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

2 12:53 p.m.

3 CHAIRPERSON ANDERSON: All right. So,
4 we're going to call the next case that we have on
5 our calendar. It's Case Number 23-CC-00009,
6 Heights Liquor, License Number 118369.

7 Mr. Orellana, can you please elevate
8 the rights of the Government and the Licensee in
9 this case?

10 MR. ORELLANA: Bisola Oni, your access
11 has been elevated. Investigator Tavrill Prout,
12 your access has been elevated. And that appears
13 to be all, Chairman.

14 CHAIRPERSON ANDERSON: The Licensee is
15 not here?

16 MR. ORELLANA: I do not believe so.

17 CHAIRPERSON ANDERSON: Ms. Oni, have
18 you had any conversation with the Licensee?

19 MS. ONI: No. I have emailed him with
20 the Offer in Compromise. He was not at the
21 status hearing, and so we have not had any
22 communication thus far.

23 CHAIRPERSON ANDERSON: All right. Ms.
24 Oni, can you identify yourself for the record,
25 please?

1 MS. ONI: Yes. Bisola Oni, B-I-S-O-L-
2 A, last name O-N-I, Assistant Attorney General,
3 here on behalf of the Government.

4 CHAIRPERSON ANDERSON: All right. I
5 see that the Licensee is not here today, is the
6 Government prepared to move forward?

7 MS. ONI: Yes.

8 CHAIRPERSON ANDERSON: All right.
9 Hold on one minute, please.

10 Pursuant to D.C. Official Code Section
11 25447, the Board has the authority to proceed ex
12 parte where the licensee waives the hearing or
13 fails to appear, unless the hearing is extended
14 for good and sufficient cause.

15 The Board -- let the record reflect
16 that the Licensee was properly served. Seeing no
17 Licensee here today, and having no good and
18 sufficient cause to extend the hearing, the Board
19 will proceed with the show cause hearing.

20 All right. Does the Government wish
21 to make an opening statement?

22 MS. ONI: Yes, we do.

23 CHAIRPERSON ANDERSON: Hold on,
24 please. Heights Liquor. Go ahead, ma'am.

25 MS. ONI: Good afternoon, members of

1 the Board. We're here today in the show cause
2 matter of Heights Liquor. This case is about an
3 establishment's disregard of D.C. law prohibiting
4 the sale of alcohol to minors. The show cause
5 notice in this case contains two charges, that
6 the establishment violated D.C. Code 25781 and
7 25783.

8 Today you will hear that, on July 8,
9 2023 ABCA investigators Tavril Prout and Mark
10 Ruiz, with the help of an undercover minor,
11 conducted a compliance check on the
12 establishment. The minor in this check was able
13 to purchase alcohol from the establishment
14 because the establishment failed to perform its
15 duties by checking the ID of a minor who wished
16 to purchase alcohol.

17 At the end of this hearing, it will be
18 clear that the Licensee failed to adhere to D.C.
19 Code, and that the License cannot excuse itself
20 of the charges brought. That is why we will ask,
21 at the end of the hearing, that the Board find in
22 favor of the District and apply the penalties
23 consistent.

24 CHAIRPERSON ANDERSON: All right,
25 thank you. Does the Government wish to call its

1 first witness?

2 MS. ONI: Yes. The Government calls
3 Investigator Prout.

4 CHAIRPERSON ANDERSON: Investigator
5 Prout, can you raise your right hand, please? Do
6 you swear or affirm to tell the truth and nothing
7 but the truth?

8 INVESTIGATOR PROUT: Yes, I do, Mr.
9 Chairperson.

10 CHAIRPERSON ANDERSON: All right,
11 thank you. Your witness, ma'am.

12 MS. ONI: Thank you. Investigator
13 Prout, good afternoon. Can you please state and
14 spell your name, your first and last name, for
15 the record, please?

