

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE AND CANNABIS BOARD
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MEETING

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IN THE MATTER OF: :
 :
Partners at 723 8th St :
SE, LLC, :
t/a The Ugly Mug Dining :
Saloon :
723 8th Street SE : Show Cause
Retailer CR - ANC 6B : Hearing
License No. 71793 :
Case #23-CMP-00052 :
 :
(Purchased Alcohol from :
an Off-Premise Retailer, :
Provided False or :
Misleading Information) :
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Wednesday
November 15, 2023

The Alcoholic Beverage and Cannabis Board met via WebEx videoconference, Chairperson Donovan W. Anderson presiding.

PRESENT:

DONOVAN W. ANDERSON, Chairperson
JAMES SHORT, JR., Member
SILAS GRANT, Member

ALSO PRESENT:

JOSE ORELLANA, DC ABCA Staff
SHANI BROWN, DC OAG
GAYNOR JABLONSKI, Licensee
INVESTIGATOR MARK RUIZ, DC ABCA

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

2 11:01 a.m.

3 CHAIRPERSON ANDERSON: The next case
4 on our calendar is case number 23-CMP-00052, The
5 Ugly Mug Dining Saloon, license number 71793.

6 Mr. Orellana, can you please elevate
7 the rights of the licensee in this case and
8 whatever witnesses the Government might have?

9 MR. ORELLANA: Investigator Mark Ruiz,
10 your access has been elevated. And I do not see
11 the licensee. And I'll check in the chat.

12 CHAIRPERSON ANDERSON: Ms. Brown, have
13 you had any conversation with the licensee?

14 MS. BROWN: Yes. He was responsive to
15 your email, and then we also saw that he appeared
16 for the status hearing.

17 CHAIRPERSON ANDERSON: And you have
18 not received that information that he would not
19 appear for this hearing today, ma'am?

20 MS. BROWN: That's correct.

21 MR. ORELLANA: No update on the chat,
22 Chairman.

23 CHAIRPERSON ANDERSON: And this
24 hearing was scheduled for 10:30 and it's now
25 11:02. All right. I'll give him a couple more

1 minutes. I'll give him three more minutes.

2 Mr. Orellana, can you please put another request
3 in the chat and I'll give him until 11:05.

4 MR. ORELLANA: Will do.

5 CHAIRPERSON ANDERSON: Thank you.

6 (Pause.)

7 MR. ORELLANA: Still no update,
8 Chairman.

9 CHAIRPERSON ANDERSON: Thank you.

10 It's 11:03. I'll wait until 11:05.

11 (Pause.)

12 MR. ORELLANA: Still no update,
13 Chairman.

14 CHAIRPERSON ANDERSON: Thank you.

15 Mr. Brown, is the Government prepared to move
16 forward?

17 MS. BROWN: Yes, we are.

18 CHAIRPERSON ANDERSON: All right.

19 Okay, pursuant to D.C. Code, Section 25-447, the
20 Board has the authority to proceed ex parte,
21 where the licensee waives the hearing or fails to
22 appear, unless the hearing is extended for good
23 and sufficient cause.

24 Let the record reflect that the
25 licensee was served on September 23, 2023. We

1 did have a show cause hearing status in this case
2 and the licensee did appear. And it was confirmed
3 that the show cause hearing was scheduled for
4 today, November 15th, at 10:30 a.m. It is now
5 11:06 and the licensee has failed to appear.

6 Seeing no licensee here, and having no
7 good and sufficient cause to extend the hearing,
8 the Board will proceed with the show cause
9 hearing ex parte.

10 All right, does the Government wish to
11 make an opening statement?

12 MS. BROWN: Yes, it does.

13 CHAIRPERSON ANDERSON: Go ahead,
14 please.

15 MS. BROWN: Okay. Good morning, Board
16 members. We are here today because The Ugly Mug,
17 which is a Class C restaurant located at
18 723 8th Street, Southeast, in Washington, D.C.,
19 purchased alcohol from a Class A retail liquor
20 store, in violation of D.C. Code,
21 Section 25-113(a)(5)(A), and made a false
22 statement during an ABCA investigation, in
23 violation of D.C. Code, Section 25-823(a)(5)(C).

24 You will hear from ABCA Investigator
25 Mark Ruiz that on Wednesday, June 21, 2023, he

1 was assigned an online complaint, which alleged,
2 in important part, that the owner of Ugly Mug was
3 having liquor delivered to the establishment via
4 Instacart.

5 That same day, Investigator Ruiz
6 visited The Ugly Mug and inspected the
7 establishment's liquor invoices, but found none
8 from Instacart.

9 The following day, Inspector Ruiz
10 spoke to establishment's owner, Gaynor Jablonski,
11 who denied ordering or having alcoholic delivered
12 through Instacart.

13 Later on July 5, 2023, Investigator
14 Ruiz received records of all orders made through
15 Instacart that were delivered to The Ugly Mug's
16 address. And you will see those records, and see
17 with your own eyes, that from October 29, 2021,
18 to June 21, 2023, orders for liquor were
19 regularly made and delivered to the establishment
20 from Class A retail liquor stores. Mainly,
21 Costco and Metro Wine & Spirits.

22 You will also see that approximately
23 20 Costco orders were placed with Mr. Jablonski's
24 Instacart account, including an order placed on
25 June 20, 2023, just one day before ABCA received

1 the e-complaint.

2 Investigator Ruiz's investigation and
3 Instacart's transactions records will make it
4 clear that Ugly Mug purchased alcohol from
5 Class A retail liquor stores, and The Ugly Mug's
6 owner made a false statement when he denied
7 ordering or having alcohol delivered through
8 Instacart. Thank you.

9 CHAIRPERSON ANDERSON: All right, does
10 the Government have a witness they wish to call?

11 MS. BROWN: Yes. The Government would
12 like to call Investigator Mark Ruiz.

13 CHAIRPERSON ANDERSON: Mr. Ruiz, can
14 you raise your right hand, please.

15 Do you swear or affirm to tell the
16 truth and nothing but the truth?

17 INVESTIGATOR RUIZ: Yes, I do.

18 CHAIRPERSON ANDERSON: Your witness,
19 ma'am.

20 MS. BROWN: Thank you.

21 Investigator Ruiz, please state and
22 spell your name for the record.

23 INVESTIGATOR RUIZ: First name's Mark,
24 M-A-R-K, last name's Ruiz, R-U-I-Z.

25 MS. BROWN: And where are you

1 currently employed?

2 INVESTIGATOR RUIZ: The Alcoholic
3 Beverage and Cannabis Administration.

4 MS. BROWN: How long have you been
5 with ABCA?

6 INVESTIGATOR RUIZ: I've been with
7 ABCA approximately four years and nine months.

8 CHAIRPERSON ANDERSON: Hold on one
9 minute. Hold on one minute. Mr. Jablonski? Do
10 you have a camera you can turn on, sir?

11 MR. JABLONSKI: Sorry about that.
12 Yep.

13 CHAIRPERSON ANDERSON: All right,
14 Mr. Jablonski, this matter was scheduled for a
15 show cause hearing at 10:30. I started the case
16 at 11:05 and you were not here. And so,
17 therefore, we were going to move forward without
18 you being here.

19 So, since you are here, then I need to
20 give you an opportunity. Did you hear the
21 Government's opening statement, sir? Or do you
22 wish the Government to repeat her opening
23 statement, and so -- hold on one minute, please.

24 Did you hear the Government's opening
25 statement, or do you want the Government to

1 repeat her opening statement? And then do you
2 wish to make an opening statement, sir?

3 MR. JABLONSKI: Yes. Sorry, I signed
4 on at 10:30 and I waited until about 10:45. I
5 didn't see the notice, so I signed off. And I
6 signed back in. I think I caught the end of the
7 statement. So, if it wouldn't be too much of a
8 problem, I would like to hear the opening
9 statement again, please.

10 CHAIRPERSON ANDERSON: All right,
11 then. Ms. Brown then -- all right.
12 Mr. Jablonski, I did provide a notice to the
13 public that we were delayed in moving. So, at
14 10:30 the public received a notice that we were
15 going to start at 10:40. And at 10:40, the
16 public received another notice that we were going
17 to start at 10:50. So, although the Board was
18 delayed in starting the case today, there was a
19 notice that was placed by our IT specialist to
20 inform the public that we were delayed in
21 starting this morning, sir.

22 So, I'm not sure why you thought it
23 was prudent to log off, because once you were
24 aware that -- you knew that this matter was
25 scheduled for a 10:30 hearing, sir.

1 However, Ms. Brown, if you don't mind
2 to repeat your opening statement. And then I'll
3 give you an opportunity, sir, to make an opening
4 statement if you so desire. Go ahead, Mr. Brown.

5 MS. BROWN: Thank you.

6 Good morning, Board members. We are
7 here today because The Ugly Mug, which is a
8 Class C restaurant located at 723 8th Street,
9 Southeast, purchased alcohol from a Class A
10 retail liquor store, in violation of D.C.
11 Code 25-113(a)(5)(A), and made a false statement
12 during an ABCA investigation, in violation of
13 D.C. Code 25-823(a)(5)(C).

14 You will hear from ABCA Investigator
15 Mark Ruiz, that on Wednesday, June 21, 2023, he
16 was assigned an online complaint, which alleged,
17 in important part, that the owner of The Ugly Mug
18 was having liquor delivered to the establishment
19 via Instacart.

20 That day, investigator Ruiz visited
21 The Ugly Mug and inspected the establishment's
22 liquor invoices, but found none from Instacart.

