 MR. AYALA: Because there was no
16 business. You know, we can't survive, you know,
17 paying a cook, paying a waitress to take the
18 orders, you know, and stay for 10 hours open
19 doing \$50 carry-outs a day because it was prior
20 time, you know, we were open for the carry-out.
21 So the time I decide to close because -- first of
22 all, I was sick. I was in the hospital in
23 December. So I decide to close it because, you
24 know, there was not much business for carry-out.

25 CHAIRPERSON ANDERSON: Ms. Jordan, any

1 questions you wish to ask the licensee based on
2 the questions that the Board asked?

3 MS. JORDAN: No, Mr. Chairperson.
4 Thank you.

5 CHAIRPERSON ANDERSON: All right.
6 Thank you. All right. Thank you. That's all
7 you have to say, Mr. Ayala?

8 MR. AYALA: Yes.

9 CHAIRPERSON ANDERSON: All right.
10 Thank you. All right. Does the Government wish
11 to make a closings statement?

12 MS. JORDAN: Yes, Mr. Chairperson.

13 CHAIRPERSON ANDERSON: Go ahead,
14 ma'am.

15 CLOSING STATEMENTS

16 MS. JORDAN: The Government has proven
17 by a preponderance of the evidence that the
18 licensee violated the mayor's orders and served
19 alcohol in closed containers.

20 We heard from Investigator Puente that
21 on Sunday, November 1, 2020, Investigator Puente
22 and Supervisory Investigator Brashears were
23 monitoring establishments along 14th Street
24 Northwest when they observed a crowd inside of La
25 Molienda at approximately 12:30 a.m.

1 They entered and observed patrons
2 sitting at tables that were less than 6 feet
3 apart and had more than six patrons at a table.
4 They also observed patrons sitting at a staffed
5 bar and being served alcoholic beverages at the
6 table in the bar.

7 Investigator Puente has also pointed
8 this out to us today through the exhibits that
9 were attached to his investigative report.

10 We also heard from Investigator Puente
11 that he advised the owner of the time and that
12 under the mayor's orders the establishment had to
13 stop selling, serving and allowing consumption of
14 alcohol at midnight.

15 Further, when Investigator Puente
16 asked to see the reservation log, none could be
17 provided. Investigator Puente stated and
18 described in photos of the incident that the
19 establishment was serving alcohol in closed
20 containers.

21 The Government has therefore proven
22 the charge in the Notice to Show Cause. The
23 Government recommends that the Board apply a
24 penalty consistent with DC Code Section 25-830.
25 Thank you.

1 CHAIRPERSON ANDERSON: Mr. Ayala, this
2 is your chance to tell us what is it you want the
3 Board to do?

4 MR. AYALA: Well, first of all, you
5 know, there was a submission, the order, you
6 know, what the Ms. Jordan say, you know, of the
7 Inspector Puente asked for it, we don't find it.
8 But we have it. But then we find it and provide
9 it next -- we do have the numbers and names. But
10 the waitress puts them where, you know, and they
11 keep it in the basement because they fill all the
12 book. And we find it. At that time when Mr.
13 Puente was there, we don't find it, you know, but
14 we do have it. We do have it.

15 To me I can ask, you know, to avoid
16 the fine, you know, because I just asked you
17 because we have difficult, difficult times to
18 stay in business. And some mistake that I do in
19 17 years, that's what I ask if we can avoid it.

20 CHAIRPERSON ANDERSON: All right.
21 Thank you. The record is now closed. And do the
22 parties wish to file proposed Findings of Fact
23 and Conclusions of Law or waive their right to do
24 so?

25 Meaning, at least for you, Mr. Ayala,

1 do you want the Board to make a decision on what
2 was presented today? That's short -- that's what
3 I'm asking that we make a decision. The record
4 is now closed, and the Board will make a decision
5 on what penalties, if any, we will impose on your
6 establishment? Yes?

7 No, we're not making a decision. I'm
8 just saying that the record is now closed and do
9 you wish us now to proceed to make a decision on
10 what was presented today? I'm waiting for an
11 answer from you, Mr. Ayala.

12 MR. AYALA: Oh, I'm sorry. I don't
13 know about that, you know.

14 CHAIRPERSON ANDERSON: Just, yes, your
15 response is yes. The record is closed. The
16 record is now closed. And you're not going to
17 file any other paperwork, you just want the board
18 to move forward to make a decision based on what
19 was presented today and what Ms. Jordan presented
20 today?

21 MR. AYALA: Yes.

22 CHAIRPERSON ANDERSON: Okay. All
23 right. And I know that when I deal with non-
24 attorneys, I try to be as flexible as possible,
25 Ms. Jordan, and to explain to them the process.

1 So I hope you recognize what I'm doing. Okay.

2 All right. The record is now closed.

3 All right. So let me close the record
4 and -- all right. Hold on one minute, please.

5 As Chairperson of the Alcoholic
6 Beverage Control Board for the District of
7 Columbia in accordance with DC Official Code
8 Section 2574(b) of the Open Meetings Act, I move
9 that ABC Board hold a closed meeting for the
10 purpose of seeking legal advice from our counsel
11 on Case Number 20-CIT-00569, La Molienda,
12 pursuant to DC Official Code Section 2574(b)(4)
13 of the Open Meetings Act and deliberating upon
14 20-CIT-00569, La Molienda, for the reasons cited
15 in DC Official Code Section 2574(b)(13) of the
16 Open Meetings Act. Is there a second?

17 MEMBER CROCKETT: Ms. Crockett
18 seconds.

19 CHAIRPERSON ANDERSON: Ms. Crockett
20 has seconded the motion. We will now have a roll
21 call vote on the motion. Mr. Short?

22 MEMBER SHORT: Mr. Short, I agree.

23 CHAIRPERSON ANDERSON: Mr. Cato?

24 MEMBER CATO: Bobby Cato, I agree.

25 CHAIRPERSON ANDERSON: Ms. Crockett?

1 MEMBER CROCKETT: Rafi Crockett, I
2 agree.

3 CHAIRPERSON ANDERSON: Ms. Hansen?

4 MEMBER HANSEN: Jeni Hansen, I agree.

5 CHAIRPERSON ANDERSON: Mr. Grandis?

6 MEMBER GRANDIS: Edward Grandis, I
7 agree.

8 CHAIRPERSON ANDERSON: And Mr.
9 Anderson, I agree. As it appears that the motion
10 has passed, I hereby give notice that ABC Board
11 will recess these proceedings to hold a closed
12 meeting in the ABC Board Conference Room pursuant
13 to Section 2574(b) of the Open Meetings Act.

14 I want to thank everyone for their
15 presentation today. The Board will issue a
16 decision within 90 days, Mr. Ayala. So we will
17 issue a decision within 90 days what the final
18 determination will be regarding this case? Okay?

19 MR. AYALA: Okay.

20 CHAIRPERSON ANDERSON: Thank you very
21 much, sir. Have a great day.

22 MR. AYALA: You, too.

23 MS. JORDAN: Thank you.

24 CHAIRPERSON ANDERSON: Thank you, Ms.
25 Jordan.

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(Whereupon, the above-entitled matter
went off the record at 11:41 a.m.)

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This is to certify that the foregoing transcript

In the matter of: La Molienda

Before: DCABRA

Date: 10-27-21

Place: teleconference

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