16 INVESTIGATOR PROUT: Yes, ma'am. ABCA
17 Investigator Tavril Prout, T-A-V-R-I-L, P-R-O-U-
18 T.

19 DIRECT EXAMINATION

20 BY MS. ONI:

21 Q Thank you. And where are you
22 currently employed?

23 A I'm currently employed with the
24 Alcoholic Beverage and Cannabis Administration
25 for the District of Columbia.

1 Q Thank you. And what is your position
2 at ABCA?

3 A I am a alcohol investigator, at this
4 time.

5 Q And long have you been an
6 investigator?

7 A I will be five years January 19, 2024.

8 Q Thank you. And what are your duties
9 and responsibilities as an investigator?

10 A To perform regulatory inspections, as
11 well as compliance checks, on behalf of the
12 Alcohol Beverage and Cannabis Administration.

13 Q Thank you. And are you familiar with
14 the establishment located at 547 42 Street
15 Northwest, Washington, D.C., Heights Liquor?

16 MEMBER SHORT: Northeast.

17 INVESTIGATOR PROUT: Northeast.

18 MS. ONI: Northeast, I apologize.

19 INVESTIGATOR PROUT: Yes. Heights
20 Liquor is a where a compliance check was
21 conducted on Saturday, July 8. During the
22 compliance shift from 12:00 p.m. to 5:00 o'clock
23 p.m.

24 BY MS. ONI:

25 Q Thank you. And on what date did you

1 visit that establishment?

2 A On Saturday, July 8.

3 Q Thank you. And when conducting this
4 compliance check, who did you utilize, or what
5 did you utilize?

6 A So, we utilized minors through a
7 government contractor, who are other either high
8 school and/or college age, to be able to assist
9 us in performing the compliance checks.

10 Q Thank you. And these undercover
11 minors, what do they do? Are they sent into the
12 establishment? Could you give a bit more detail
13 about that?

14 A Yes, ma'am. So, they are -- we get
15 their IDS to verify their age, and then they are
16 instructed to enter into the establishment in a
17 undercover capacity to purchase alcoholic
18 beverages. In lieu of the compliance checks
19 being conducted, that minor was searched prior to
20 going into the establishment, and was provided
21 cash by ABCA investigators to purchase the
22 alcoholic beverages.

23 The minor and myself entered the
24 establishment at approximately 2:58 p.m. on the
25 corresponding date. I entered into the

1 establishment first, followed by the minor. The
2 minor then entered into -- sorry, they went to a
3 fridge that had a mixture of non-alcoholic and
4 alcoholic beverages, and they retrieved two 24
5 ounce alcohol -- sorry, two 24 ounce beers. One
6 was an Icehouse beer and a second one was a
7 Heineken beer.

8 From there, they walked up to the
9 cashier, they gave the cashier \$6 for the
10 alcoholic beverages, the male cashier did not ask
11 for ID. From there, the minor left out of the
12 establishment, followed by myself, and the
13 evidence was turned over to ABCA Investigator
14 Mark Ruiz.

15 Q Thank you, Investigator Prout. Mr.
16 Chairperson, permission to share my screen,
17 please?

18 CHAIRPERSON ANDERSON: Mr. Orellana,
19 can you allow Ms. Oni to share her screen?

20 (No audible response.)

21 CHAIRPERSON ANDERSON: Okay.

22 MS. ONI: Investigator Prout, can you
23 see my screen?

24 INVESTIGATOR PROUT: Yes, ma'am.

25 BY MS. ONI:

1 Q And what is marked as Government
2 Exhibit One, what does this image show?

3 (Whereupon, the above-referred to
4 document was marked as Government
5 Exhibit No. 1 for identification.)

6 A That is the full shot of the minor
7 that was utilized on that day. It is marked for
8 the date that is in lieu of the compliance check,
9 which was July 8, marked with his date of birth,
10 which was May 6, 2007. And his age at that time
11 was 17 years of age.

12 Q Thank you. And Government Exhibit
13 Two, what is this image showing?

14 (Whereupon, the above-referred to
15 document was marked as Government
16 Exhibit No. 2 for identification.)

17 A That is a head and shoulder shot of
18 the minor with the date of the compliance check
19 of July 8, along with his date of birth of May 6,
20 2007, and his appropriate age at that time, which
21 is 17 years of age.