23 The following day, Inspector Ruiz
24 spoke to the establishment's owner, Gaynor
25 Jablonski, who denied ordering or having

1 alcoholic delivered through Instacart.

2 On July 5, 2023, Investigator Ruiz
3 received records of all orders made through
4 Instacart that were delivered to The Ugly Mug's
5 address.

6 You will see those records, and see
7 with your own eyes, that from October 29, 2021,
8 to June 21, 2023, orders for liquor were
9 regularly made and delivered to the establishment
10 from Class A retail liquor stores. Mainly,
11 Costco and Metro Wine & Spirits.

12 You will also see that approximately
13 20 Costco orders were placed with Mr. Jablonski's
14 Instacart account, including an order placed on
15 June 20, 2023, just one day before ABCA received
16 the e-complaint.

17 Investigator Ruiz's investigation and
18 Instacart's transactions records will make it
19 clear that Ugly Mug purchased alcohol from
20 Class A retail liquor stores, and that Ugly Mug's
21 owner made a false statement when he denied
22 ordering or having alcohol delivered through
23 Instacart. Thank you.

24 CHAIRPERSON ANDERSON: Thank you. All
25 right, Mr. Jablonski, do you wish to make an

1 opening statement at this juncture, or do you
2 wish to defer on -- present your case, sir?

3 MR. JABLONSKI: Defer to present my
4 case. Thank you.

5 CHAIRPERSON ANDERSON: All right,
6 thank you. All right, Ms. Brown -- Mr. Ruiz,
7 you're already under oath, so you can resume your
8 questioning, ma'am.

9 MS. BROWN: Okay. And to be clear,
10 Chairperson Anderson, do you want me to start
11 from the beginning, or do you want me to pick up
12 from where I was in my questioning?

13 CHAIRPERSON ANDERSON: You can pick up
14 from where you were, because Mr. Jablonski was on
15 the line. So, you can pick up from where you
16 were, ma'am.

17 MS. BROWN: Thank you. Investigator
18 Ruiz, what are your duties and responsibilities
19 as an investigator for ABCA?

20 INVESTIGATOR RUIZ: To conduct
21 inspections at investigations pertaining to
22 licensed alcohol establishments throughout the
23 District of Columbia.

24 CHAIRPERSON ANDERSON: Hold on one
25 minute, please. Mr. Jablonski, you need to be on

1 the line, because I need to make sure I can see
2 you.

3 So, I'm not seeing your picture, sir.
4 So, I don't know if you're on the line. And you
5 need to be on screen, because I need to make sure
6 that you're here for the duration of the hearing,
7 sir. Okay? All right. I'm sorry, go ahead.

8 MS. BROWN: Investigator Ruiz, are you
9 familiar with an establishment named The Ugly
10 Mug?

11 INVESTIGATOR RUIZ: I am, yes.

12 MS. BROWN: And how are you familiar
13 with this establishment?

14 INVESTIGATOR RUIZ: I was assigned an
15 e-complaint back in June 2023 alleging multiple
16 allegations.

17 MS. BROWN: Did you print a case
18 report for your investigation into the e-
19 complaint?

20 INVESTIGATOR RUIZ: I did.

21 MS. BROWN: Okay. Now, showing
22 Investigator what has been marked as Government
23 Exhibit 1. Are you able to see that,
24 Investigator Ruiz?

25 INVESTIGATOR RUIZ: I am, yes.

1 MS. BROWN: Okay. Now, what is this
2 document?

3 INVESTIGATOR RUIZ: This document is
4 a case report that I drafted for this case.

5 (Whereupon, the above-referred-to
6 document was marked as Government
7 Exhibit 1 for identification.)

8 MS. BROWN: And why did you create
9 this report?

10 INVESTIGATOR RUIZ: To document the
11 activity, as well as the violations, of
12 purchasing from the Class A and the false
13 statement.

14 MS. BROWN: And directing your
15 attention to the details portion of your report
16 on page 1, what did the e-complaint allege?

17 INVESTIGATOR RUIZ: I didn't hear your
18 question.

19 MS. BROWN: Directing your attention
20 to the details portion of your report on page 1
21 of your report, what the e-complaint allege?

22 INVESTIGATOR RUIZ: The e-complaint
23 alleged that the establishment was operating with
24 no ABC manager on duty, selling to intoxicated
25 persons, minors, allowing underage children to

1 work in the kitchen as a prep cook, as well as
2 ordering liquor that was delivered through
3 Instacart.

4 MS. BROWN: What did you do to
5 investigate the e-complaint?

6 INVESTIGATOR RUIZ: I made a visit to
7 the establishment later that evening, after
8 receiving the complaint, to meet with
9 establishment management and staff, and to
10 discuss, to see if any of these conditions were
11 currently being done.

12 MS. BROWN: Did you find anything at
13 that time that substantiated the e-complaint?

14 INVESTIGATOR RUIZ: So, the only
15 allegations I did not find, there was an ABC
16 manager that was on duty. There were no minors
17 visibly present within the establishment being
18 served or consuming alcohol, as well as I did not
19 notice any children within the establishment as
20 well.

21 And then I reviewed the SE ABC
22 manager-on-duty, to review books and records. So,
23 I reviewed various invoices. I didn't notice --
24 I asked about Instacart. The ABC manager was
25 unfamiliar with any Instacart invoices, and what

1 was available to me at the time, I did not also
2 see any Instacart invoices or receipts.

3 MS. BROWN: And on that day, did the
4 ABC manager provide you any additional
5 information -- specifically, contact
6 information -- for any individuals?

7 INVESTIGATOR RUIZ: Yeah, I had
8 requested for Mr. Jablonski's -- the owner's --
9 information, so I could follow up with him on the
10 complaint and the information.

11 MS. BROWN: Was there anything else
12 that you did on June 21st to further investigate
13 the e-complaint?

14 INVESTIGATOR RUIZ: Yes. So, while
15 investigating, I then completed an inquiry with
16 the Instacart service for any transactions
17 pertaining to 723 8th Street, SE, to the
18 establishment, that included alcohol in the
19 transactions.

20 MS. BROWN: Okay. The following day,
21 what, if anything, did you do to further
22 investigate the e-complaint?

23 INVESTIGATOR RUIZ: The following day,
24 I had a telephone conversation with the owner,
25 identified as Mr. Gaynor Jablonski, regarding the

1 complaint received.

2 He stated to me after I told him what
3 the complaint was about, he was able to recall a
4 recently fired, I believe, bartender from the
5 establishment that conducted damage and stole
6 bank money from behind the bar, and stuffing
7 toilets with paper towels.

8 And then when I asked him about the
9 Instacart transactions with alcohol, he stated
10 sometimes he cannot get certain sizes through the
11 wholesalers, so he usually makes do with what
12 they have.

13 And when I asked him if he actually
14 used Instacart to have deliveries made, he
15 stated, no, I don't.

16 MS. BROWN: Okay. So, after your
17 conversation with Mr. Jablonski, was there
18 anything further that you did to investigate the
19 e-complaint, as it relates to the Instacart?

20 INVESTIGATOR RUIZ: So, on July 5,
21 2023, I did receive an email from Instacart
22 including the transactions that I had requested
23 through the inquiry, in which they provided me
24 with a spreadsheet that detailed several various
25 orders to that address including alcohol in the

1 transactions.

2 MS. BROWN: Now showing what is
3 Exhibit 1 of your report. Is this spreadsheet to
4 which you just referred?

5 INVESTIGATOR RUIZ: That is. Could
6 you just zoom in just a little bit more? Another
7 click or two? That's it. That's better. Right
8 there. Perfect.

9 MS. BROWN: Okay. Now, what did you
10 discover from reviewing this document?

11 INVESTIGATOR RUIZ: I discovered
12 various alcohol products delivered between
13 roughly 2021, up until my request on June 21,
14 2023, with other retailers -- namely, Costco and
15 Metro Wine and Spirits -- of deliveries, and
16 individuals who received the deliveries as well
17 at the establishment.

18 MS. BROWN: And from this spreadsheet
19 that you received from Instacart, could you tell
20 who purchased the alcohol from Costco and Metro
21 Wine and Spirits?

22 INVESTIGATOR RUIZ: Based off the
23 spreadsheet, Instacart informed me that the
24 recipients and the purchasers are on the
25 spreadsheet, and in the recipient line you'll

1 find the individuals that were involved.

2 MS. BROWN: Okay. And based on this
3 spreadsheet, could you tell whether Mr. Jablonski
4 had purchased alcohol from Instacart? Through
5 Instacart from Costco?

6 INVESTIGATOR RUIZ: Yes. According to
7 the spreadsheet, Mr. Jablonski did make those
8 purchases, and they were received.

9 MS. BROWN: Now directing your
10 attention to the third transaction line of this
11 document. Which retailer did Mr. Jablonski
12 purchase the alcohol from?

13 INVESTIGATOR RUIZ: Costco.

14 MS. BROWN: And what class license
15 does Costco have?

16 INVESTIGATOR RUIZ: A Class A retail
17 store.

18 MS. BROWN: And what class license
19 does The Ugly Mug possess? I'll direct your
20 attention page 1 of your report for that
21 information.

22 INVESTIGATOR RUIZ: It's a Class CR
23 restaurant.

24 MS. BROWN: Okay. And is The Ugly Mug
25 allowed to purchase alcohol from a Class A

1 retailer?

2 INVESTIGATOR RUIZ: Only during
3 holidays, and on weekend when wholesalers are
4 closed, and only for emergencies, whether they
5 run out of something, or operate during those
6 times.

7 MS. BROWN: And so, directing your
8 attention back to the spreadsheet, which is
9 Exhibit 1 of your report, how recently had liquor
10 been delivered to Ugly Mug? I can see that
11 again.

12 INVESTIGATOR RUIZ: At the time of the
13 investigation, it was delivered up until that day
14 of the request.

15 MS. BROWN: And what day of the week
16 was that?

17 INVESTIGATOR RUIZ: I believe it was
18 Wednesday.

19 MS. BROWN: And what time of day was
20 the order placed?

21 INVESTIGATOR RUIZ: It was delivered
22 at 11:08 a.m.

23 MS. BROWN: And was Wednesday,
24 June 21, 2023, a holiday?

25 INVESTIGATOR RUIZ: No, it was not.

1 MS. BROWN: Are wholesale liquor
2 stores generally open at 11:08 a.m. on Wednesdays
3 in Washington, D.C.?

4 INVESTIGATOR RUIZ: Typically, yes.

5 MS. BROWN: You testified earlier that
6 Mr. Jablonski had denied ordering alcohol through
7 Instacart. Now, based on this Instacart
8 spreadsheet, was that statement correct?

9 INVESTIGATOR RUIZ: No.

10 MS. BROWN: Did you provide a
11 response?

12 INVESTIGATOR RUIZ: Yes. I said, no.

13 MS. BROWN: Thank you. And why do you
14 believe that statement was false?

15 INVESTIGATOR RUIZ: Because according
16 to the spreadsheet, the purchases and deliveries
17 made from Instacart, Mr. Gaynor Jablonski is
18 listed as the recipient throughout the
19 spreadsheet.

20 MS. BROWN: And when was the last
21 time, based on this spreadsheet, that
22 Mr. Jablonski had purchased alcohol from Costco?

23 INVESTIGATOR RUIZ: June 20, 2023.

24 MS. BROWN: And what day of the week
25 was June 20, 2023?

1 INVESTIGATOR RUIZ: That was a
2 Tuesday.

3 MS. BROWN: And what time of day did
4 Mr. Jablonski place that Instacart order?

5 INVESTIGATOR RUIZ: He received
6 delivery 4:38 p.m. So, prior to that.

7 MS. BROWN: Was Tuesday, June 20,
8 2023, a holiday?

9 INVESTIGATOR RUIZ: No.

10 MS. BROWN: Are wholesale liquor
11 stores generally open at 4:38 p.m. on Tuesdays in
12 Washington, D.C.

13 INVESTIGATOR RUIZ: Yes. Generally,
14 they are, yes.

15 MS. BROWN: And now, directing your
16 attention back to page 2 of your report, based on
17 your review of the Instacart spreadsheet, how
18 many of the alcohol purchases were placed on
19 weekdays during hours when wholesalers were open
20 for business?

21 INVESTIGATOR RUIZ: I don't recall how
22 many, but the majority of the spreadsheet was
23 conducted throughout during the week, not on
24 weekends.

25 MS. BROWN: Thank you. And directing

1 your attention, just one more time, back to the
2 spreadsheet, what was the user ID number for the
3 account associated with Mr. Jablonski?

4 INVESTIGATOR RUIZ: On the spreadsheet
5 user ID 642581116.

6 MS. BROWN: Did you do anything to
7 confirm that that account number was in fact
8 connected to Mr. Jablonski?

9 INVESTIGATOR RUIZ: Yeah, I did
10 confirm with Instacart that that account did
11 belong with Mr. Jablonski. Yes.

12 MS. BROWN: How were you able to
13 determine from Instacart that that account was
14 connected to Mr. Jablonski?

15 INVESTIGATOR RUIZ: Instacart provided
16 account, as well as contact information that was
17 included with the account profile, which did
18 include an email address and a phone number.

19 The email address on file was
20 gaynorj@ -- Mr. Darchi.com is the email address,
21 and the phone number being (703) 928-3225. Also
22 reflects the same contact information that we
23 have on file with our License B records.

24 MS. BROWN: Thank you. I have no
25 further questions.

1 CHAIRPERSON ANDERSON: All right.
2 Hold on, please. Mr. Jablonski, do you have any
3 questions for the witness? Go ahead, sir.

4 MR. JABLONSKI: Detective Ruiz, do you
5 remember having a conversation also, after I
6 said, no, I don't, when I explained that the
7 distributors were having a lot of issues
8 delivering on the days of the week that they
9 assigned us to, and we don't have sales reps, so
10 we're not able to bring things to us, and that
11 the distributors had actually just told us,
12 you're going to have to go out and by it, because
13 sometimes they just don't have things?

14 INVESTIGATOR RUIZ: I do recall you
15 mentioning that as well, yes.

16 MR. JABLONSKI: Okay. So, why wasn't
17 that put in the report?

18 INVESTIGATOR RUIZ: I didn't find it
19 relevant at the time with my case.

20 (Simultaneous speaking.)

21 CHAIRPERSON ANDERSON: I don't know
22 what's going on, Mr. Jablonski, but go ahead,
23 sir.

24 MR. JABLONSKI: Okay, sorry about
25 that.

1 So, I'm sorry, but Inspector Reyes,
2 how would that not be relevant to this situation?
3 Because, if you're familiar with
4 Code 25-113(a)(5)(B), it clearly states that I'm
5 allowed to buy in the event when they're closed,
6 or a holiday?

7 And if a distributor says to me in
8 this system that we have, where you guys have
9 created a monopoly, where there's only one
10 distributor that will carry one product, if they
11 tell me that they don't have something, isn't it
12 in fact closed to me? So, therefore, I have to
13 go find the product somewhere else?

14 INVESTIGATOR RUIZ: No, I don't
15 believe that.

16 MR. JABLONSKI: So then, how am I
17 supposed to get Jameson when Republic National
18 doesn't have it in stock, but all the liquor
19 stores do and all the restaurants do, and I have
20 customers that come to drink it specifically?

21 INVESTIGATOR RUIZ: Okay.

22 MS. BROWN: Objection. Investigator
23 Ruiz does not speak for ABCA.

24 MR. JABLONSKI: That's fine, objection.
25 But then how this gets to an operational side of

1 this, where if you notice, Inspector Ruiz, that
2 the time that I started buying things from these
3 other distributors, which you and I had talked
4 about, because you inspected me before,
5 previously -- I believe it's in 2022 -- and I
6 explained to you then that this is the situation
7 that I'm in.

8 The distributors don't have sales reps
9 that bring me things. They're now allowing will-
10 call pickups. I do order from them regularly, as
11 you saw with the receipts, but there are certain
12 products that I have to have.

13 MS. BROWN: Objection.

14 CHAIRPERSON ANDERSON: What's the
15 nature of the objection, ma'am.

16 (Simultaneous speaking.)

17 MS. BROWN: Hold on. I think he
18 wasn't done asking his question.

19 MR. JABLONSKI: No.

20 CHAIRPERSON ANDERSON: So, why don't
21 you allow his question, and then if you want to
22 raise the objection, raise the objection.

23 And I think maybe it's
24 Mr. Jablonski's, because it appears you're having
25 a conversation, rather than having questions.

1 Frame it in asking a question, sir.

2 MR. JABLONSKI: I apologize.

3 CHAIRPERSON ANDERSON: Yeah, go ahead.

4 MR. JABLONSKI: I apologize.

5 Inspector, are you familiar with

6 Code 25-113(a)(5)(B)?

7 INVESTIGATOR RUIZ: The exception to
8 the rule. Holidays. Holidays are closed. Yes.

9 MR. JABLONSKI: In your opinion, if a
10 distributor that I have to buy from does not have
11 a product because they're out of stock, or they
12 just simply don't deliver it because they don't
13 have a van that day or a truck that day, and they
14 tell me, well, you're just going to have to go
15 buy it somewhere else, wouldn't that, in effect,
16 say that that distributor was closed?

17 INVESTIGATOR RUIZ: You would have --

18 CHAIRPERSON ANDERSON: Hold on.

19 What's the nature of the objection?

20 MS. BROWN: Mr. Ruiz doesn't speak for
21 ABCA. The question that was in Code is a
22 conclusion of law that should be determined by
23 the Board.

24 MR. JABLONSKI: I'm sorry,
25 Commissioner. This is an investigator who's

1 enforcing the laws. He should know what this law
2 is. And if he's using this and saying that I
3 couldn't do it then, I'm asking him then, in that
4 situation, how is not effectively a closure of a
5 distributor.

6 CHAIRPERSON ANDERSON: I'm going to
7 overrule the objection. But Mr. Ruiz, if you can
8 answer the question to the best of your ability,
9 you answer the question and let's move on.

10 MR. JABLONSKI: Yes, that's all I
11 want, to the best of his ability.

12 INVESTIGATOR RUIZ: To locate another
13 wholesaler that distributes the product.

14 MR. JABLONSKI: So, Inspector Ruiz, do
15 you understand that in the model that we have in
16 D.C., distributors do not share the same
17 products, and only one distributor controls one
18 product?

19 There's no distributor that sells two
20 Miller Lites; there's only one. There's no two
21 distributors that sell Maker's Mark or Jameson,
22 or anything. So, how am I supposed to do that?