22 Q Thank you. And Government Exhibit
23 Three, what does this show?

24 (Whereupon, the above-referred to
25 document was marked as Government

1 Exhibit No. 3 for identification.)

2 A That is a temporary paper ID card that
3 was given to the minor from the District's
4 Department of Motor Vehicles, and which was dated
5 June 29, 2023, and it was issued on that date.
6 And the expiration date was August 12, 2023, with
7 his date of May 8, 2007 on it.

8 Q Thank you. And is this the
9 identification card the minor used to purchase
10 alcohol?

11 A So, that is the card that was on his
12 person, however he was not asked to provide that
13 upon purchasing the alcoholic beverages on the
14 date of July 8, 2023.

15 Q Thank you. And going to Government
16 Exhibit Five, what is this?

17 (Whereupon, the above-referred to
18 document was marked as Government
19 Exhibit No. 5 for identification.)

20 A That is the picture of both 24 ounce
21 cans that were purchased from Heights Liquors on
22 July 8 at approximately 2:58 p.m.

23 Q Thank you. And Mr. Chairperson, the
24 Government would like to enter Government Exhibit
25 1, 2, 3, and 5 into the record.

1 CHAIRPERSON ANDERSON: So moved.
2 (Whereupon, the above-referred to
3 documents were received into evidence
4 as Government Exhibits No. 1, 2, 3,
5 and 5.)

6 MS. ONI: Thank you. Thank you,
7 Investigator Prout. I'll now stop sharing my
8 screen.

9 I have no further questions for
10 Investigator Prout at this time.

11 CHAIRPERSON ANDERSON: Any questions
12 by any Board members?

13 (No response.)

14 CHAIRPERSON ANDERSON: Investigator
15 Prout, thank you for your presentation today.
16 You're free to go.

17 INVESTIGATOR PROUT: Thank you, sir.

18 CHAIRPERSON ANDERSON: Does the
19 Government have another witness they wish to
20 call?

21 MS. ONI: Yes, the Government would
22 like to call Investigator Mark Ruiz.

23 CHAIRPERSON ANDERSON: Mr. Ruiz, can
24 you raise your right hand, please? Do you swear
25 or affirm to tell the truth and nothing but the

1 truth?

2 (No audible response.)

3 CHAIRPERSON ANDERSON: Mr. Ruiz?

4 INVESTIGATOR RUIZ: Sorry, I do.

5 CHAIRPERSON ANDERSON: Your witness,
6 ma'am.

7 MS. ONI: Thank you. Investigator
8 Ruiz, can you spell and state your name for the
9 record, please?

10 INVESTIGATOR RUIZ: Yes, first name's
11 Mark, M-A-R-K, last name's Ruiz, R-U-I-Z.

12 DIRECT EXAMINATION

13 BY MS. ONI:

14 Q Thank you. And Investigator, where
15 are you currently employed?

16 A The Alcoholic Beverage and Cannabis
17 Administration.

18 Q And what is your position at ABCA?

19 A I'm an alcohol investigator.

20 Q Okay. How long have you been an
21 investigator?

22 A Going on five years.

23 Q Thank you. And are you familiar with
24 the establishment Heights Liquor?

25 A Yes.

1 Q How are you familiar with this
2 establishment?

3 A This was an establishment that was on
4 our list to conduct compliance checks.

5 Q Did you visit this establishment on
6 July 8, 2023?

7 A Yes.

8 Q Why?

9 A For the establishment -- to conduct a
10 compliance check at the establishment.

11 Q Thank you. And during this compliance
12 check, where were you located?

13 A I was in the ABCA vehicle.

14 Q Thank you. And what happened after
15 the UC entered the establishment and purchased
16 alcohol?

17 A He exited the establishment and
18 returned to the vehicle, at which time I obtained
19 the alcohol purchased, and then went into the
20 establishment to make notification.

21 Q Thank you. And, again, could you tell
22 me what was purchased?

23 A That would be two 24 ounce cans of
24 beer, one being Icehouse, one being Heineken.

25 Q Thank you. And are you familiar with

1 the minor's age at the time?