23 INVESTIGATOR RUIZ: Not sure.

24 MR. JABLONSKI: Okay. Going to the
25 Instacart, are you familiar -- did you talk to

1 Instacart about how that I set up an account that
2 was there? Correct?

3 INVESTIGATOR RUIZ: Through email it
4 was apparent that you did set up an account.
5 Yes.

6 MR. JABLONSKI: Would you say it's
7 reasonable that a manager of mine could have the
8 access to that account? Because we use Instacart
9 a lot for other things when my food distributors
10 don't have certain things in stock.

11 MS. BROWN: Objection.

12 CHAIRPERSON ANDERSON: What's the
13 nature of the objection?

14 MS. BROWN: Inappropriate opinion
15 testimony.

16 CHAIRPERSON ANDERSON: Hold on. You
17 want to say something, Mr. Jablonski?

18 MR. JABLONSKI: I was going to say,
19 because the second part of that question is on
20 that sheet. There's also another person's name
21 on that sheet named James Richards. He is my
22 manager.

23 So, he handles the inventory ordering.
24 So, my question is, how does he know it was me
25 that ordered it, and not James?

1 CHAIRPERSON ANDERSON: I'm going to
2 overrule the objection. If the witness can
3 answer the question, then he can answer the
4 question.

5 INVESTIGATOR RUIZ: I based it off of
6 the spreadsheet, and being the owner with the
7 control of the establishment's ordering process.

8 MR. JABLONSKI: I own the
9 establishment and I set up an Instacart account.
10 So, wouldn't you say that since there's a whole
11 bunch of other names on that list, that other
12 people could use my account to order?

13 INVESTIGATOR RUIZ: That's possible.

14 MR. JABLONSKI: That's the only
15 question I have. Yeah. So then in other words,
16 when I said, no, I don't order it, I was being
17 truthful.

18 INVESTIGATOR RUIZ: Possible.

19 MR. JABLONSKI: Okay, possible. Thank
20 you. All right, so last question I have. Since
21 you are investigating enforcing this law, did you
22 see any -- when you inspected my invoices, did
23 you see any alcohol that wasn't there on the
24 invoices, that you could prove was delivered from
25 someplace other than the distributors?

1 INVESTIGATOR RUIZ: I took a visual
2 inspection. I didn't conduct an inventory to
3 match up with the invoices. Just verified the
4 invoices of where you were purchasing alcohol
5 from, that was available to me in the records.

6 MR. JABLONSKI: So, you're not sure
7 actually what was ordered and what was there.
8 You're not sure if it was actually used in the
9 restaurant, or if my manager ordered it and took
10 it home.

11 INVESTIGATOR RUIZ: Yeah, I can't say
12 that.

13 MR. JABLONSKI: Okay. I have no other
14 further questions.

15 CHAIRPERSON ANDERSON: Any questions
16 by any Board members?

17 While other members think about it,
18 Mr. Jablonski, are you responsible for the
19 actions of any of your employees, sir?

20 MR. JABLONSKI: Yes, I am responsible
21 for them.

22 CHAIRPERSON ANDERSON: And so, if a
23 question is asked, so would you attribute -- so,
24 if your manager purchased alcohol, wouldn't that
25 be attributable to a purchase for you, sir?

1 MR. JABLONSKI: Yes. But there's two
2 points to that I'd like to make. Number one, I
3 did not make a false statement when I said, no, I
4 don't.

5 And then I went on to explain why we
6 sometimes have to order things from that. So, if
7 my manager's doing it, he's doing it out of a
8 necessity.

9 CHAIRPERSON ANDERSON: So, what
10 products it is that you're ordering,
11 specifically? What specific products are you
12 ordering from Instacart or Costco, specifically?
13 What are --

14 MR. JABLONSKI: So, the only time that
15 my managers have ever ordered, is in one of these
16 two situations. Number one --

17 CHAIRPERSON ANDERSON: Hold on, sir.
18 Hold on. That's not the question I asked you,
19 sir. The question I asked you --

20 MR. JABLONSKI: Well, I can't answer
21 that question, sir, without explaining why
22 they're ordering it, because it's not always the
23 same thing. It all depends upon what the
24 distributor delivers, or whether the distributor
25 delivers or not.

1 CHAIRPERSON ANDERSON: All right, sir.
2 Go ahead.

3 MR. JABLONSKI: So, what I'm trying to
4 explain is that, like I explained and
5 Investigator Ruiz didn't understand, is that
6 there is a monopoly set up by the
7 distributorships in D.C. and products.

8 So, one product is owned by one
9 distributor. If that distributor decides not to
10 deliver, or can't deliver, or is out of stock,
11 they just basically say, sorry.

12 So, I only order the things that are
13 the absolute necessities that I need for the most
14 popular items.

15 MS. BROWN: Objection.

16 CHAIRPERSON ANDERSON: Well, he's
17 giving an answer, and I'm still waiting for --

18 MR. JABLONSKI: You can't object to me
19 answering a question.

20 CHAIRPERSON ANDERSON: Hold on,
21 Ms. Brown.

22 MS. BROWN: The problem is --

23 CHAIRPERSON ANDERSON: Go ahead,
24 ma'am.

25 MS. BROWN: But, Chairperson Anderson,

1 it's an important objection, because he's not
2 sworn in because he's not the witness. So,
3 you're asking the incorrect person the questions,
4 who's not sworn in. His testimony isn't
5 appropriate at this time, because --

6 CHAIRPERSON ANDERSON: Well, this is
7 cross-examination --

8 (Simultaneous speaking.)

9 CHAIRPERSON ANDERSON: Hold on. No,
10 sir. I'm sorry, hold on. Hold on, hold on, hold
11 on. I'm sorry.

12 MR. JABLONSKI: I can't call myself as
13 a witness --

14 CHAIRPERSON ANDERSON: Hold on,
15 Mr. Jablonski. Ms. Brown, thank you very much.
16 I need to ask questions of -- so, I think I
17 jumped ahead of myself. And, ma'am, thank you
18 for bringing me back to reality.

19 The questions that the Board members
20 have are questions of Mr. Ruiz. I apologize.
21 I'm not sure why it is that I decided to ask
22 questions of Mr. Jablonski.

23 The questions are being asked of
24 Mr. Ruiz. So, I apologize for that. So, my line
25 of questioning is inappropriate and the answers

1 that were provided will not be considered by the
2 Board in any decision that was made. So, I stand
3 corrected. Yes, Mr. Grant, you have a question
4 you want to ask of Mr. Ruiz?

5 MEMBER GRANT: Yes, Mr. Ruiz. I have
6 two.

7 CHAIRPERSON ANDERSON: Go ahead, sir.

8 MEMBER GRANT: Good morning, Mr. Ruiz.

9 INVESTIGATOR RUIZ: Good morning.

10 MEMBER GRANT: Two questions for you.
11 I was taking notes while you were giving your
12 testimony. You stated that when you did the
13 investigation of the invoices and receipts, you
14 didn't see Instacart receipts at all? Can you
15 confirm that?

16 INVESTIGATOR RUIZ: Yeah, I didn't
17 notice any receipts or delivery slips relating to
18 Instacart. I'm asking the manager that was on
19 duty at the time. He stated he was unfamiliar
20 with them having any Instacart deliveries.

21 MEMBER GRANT: Just as the follow-up
22 for that before my second question, in the event
23 that there were purchases made from Instacart for
24 the business, they would be mandated to have
25 those on site, right?

1 INVESTIGATOR RUIZ: That's correct.

2 MEMBER GRANT: Okay. All right. My
3 second question is, is it common for licensees to
4 notify the agency if there is a trend of
5 inability to make purchases from distributors?

6 INVESTIGATOR RUIZ: That I do not
7 know.

8 MEMBER GRANT: Okay. That's all,
9 Chairperson.

10 CHAIRPERSON ANDERSON: Thank you.
11 Mr. Ruiz, are you able to tell us specifically
12 what products were purchased?

13 INVESTIGATOR RUIZ: Various products,
14 including --

15 (Simultaneous speaking.)

16 INVESTIGATOR RUIZ: I don't know every
17 product. Not off the top of my head.

18 CHAIRPERSON ANDERSON: No, I'm saying,
19 from the receipts that you received from
20 Instacart, does that provide you the names of the
21 products that were purchased?

22 INVESTIGATOR RUIZ: Yes, the
23 spreadsheet does detail each product.

24 CHAIRPERSON ANDERSON: All right, so
25 let's go back to the spreadsheet.

1 So, Ms. Brown, can you share your
2 screen with the spreadsheet? And I need to find
3 out the products that were purchased. So, can
4 you highlight the -- I'm sorry.

5 All right, so, enlarge the screen,
6 because I want to also get the date too. So, for
7 the record, can you tell us what product was
8 purchased on June 21st at 11:08?

9 INVESTIGATOR RUIZ: That was VS Cognac
10 and Triple Sec, 48 proof, liquor.

11 CHAIRPERSON ANDERSON: And what day of
12 the week was June 21st?

13 INVESTIGATOR RUIZ: A Wednesday.

14 CHAIRPERSON ANDERSON: And I see that
15 there's also a purchase on June 20th. What is it
16 that was purchased on June 20th?

17 INVESTIGATOR RUIZ: Another Triple
18 Sec, 48 proof, liquor, and another VS Cognac.

19 CHAIRPERSON ANDERSON: What about
20 June 13th? What is it that was purchased?

21 INVESTIGATOR RUIZ: Original Irish
22 Whiskey, 1.75 liter, 80 proof.

23 CHAIRPERSON ANDERSON: May 28th?

24 INVESTIGATOR RUIZ: May 28th was
25 Blanco Tequila, party size, and two vodkas.

1 CHAIRPERSON ANDERSON: Do we know what
2 type of -- is it just vodka, or is there more
3 information about the brand of vodka that was
4 purchased?

5 INVESTIGATOR RUIZ: Just vodka.

6 CHAIRPERSON ANDERSON: And what day of
7 the week was May 28th?

8 INVESTIGATOR RUIZ: I would have to
9 look that up. I don't recall.

10 CHAIRPERSON ANDERSON: Can you look at
11 a calendar and tell me what day of the week was
12 May 28th, sir?

13 INVESTIGATOR RUIZ: Yes. May 28th was
14 actually a Sunday.

15 CHAIRPERSON ANDERSON: All right.
16 What about -- hold on. All right, what about
17 June 15th? I'm sorry, not June. I'm sorry,
18 March 15th. What day of the week was that?

19 INVESTIGATOR RUIZ: Wednesday.

20 CHAIRPERSON ANDERSON: And what
21 product was bought on that date?

22 INVESTIGATOR RUIZ: Kentucky straight
23 bourbon whiskey and original Irish whiskey,
24 1.75 liter, 80 proof. Also, vodka and triple-
25 distilled Irish whiskey.

1 CHAIRPERSON ANDERSON: All right,
2 fine. All right, thank you. You can close your
3 screen. All right.

4 I don't have any other questions for
5 this witness. Any other questions by any other
6 Board members?

7 All right, Mr. Jablonski, any question
8 of the witness based on the questions that was
9 asked by the Board?

10 MR. JABLONSKI: I do have one question
11 for Mr. Ruiz. Did you go through this report and
12 see which orders were placed on weekends or
13 holidays, versus non-weekend and holidays?

14 INVESTIGATOR RUIZ: At the time of
15 receiving the report, I did review it. I
16 reviewed the days of the week. The majority was
17 conducted between Monday through Friday, with a
18 few dates occurring on the weekends.

19 MR. JABLONSKI: When you say a few
20 dates, what is your number of a few dates?

21 INVESTIGATOR RUIZ: I don't have an
22 exact number.

23 MR. JABLONSKI: Okay, that was my only
24 question.

25 CHAIRPERSON ANDERSON: Mr. Brown, any

1 redirect?

2 MS. BROWN: Yes, a brief redirect.

3 Investigator Ruiz, when you conducted
4 your investigation and spoke to Mr. Jablonski,
5 were you asking him about just his own purchases
6 of liquor through Instacart, or were you speaking
7 to him regarding the establishment's purchases
8 through Instacart?

9 INVESTIGATOR RUIZ: My question was
10 regarding the establishment's purchases, yes.

11 MS. BROWN: And one more question.
12 How many instances does it take for a violation
13 to occur? How many instances of ordering from a
14 Class A retailer?

15 INVESTIGATOR RUIZ: There's no set
16 number of instances. One would be good enough.

17 MS. BROWN: So, even one instances.

18 INVESTIGATOR RUIZ: Yes.

19 MS. BROWN: Thank you. No further
20 questions.

21 CHAIRPERSON ANDERSON: Thank you.
22 Thank you, Mr. Ruiz, for your testimony. Does
23 the Government have another witness?

24 MS. BROWN: No, it does not. The
25 Government rests.

1 CHAIRPERSON ANDERSON: Thank you.

2 Mr. Jablonski, do you have a witness, sir, or are
3 you the main witness for your case?

4 MR. JABLONSKI: Just me.

5 CHAIRPERSON ANDERSON: Can you raise
6 your right hand, please, sir?

7 Do you swear or affirm to tell the
8 truth and nothing but the truth?

9 MR. JABLONSKI: I do.

10 CHAIRPERSON ANDERSON: All right, so
11 you can present your case, sir.

12 MR. JABLONSKI: So, thank you. And I
13 apologize for being late, again, and wasting
14 anyone's time.

15 My case is very short and very sweet.
16 And Inspector Ruiz highlighted something that I
17 don't know if everyone on the Board understands.

18 The way the distributorship model is
19 set in D.C., there is a product that is assigned
20 to a private distributorship, and then as a
21 vendor of mine, you have to negotiate with them
22 to get delivery dates, and those kind of things.

23 Since the pandemic, the
24 distributorships have lost more than half of
25 their sales reps. Most distributorships make you

1 put in orders online. And on top of that, they
2 have very, very few staff in their warehouse, and
3 drivers.

4 This is something that's happened all
5 over the country. It's happened with every
6 distributor too, not just liquor.

7 However, under the system that we have
8 here, I, as a small business owner, am stuck with
9 dealing with a distributor, and I am completely
10 and utterly beholden to whether or not they want
11 to deliver to me, or can deliver to me, or even
12 have what I want in stock.

13 As you can see by the Instacart and
14 the communications I've had numerous times with
15 Mr. Ruiz, I've explained to him, I don't want to
16 do this.

17 And most importantly, the reason why
18 I don't want to do this is because I pay sales
19 tax on the products that I buy from anyone else
20 but my distributor. And there's no other
21 distributor that will carry the products that I
22 need.

23 It's not like my food, where if
24 somebody runs out of bacon, I could find somebody
25 else. If somebody tells me they can't bring me

1 Maker's Mark or Jameson or triple sec or tequila,
2 or vodka, what do I tell my customers?

3 You know what they do? They walk in
4 the door and they turn around and walk right back
5 out, because somebody else down the street might
6 have it.

7 So, when I am stuck in the situation
8 of having to buy things, it's because of the
9 distributor model that has been set up by ABRA,
10 number one.

11 Number two, at the time when I was
12 talking to Inspector Ruiz, I explained to him
13 that I was not buying any more liquor from
14 Costco, because I didn't want to.

15 What I found out after-the-fact -- and
16 you can look at that spreadsheet -- is that as
17 time has gone on, distributors are getting a
18 little bit better, so not having to buy as much.

19 I did not know at the time that my
20 manager had bought those things, because those
21 are necessary things, because we sell a lot of
22 margaritas, which you got to have Triple Sec to
23 make, and we sell a lot of Hennessy and cognac on
24 an early week crowd.

25 On top of everything else, with this

1 model that we have set up, a distributor doesn't
2 have to make numerous orders a week. They have
3 limited everyone to one order a week.

4 CHAIRPERSON ANDERSON: Mr. Jablonski,
5 are you speaking, sir? I can't hear you if
6 you're speaking, sir.

7 MR. JABLONSKI: Better? Yeah?

8 CHAIRPERSON ANDERSON: I cannot hear
9 you.

10 MR. JABLONSKI: How about now?

11 CHAIRPERSON ANDERSON: Yes, sir. I
12 can hear you now.

13 MR. JABLONSKI: Sorry about that. My
14 phone clicked.

15 But as I was saying, on top of that,
16 because the distributors are so short-staffed,
17 because they don't have the ability to deliver
18 properly, they give you one day a week
19 deliveries.

20 And it is not uncommon for them either
21 not to show when they say they're going to show,
22 or they show up and they deliver part of what you
23 ordered, or sometimes they miss-bring things to
24 you.

25 And because you're just one order a

1 week, you can't get another delivery. And the
2 warehouses are so short-staffed, you can't get
3 will-tall orders anymore.

4 On top of that, I am not internally --
5 I'm not trying to bypass the system. I am just
6 simply trying to survive. As you can tell, and
7 as Mr. Ruiz can attest, I order from my
8 distributors every week.

9 However, if they don't show, or they
10 don't bring the stuff right, it's basically good
11 luck, see you next week.

12 So, that's why I asked the inspector
13 if he was aware of the exception clause. So,
14 obviously, that was written before the pandemic
15 and poor people have that.

16 And there's no way for me to complain.
17 Who am I going to complain to? There's one
18 company that owns Tito's Liquor. What are they
19 going to say to me? Oh, sorry, we'll get to you
20 when we can. There's one company that has the
21 rights to Jameson. I'll get to you when I can.

22 I think, which is more than
23 reasonable, that that Section B, if a distributor
24 is not able to perform their duties that has been
25 solely given to them by ABCA, and they have the

1 rights to that one product, then I should be able
2 to invoke the exception clause and go get
3 something.

4 And once again, I want to point out,
5 again, this is not in my interest. I pay more
6 for that same product through another store, plus
7 sales tax. So, it's not something I want to do.

8 And there is no way for me to complain
9 to ABCA, because ABCA's not going to all of a
10 sudden take a distributorship away from someone
11 just because they don't deliver.

12 So, the system has been set up by the
13 Agency, and I'm trying to play within the rules.

14 So, if you would like to enforce this
15 on all the restaurants and the Cs and the Rs that
16 are out there, I would suggest that the Board
17 call before them all the distributors, and make
18 sure that they're able to operate and give the
19 services that the restaurants in the city need.

20 Because I promise you, I'm not the
21 only person having this problem. There's lots of
22 other people doing it. Because you don't have a
23 choice. Thank you.

24 CHAIRPERSON ANDERSON: Ms. Brown, do
25 you have any questions, ma'am?

1 MS. BROWN: I do.

2 Mr. Jablonski, wholesalers were open
3 and operating on June 20, 2023, weren't they?

4 MR. JABLONSKI: Whether or not they
5 were open, they weren't operating, because they
6 wouldn't deliver to me. My delivery is one day a
7 week. It's not one-third.

8 MS. BROWN: They're open.

9 MR. JABLONSKI: I don't know if
10 they're open or not. I can tell you they weren't
11 operating for me.

12 MS. BROWN: Wholesalers were open and
13 operating on June 21, 2023.

14 MR. JABLONSKI: Are you asking me or
15 telling me, ma'am?

16 (Simultaneous speaking.)