2 A Yes, 17.

3 Q Seventeen, thank you. Thank you,
4 Investigator Ruiz. Mr. Chairperson, I have no
5 further questions at this time.

6 CHAIRPERSON ANDERSON: Any questions
7 by any Board members?

8 MEMBER GRANT: No, sir.

9 CHAIRPERSON ANDERSON: Mr. Ruiz, how
10 old are you supposed to be to purchase alcohol
11 within the District of Columbia?

12 INVESTIGATOR RUIZ: Twenty-one.

13 CHAIRPERSON ANDERSON: All right. I
14 don't have any further questions.

15 All right, then. Thank you for your
16 presentation today, sir.

17 INVESTIGATOR RUIZ: Thank you.

18 CHAIRPERSON ANDERSON: All right.
19 Does the Government have any other witnesses?

20 MS. ONI: No, the Government would
21 like to present a short closing.

22 CHAIRPERSON ANDERSON: Go ahead,
23 please.

24 MS. ONI: Thank you. Members of the
25 Board, this case has been about an establishment

1 that sold alcohol to someone under 21 years old.

2 On July 8, 2023 an undercover minor
3 was sent in during a ABCA compliance check, and
4 was able to purchase two cans of beer. This 17-
5 year-old minor purchased two cans of beer because
6 Heights Liquor failed to check the identification
7 of the minor.

8 In this case the District has proven
9 that the Licensee did, in fact, commit offenses
10 for which they are charged. The testimony of the
11 investigators has confirmed this. They told us
12 that, on the afternoon of July 8, 2023, while
13 conducting this compliance check, they observed
14 the establishment violate D.C. Code by selling
15 two cans of beer to a minor, who was 17 at the
16 time, and not checking his age.

17 After hearing the facts and the
18 testimony of the witnesses, we ask that you find
19 Heights Liquor guilty of the two violations for
20 which they are charged. Thank you.

21 CHAIRPERSON ANDERSON: Thank you very
22 much. The record is now closed. Do you wish to
23 file a proposed findings of fact and conclusion
24 of law, or do you waive that?

25 MS. ONI: We waive that.

1 CHAIRPERSON ANDERSON: Thank you. As
2 Chairperson of the Alcoholic Beverage and
3 Cannabis Board for the District of Columbia, in
4 accordance with D.C. Official Code Section 2575
5 of the Open Meetings Act, I move that ABC Board
6 hold a closed meeting for the purpose of seeking
7 legal advice from our counsel on Case Number 23-
8 CC-00009, Heights Liquor. Pursuant to D.C.
9 Official Code Section 2575(b)(4)(a) of the Open
10 Meetings Act and deliberating upon Case Number
11 23-CC-00009, Heights Liquor, for the reason cited
12 in D.C. Official Code Section 2575(b)(13) of the
13 Open Meetings Act. Is there a second?

14 Mr. Short has second the motion, I
15 will now take a roll call vote on the motion that
16 has been properly second by Mr. Short. Mr.
17 Short?

18 MEMBER SHORT: Mr. Short, I agree.

19 CHAIRPERSON ANDERSON: Mr. Grant?

20 MEMBER GRANT: Mr. Grant, I agree.

21 CHAIRPERSON ANDERSON: And Mr.
22 Anderson, I agree. As it appears that the motion
23 has passed 3-0, I hereby give notices that ABC
24 Board will recess these proceedings to hold a
25 closed meeting pursuant to Section 2575 of the

1 Open Meetings Act.

2 Thank you very much, ma'am, for your
3 presentation today. The Board will issue a
4 decision within 90 days.

5 MS. ONI: Thank you.

6 CHAIRPERSON ANDERSON: I think, yeah,
7 90 days. Thank you. Have a great day.

8 (Whereupon, the above-entitled matter
9 went off the record at 1:10 p.m.)

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In the matter of: Heights Liquor

Before: DC ABCA

Date: 12-06-23

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Court Reporter

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