17 MS. BROWN: Is that correct?

18 MR. JABLONSKI: I don't know if they
19 were or weren't. What I do know is that I can't
20 get an order from them or delivery from them on
21 that day.

22 MS. BROWN: Your establishment chose
23 to order alcohol through Instacart, from Costco.
24 Isn't that correct?

25 MR. JABLONSKI: Yes, because the

1 distributor was closed to me that day because I
2 could not get product.

3 MS. BROWN: And you testified that
4 wholesalers limit you to one day, or one delivery
5 day per week? Is that correct?

6 MR. JABLONSKI: That's correct.

7 MS. BROWN: And you testified that
8 distributors often mis-deliver or unable to
9 deliver.

10 MR. JABLONSKI: Yeah.

11 MS. BROWN: Is that correct?

12 MR. JABLONSKI: Yes.

13 MS. BROWN: But you did not bring your
14 complaint to ABCA about this issue.

15 MR. JABLONSKI: I have actually
16 brought the complaint to ABCA about it. I've
17 talked to numerous people about it. I've also
18 talked to your inspector, Mr. Ruiz, numerous
19 times over a couple of years about it and
20 explained it to him.

21 And Mr. Ruiz once told me, the very
22 first time we talked about it, oh, well, you
23 should just call Jameson and ask him to send it
24 to me.

25 Which I laughed at and I said, do you

1 understand how the system works? And obviously,
2 he doesn't, because he just told me again
3 under --

4 MS. BROWN: Objection.

5 MR. JABLONSKI: No, you asked me a
6 question. I get to answer it. You just asked me
7 again --

8 CHAIRPERSON ANDERSON: Okay.

9 Ms. Brown, you asked a question, he answers.
10 Mr. Jablonski, and I'll direct the attorney,
11 please ask a pointed question, so therefore your
12 boxing the witness in how they can answer.

13 Sir, you'll get an opportunity to
14 further explain if you so desire, but please
15 answer the question that has been asked of you,
16 sir. Is there a question?

17 MS. BROWN: Mr. Jablonski, you stated
18 on direct that you are not trying to bypass the
19 system.

20 MR. JABLONSKI: That is correct.

21 MS. BROWN: But you did not contact
22 ABCA's hotline to inquire as to whether you could
23 purchase alcohol from Costco, did you?

24 MR. JABLONSKI: I was never notified
25 that I had to. There's nowhere in writings

1 saying I noticed that I had to, number one.

2 Number two, I have had conversations
3 with other people in ABCA and your investigators
4 of ABCA, that this is a problem now for years,
5 since the pandemic started, and no one has ever
6 notified me, including Mr. Ruiz, who I've talked
7 to at least twice about this, that I was required
8 to tell ABCA about this.

9 So, I've never seen anything. So, no,
10 I have not notified ABCA about this.

11 MS. BROWN: Thank you. No further
12 questions.

13 CHAIRPERSON ANDERSON: All right, any
14 questions by any Board members? Mr. Grant?

15 MEMBER GRANT: I'm trying to decide if
16 this is going to be a question or a statement.
17 But either way, I want it to be known that we
18 would like to be here to help in situations where
19 structure is not sufficient for the licensees.
20 And so, I'm a bit discouraged to hear that you
21 didn't want to, Mr. Jablonski, to reach out to us
22 about the issues with the current structure.

23 And you mentioned that there's so many
24 others that are experiencing this. And I think
25 it's really pertinent for us to know what's

1 happening.

2 And so, unfortunately, we're here
3 because of the said violation. But I just wish
4 we would have known outside of this hearing that
5 this was happening.

6 So, I guess with that, Chairperson,
7 it's more of a statement than a question.

8 CHAIRPERSON ANDERSON: All right,
9 thank you.

10 MR. JABLONSKI: Mr. Chairperson, can
11 I just address that real quick? I'll be as short
12 as I can. May I?

13 CHAIRPERSON ANDERSON: Go ahead, sir.

14 MR. JABLONSKI: So, Commissioner, it
15 wasn't that I didn't want to. But I have been in
16 business now, owned restaurants in D.C., for
17 almost 20 years.

18 I know how the system works and the
19 distributors are given these monopolies. So, I
20 didn't think I could actually complain to ABCA,
21 because I didn't think ABCA had any control over
22 it because the distributorships are the
23 distributors, and there is no public -- there is
24 no DABC, right?

25 This is in Montgomery County, where it

1 is a state-run store. So, since you signed over
2 these licenses to distributors, I was told that
3 basically you've got no other option but to deal
4 with us.

5 And, to your point, Commissioner, I've
6 talked to three different inspectors about this
7 who have come out and inspected me during the
8 pandemic. I have mentioned this numerous times
9 to them and we've talked about it.

10 Inspector Ruiz admitted that I told
11 him again about it this last time he came in, and
12 he didn't put it in the record. In his notes.

13 So, I would say maybe I didn't go high
14 enough up the chain in ABCA and maybe yell a
15 little louder than I should have.

16 But I would say that there was notice.
17 ABCA had some notice of this issue. It's not
18 like I'm the only person talking to them about
19 this. I can guarantee that.

20 CHAIRPERSON ANDERSON: Mr. Short?

21 MEMBER SHORT: Good afternoon,
22 Mr. Jablonski.

23 MR. JABLONSKI: Good afternoon,
24 Commissioner.

25 MEMBER SHORT: And is this the very

1 first time in your 20 years of being in the
2 alcohol business, is this your first time ever
3 becoming before this Board?

4 MR. JABLONSKI: First time? No.

5 MEMBER SHORT: No, I'm asking you, is
6 this the first time?

7 MR. JABLONSKI: No. I've been before
8 the Board before.

9 MEMBER SHORT: To your recollection,
10 how many times have you been before this Board in
11 your 20 years?

12 MR. JABLONSKI: Well, I was before you
13 guys a couple of months ago about something else.
14 And then maybe twice before that. I don't know.

15 MEMBER SHORT: In your 20 years of
16 being in the alcohol business, have you ever
17 bought from a retailer, prior to this time? In
18 your 20 years, have you ever --

19 MR. JABLONSKI: I'm sorry, what is
20 this time?

21 MEMBER SHORT: Please let me finish.
22 Thank you. In your 20 years of being in the ABC
23 business, selling alcohol in the District of
24 Columbia, is this the very first time you've ever
25 bought from Costco or other retailer?

1 MR. JABLONSKI: Yes. I started buying
2 for it during the pandemic when I wasn't able to
3 get deliveries. And it's continued. Only in
4 adverse situations.

5 MEMBER SHORT: Okay, the pandemic
6 started four years ago, correct?

7 MR. JABLONSKI: That's correct. It
8 started in 2020.

9 MEMBER SHORT: Did you ever purchase
10 anything from a retailer prior to -- ever
11 purchase anything from a retailer -- prior to the
12 pandemic?

13 MR. JABLONSKI: I don't know if I ever
14 did it. But if I did it, it was an extreme
15 emergency situation. It wasn't something that I
16 would ever have normally looked to do.

17 MEMBER SHORT: So, Inspector Ruiz is
18 not the very first investigator to come from
19 ABRA, who talked to you about the situation. Is
20 that correct?

21 MR. JABLONSKI: I've talked to other
22 investigators about it, but it was only during
23 the pandemic was the only time we've ever had
24 this conversation.

25 I believe the very first time I talked

1 to Inspector Ruiz about it was in 2021.

2 MEMBER SHORT: You get deliveries
3 every week. Is that your testimony?

4 MR. JABLONSKI: Hopefully, I do.

5 MEMBER SHORT: No, this is yes or no.

6 MR. JABLONSKI: Sir, I don't control
7 the distributors. I put in orders. Doesn't mean
8 I get them.

9 MEMBER SHORT: I'd like to ask you
10 again. Normally, do you get deliveries once a
11 week at your establishment?

12 MR. JABLONSKI: Normally, yes.
13 Normally, yes.

14 MEMBER SHORT: During the first six
15 months of this year, did you have deliveries once
16 a week?

17 MR. JABLONSKI: Not consistently.
18 But, like I said, I put in orders once a week. I
19 don't always get them.

20 MEMBER SHORT: You are the owner and
21 operator of this establishment. Correct?

22 MR. JABLONSKI: I am.

23 MEMBER SHORT: And you said you had a
24 manager who also orders and receives alcohol for
25 you. Correct?

1 MR. JABLONSKI: Yes. He uses my
2 account, and sometimes he logs in under me, or
3 sometimes he logs in under him.

4 MEMBER SHORT: So, if it was a mistake
5 made or a violation made, even if your manager
6 did it, who is responsible, according to the
7 Code?

8 MR. JABLONSKI: I would be
9 responsible. But there's no mistake made.

10 MEMBER SHORT: Thank you. That's all
11 I have. Mr. Chairman, that's all I have of this
12 witness. Thank you very much, sir.

13 CHAIRPERSON ANDERSON: Thank you.
14 Mr. Jablonski, you are very much familiar,
15 because you mentioned 25-113(a) through (e). Is
16 that correct? Because I've been looking at the
17 Code myself. So, you're familiar with the Code,
18 is that correct, sir?

19 MR. JABLONSKI: Yes.

20 CHAIRPERSON ANDERSON: And you're
21 familiar with the code that says that you can
22 only purchase from an A liquor store, either a
23 weekend, a holiday.

24 So, how are you interpreting the Code
25 to say, because you're not the delivery when you

1 want it, to say that that is an exception to the
2 Code that should be applicable to you?

3 MR. JABLONSKI: For two reasons.
4 Number one, when that Code was written, it was
5 under the impression that the distributors had
6 the right and the distributors were going to be
7 doing their job to make sure that people got
8 their alcohol as they needed.

9 Number two, under the Code, where it
10 says, a holiday or on a weekend -- which, a
11 weekend means when they're closed -- if a
12 distributor will only deliver to you once a week
13 and they don't bring you the products, in effect,
14 they are closed to me, as a business, on those
15 other days.

16 And it's not a matter of me wanting to
17 get it when I want it, or it's just inconvenient
18 for me. No, this is a matter of me keeping my
19 business open and operating.

20 Because I sell alcohol. And there are
21 different types of alcohol. And people want
22 certain alcohol. And if I don't have that
23 alcohol, those customers get upset and go
24 somewhere else.

25 And the distributors have a monopoly,

1 so they own the rights to individual alcohol. If
2 that distributor decides not to bring it to me,
3 or doesn't have it in stock, or can't put in on
4 the truck that week, or whatever the reason is
5 they want to do it, then they have effectively
6 closed themselves as a vendor to me on the other
7 days.

8 Because you know what my food vendor
9 does if they forget something? They send
10 somebody in a van with it to me. Or they'll buy
11 it on Instacart and have it delivered to me, so
12 that I have the product.

13 And they're not even a monopoly.
14 There's five different companies I can order
15 bacon from.

16 But there's one company I can order
17 Tito's from. And you'll see on that list there,
18 that there's basically four types of things that
19 I order -- vodka, Triple Sec, whiskey, and
20 cognac.

21 Those are the four most popular things
22 that I sell in my restaurant. There's probably
23 another fifteen products that I regularly don't
24 get, or get shorted, that I just do without.

25 But those four products I have to

1 live with. So, that's how I translate this.
2 Because you, as ABCA, gave a monopoly to
3 distributors that distributors have divvied up
4 amongst themselves.

5 And if I'm supposed to operate with
6 them and they're supposed to be open to me and
7 sell to me when I need it, which, like I said,
8 this isn't like I'm not trying to buy from them.

9 I buy from them every week. I really
10 try to spend money with them. I swear. But if
11 they don't deliver to me, what am I supposed to
12 do? They've closed their doors to me on those
13 other days, which is in the same effect as it
14 being a holiday.

15 CHAIRPERSON ANDERSON: And so, you're
16 saying because your interpretation of the
17 regulation is that your delivery day is
18 Wednesday. And so, because you need a product on
19 Monday, and because your delivery day is
20 Wednesday, then your interpretation of the law is
21 that, well, they're closed on Monday, so
22 therefore, I can basically go and purchase on
23 Monday, because they're closed. And so,
24 therefore, I can go purchase on an A store on
25 Monday, because the wholesaler's closed.

1 MR. JABLONSKI: They won't deliver to
2 me. They won't deliver to me. But here's the
3 problem. And there's another part past this.

4 The reason I'm translating it that
5 way, is because you read the rest of that
6 section, there's no requirement for any
7 distributor to have to deliver and do business on
8 every day to a business.

9 They don't have to be open to us
10 Monday through Friday, from 9:00 until 5:00 p.m.
11 They get to set the terms and their delivery
12 terms, and work it out with you however they
13 want.

14 So, if they get to open and close to
15 me when they want, then that means that they're
16 closed on the days they don't deliver. And I
17 think that is the only reasonable way to read
18 that statute.

19 CHAIRPERSON ANDERSON: So, basically,
20 your interpretation -- and as you said, you have
21 been in business for 20 years -- and it appears
22 from what you're saying, that the distributors,
23 that delivery on certain days of the week.

24 So, all other similarly situated
25 businesses, because the product is not being

1 delivered to them on their scheduled delivery
2 day, they can basically go out and purchase
3 liquor from Class A establishments, because these
4 businesses are closed to them on their off-
5 delivery day. That's your position?

6 MR. JABLONSKI: Yes. And the reason
7 why is because it's the way the system is set up.
8 If you make me do business with someone and they
9 refuse to do business with me, what am I supposed
10 to do?

11 CHAIRPERSON ANDERSON: Ms. Brown, do
12 you have any questions of the witness based on
13 the questions that the Board asked?

14 MS. BROWN: I do not.

15 CHAIRPERSON ANDERSON: Mr. Jablonski,
16 you have an opportunity -- normally, if you're an
17 attorney and this is redirect, so do you need to
18 expound on any statements that you have made
19 before, that you didn't get a chance to expound
20 on, sir, during your testimony?

21 MR. JABLONSKI: I think I've expounded
22 enough.

23 CHAIRPERSON ANDERSON: All right. Do
24 you rest? Meaning that you have --

25 MR. JABLONSKI: Yes. I rest.

1 CHAIRPERSON ANDERSON: Thank you. All
2 right. So, we're going to do closing statements
3 now. I would like the parties to be specific
4 what it is that -- what's being asked of the
5 Board. So, you first, Ms. Brown.

6 MS. BROWN: The Government has proven
7 to the Board by a preponderance of the evidence,
8 that The Ugly Mug has purchased alcohol from a
9 Class A retail liquor store, in violation of D.C.
10 Code, Section 25-113(a)(5)(A), and that The Ugly
11 Mug's owner, Mr. Jablonski, made a false
12 statement during an ABCA investigation, in
13 violation of D.C. Code, Section 25-823(a)(5)(C).

14 We heard from Investigator Ruiz, that
15 on Wednesday, June 21, 2023, he received an e-
16 complaint which alleged that The Ugly Mug was
17 ordering liquor through Instacart.

18 That day, Investigator Ruiz visited
19 the establishment, and also requested transaction
20 records from Instacart for alcohol orders
21 delivered to The Ugly Mug's address.

22 That same day, he also inspected any
23 alcohol records he received that he could get his
24 hands on at the establishment.

25 Finding no receipts, as I said, he

1 reached out to Instacart for those transaction
2 records.

3 The following day, on June 21, 2023,
4 Investigator Ruiz interviewed Ugly Mug owner,
5 Gaynor Jablonski. And during that conversation,
6 Mr. Jablonski told Investigator Ruiz that he had
7 not ordered or had alcohol delivered through
8 Instacart.

9 But as the evidence shows, the
10 statement was false, and intended to influence,
11 impede, or obstruct the ABCA investigation.

12 The proof is in the pudding.
13 Instacart provided records for all alcohol
14 transactions that were delivered to The Ugly Mug
15 since October of 2021.

16 Based on the Instacart spreadsheet,
17 orders for liquor were regularly made and
18 delivered to the establishment from Class A
19 retail liquor stores. Specifically, Costco being
20 the predominant retailer.

21 Instacart's records also show that
22 most of the orders were placed on weekdays,
23 during hours when wholesalers are open for
24 business.

25 For example, you saw the Instacart

1 spreadsheet showing that alcohol was delivered to
2 The Ugly Mug from Costco on both Tuesday,
3 June 20th, and Wednesday, June 21, 2023.

4 And you heard from Investigator Ruiz
5 that, one, those dates were not holidays, and
6 two, wholesale/retail liquor stores were in fact
7 open on those dates and at those times when those
8 orders were placed.

9 Therefore, The Ugly Mug was not
10 allowed to order alcohol from Class A retail
11 liquor stores on those dates and times.

12 Further, it is clear that The Ugly Mug
13 was aware that it was not allowed to purchase
14 alcohol through Instacart. In fact, as
15 Investigator Ruiz noted, no receipts were
16 retained at the establishment showing those
17 various purchases.

18 And further, based on the spreadsheet,
19 Mr. Jablonski himself, or someone who had access
20 to his account who worked for him, placed
21 approximately 20 Costco orders, including the
22 order placed just a day or two before
23 Investigator Ruiz went to the establishment and
24 interviewed Mr. Jablonski.

25 Investigator Ruiz explained to us that

1 the Instacart account with user ID No. 64258116
2 is in fact owned and operated by Mr. Jablonski,
3 because his phone number and his email address,
4 which are retained also in ABCA records, was the
5 same information that was retained by Instacart
6 as associated to that user ID.

7 And it's obvious that Mr. Jablonski
8 made a false statement when he told Mr. Ruiz that
9 he had not ordered liquor through Instacart.

10 Further, you heard Mr. Jablonski
11 testify, although he says he was having
12 difficulties with the alcohol distributors,
13 rather than take up that issue with ABCA, contact
14 the hotline, whatever he needed to do to move
15 legally, he threatened the system and took it
16 upon himself to order liquor from Costco through
17 Instacart.

18 You heard him fail to take
19 responsibility for his establishment's Instacart
20 purchases, and also tried to point the finger at
21 his own employees for using his Instacart
22 account.

23 You then heard Mr. Jablonski admit, in
24 response to Mr. Short's inquiry, that he ordered
25 liquor from Class A distributors. You heard him

1 state that, quote, no mistake was made.

2 Mr. Jablonski clearly thinks he was
3 right for violating the law, and he knew he was
4 violating the law, that his establishment was
5 violating the law, and so he misled Investigator
6 Ruiz when he asked him about him violating the
7 law.

8 The District has, therefore, proven
9 the charges in the Notice to Show Cause. And the
10 District recommends that the Board apply a
11 penalty consistent with D.C. Code 25-830. Thank
12 you.

13 CHAIRPERSON ANDERSON: Mr. Jablonski,
14 closing?

15 MR. JABLONSKI: Thank you. Thank you,
16 Commissioners, for being here. This is a matter
17 of what I call common sense.

18 Mr. Ruiz and I had numerous
19 conversations -- at least two -- about the issues
20 the distributors would not deliver to.

21 Mr. Ruiz also admitted that he
22 conveniently left out in his report the fact that
23 after I said, no, I don't, and then I explained
24 why when we have to, and why we have to do
25 sometimes ordering it not from there.

1 The system has been set up by ABCA to
2 allow distributors to have sole ability over
3 things, and the fact that there's nowhere in any
4 record or on notice, that I am supposed to
5 contact ABCA if distributors don't do their job,
6 proves that I am just simply trying to operate a
7 business after a pandemic, through a system that
8 was set up by this Agency, and that if this
9 Agency can't control the distributors and get
10 them to do their job properly, my interpretation
11 of the statute is the only reasonable
12 interpretation there is.

13 On top of that, I never made a false
14 statement. Mr. Ruiz admitted that I said I did
15 not, and then I explained why, if we do, why we
16 do.

17 He conveniently left that out. Which,
18 frankly, is very frustrating. Because him and I
19 have had this conversation before, and I've
20 explained to him why.

21 And my last point is, if ABCA was
22 really so worried about this -- okay? -- they
23 should take into account a couple of things.
24 Number one, as a retailer, when you buy from a
25 Class A, you pay sales tax.

1 So, you're getting extra money off of
2 us because we have to pay sales tax when we buy
3 it, plus we pay sales tax when we sell it. So,
4 there is no harm done to the Government, number
5 one.

6 Number two, I know for a fact that
7 there's been other people that have complained to
8 the ABRA investigators when they come out, and in
9 conversations with other ABCA people, that this
10 is happening with the distributors because
11 they're not able to keep up with the demand, and
12 they don't have the ability to service as many
13 people as they did pre-pandemic, because of all
14 the same challenges that we're having.

15 So, I wasn't required to give notice.
16 But I did give notice twice to an investigator
17 who should have gone back and told them that.
18 Because that is his job.

19 And then finally, my point is this.
20 How many challenges are you going to throw in the
21 way of a small business owner that's trying to
22 operate within a system that was controlled and
23 set up by somebody else?

24 We have no other options. You either
25 deal with one distributor for that product, or

1 you don't get it. We are beholden to whatever
2 they want to do.

3 We have to pay them every month on
4 time or they don't deliver. But guess what?
5 They don't have to deliver when they don't want
6 to.

7 This system has been set up so that
8 it's incredibly unfair, unjust, and frankly,
9 almost unconstitutional.

10 I can't operate my business without
11 certain products. Everybody knows that. One
12 distributor has the right to it and he can
13 decide, or she can decide, or they can decide,
14 when, how, and what they're going to send. And
15 there's no repercussions if they don't, besides
16 me calling and complaining.

17 Or, my other option is try to go to
18 another distributor and find another product
19 that's like it. But then, I end up losing
20 customers because there are certain people that
21 like certain things, and therefore, I need to
22 bring them to them.

23 So, there is no way that any
24 reasonable person could look at me and say I was
25 trying to intentionally defraud and break the

1 statute, I was trying to violate the law.

2 I'm simply trying to run a business.
3 And that's all I'm trying to do. And it's not in
4 my best interests to order from a Class A. I
5 don't want to do it.

6 But then again, I can't force Republic
7 National to bring me Jameson on Tuesdays. I
8 can't force Breakthrough to bring me Tito's on a
9 Monday.

10 I can't even get my Miller Lite
11 distributor to deliver to me unless there's now
12 like a \$500 minimum. What do I do when I need
13 one keg? You know what I do? I just go without.

14 Who is that really helping? It's not
15 helping the city, because that's less tax revenue
16 for us. All right? It's not helping
17 distributors, because they can't sell it.

18 And, ultimately, we have enough
19 challenges in this city going on. I don't need
20 another challenge of this.

21 So, I'm not trying to break the law.
22 I'm not trying to do anything that's mischievous.
23 And I told the inspector what's going on, and he
24 admitted that he just conveniently left it out.
25 So, I didn't make a false statement. I made an

1 explanation that he picked a phrase from.

2 So, I ask the Board to use common
3 sense, and please use your ability and your
4 leverage to investigate these distributors, and
5 ask them, why are they doing this.

6 Because nobody else can tell them
7 anything, because they can do whatever they want.
8 Because if you want something and they have it,
9 too bad, so sad, if they don't do anything.

10 Thank you for your time. I ask the
11 Board to find that both of these violations were
12 not happening, and that the only reason why I was
13 buying from a Class A license, is because I had
14 to because of the system that was created by
15 ABCA, to create distributors that have the
16 ability to control how, when, and what they
17 deliver to a Class C license. Thank you.

18 CHAIRPERSON ANDERSON: Thank you. All
19 right, the record is now closed. Do the parties
20 wish to --

21 MS. BROWN: Chairperson Anderson, the
22 District would like to make a rebuttal.

23 CHAIRPERSON ANDERSON: Okay, who is
24 the rebuttal, ma'am? You're calling a rebuttal
25 witness, or you're making a rebuttal statement?

1 Which one is it?

2 MS. BROWN: No, a rebuttal statement.

3 CHAIRPERSON ANDERSON: Okay. I mean,
4 you should have told me at the beginning that you
5 want to reserve the right, but go ahead, ma'am,
6 since the District has the burden.

7 MS. BROWN: My apologies. Okay, just
8 briefly.

9 Members of the Board, the
10 establishment implores us to use common sense,
11 but then asks us to use logic that is completely
12 contrary to that request.

13 Everyone knows that when an
14 establishment is closed, that means doors are
15 locked, no purchases can be made, business is not
16 open.

17 What Mr. Jablonski wants to say is
18 that if he is not assigned to that day, doesn't
19 matter what the ABCA regulations say, the
20 business is, quote, closed to him.

21 He also says, well, we don't purchase
22 from Class A retailers, but if we did, here's my
23 excuse for doing so. And then, at the end of his
24 closing, yet again, admitted -- admitted -- that
25 he in fact ordered from Class A distributors.

1 Members of the Board, this case is
2 essentially open and shut. You heard admission
3 after admission after admission. At this point,
4 there is no way to land in this case, other than
5 finding in the District's favor and finding that
6 these violations occurred. Thank you.

7 CHAIRPERSON ANDERSON: Thank you,
8 ma'am. All right, as stated before the file, the
9 record is now closed.

10 Do the parties wish to file proposed
11 findings of fact and conclusions of law, or waive
12 their right to do so?

13 MR. JABLONSKI: I have one question.

14 CHAIRPERSON ANDERSON: Yes, sir.

15 MR. JABLONSKI: So, was I able to ask
16 for a rebuttal at the beginning and not allowed?

17 CHAIRPERSON ANDERSON: No, sir,
18 because the burden is on the District.

19 MR. JABLONSKI: Okay.

20 CHAIRPERSON ANDERSON: So, because
21 they have the burden to prove that you committed
22 the violation, they have that right to --
23 normally, the Government will reserve to respond.
24 But that's why I had mentioned it, sir.

25 But they can get two bites of the

1 apple because they have the burden. They have to
2 prove that you committed the violation. You
3 didn't have to say anything. You didn't have to
4 present a case.

5 MR. JABLONSKI: Right.

6 CHAIRPERSON ANDERSON: Right. Because
7 the burden is on them to prove that you committed
8 the violations that you're charged with, sir.
9 Okay?

10 MR. JABLONSKI: Okay.

11 CHAIRPERSON ANDERSON: All right. All
12 right, the Board will issue a decision within
13 90 days. So, give me a minute, please. Sorry.

14 As Chairperson of the Alcoholic
15 Beverage and Cannabis Board for the District of
16 Columbia, and in accordance with D.C. Code,
17 Section 2575 of the Open Meetings Act, I move
18 that the ABC Board hold a closed meeting for the
19 purpose of seeking legal advice from our counsel
20 on case number 23-CMP-00052, The Ugly Mug Dining
21 Saloon, pursuant to D.C. Code,
22 Section 2575(b)(4)(A) of the Open Meetings Act,
23 and deliberating upon case number 23-CMP-00052,
24 The Ugly Mug Dining Saloon, for the reasons cited
25 in D.C. Official Code, Section 257(b)(13) of the

1 Open Meetings Act. Is there a second?

2 MEMBER GRANT: I second.

3 CHAIRPERSON ANDERSON: Mr. Grant has
4 seconded the motion. I will now take a roll call
5 vote on the motion before us. Mr. Short?

6 MEMBER SHORT: Mr. Short, I agree.

7 CHAIRPERSON ANDERSON: Mr. Grant?

8 MEMBER GRANT: Mr. Grant, I agree.

9 CHAIRPERSON ANDERSON: And
10 Mr. Anderson, I agree.

11 As it appears that the motion has
12 passed 3-0, I hereby give notice that the ABC
13 Board will recess this proceeding to hold a
14 closed meeting, pursuant to Section 2575 of the
15 Open Meetings Act.

16 Thank you very much for your
17 presentation. The Board will issue a decision
18 within 90 days. Have a great day. Thank you.

19 (Whereupon, the above-entitled matter
20 went off the record at 12:33 p.m.)

21

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In the matter of: The Ugly Mug Dining Saloon

Before: DC ABCA

Date: 11-15-23

Place: videoconference

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Court Reporter

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