

IN THE MATTER OF: :

Connexion Group, LLC, :

t/a 1230 DC :

1230 9th Street NW : Show Cause

Retailer CR - ANC 2F : Hearing

License No. 100537 :

Case #18-CMP-00203 :

(Summer Garden :

Endorsement, Operating :

After Board Approved :

Hours) :

Wednesday
February 13, 2019

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Donovan W. Anderson, presiding.

PRESENT :

DONOVAN W. ANDERSON, Chairperson
NICK ALBERTI, Member
BOBBY CATO, JR., Member
JAMES SHORT, Member
MIKE SILVERSTEIN, Member
REMA WAHABZADAH, Member

ALSO PRESENT:

INVESTIGATOR KEVIN PUENTE, ABRA

JESSICA GUNZEL, OAG

T-A-B-L-E O-F C-O-N-T-E-N-T-S

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

2 (10:12 a.m.)

3 CHAIRPERSON ANDERSON: I will call the
4 case. The next case in our calendar is Case
5 Number 18-CMP-00203, 1230 DC, License Number
6 100537.

7 Will the parties please identify
8 themselves for the record, please?

9 MS. GUNZEL: Jessica Gunzel for the
10 District of Columbia.

11 CHAIRPERSON ANDERSON: Good morning,
12 Ms. Gunzel.

13 MS. GUNZEL: Good morning.

14 CHAIRPERSON ANDERSON: I see that the
15 licensee is not here. Is the District prepared
16 to move forward?

17 MS. GUNZEL: Yes.

18 CHAIRPERSON ANDERSON: All right.
19 Hold on, please. All right. Let me see.

20 Pursuant to DC Official Court Section
21 25447, the Board has the authority to proceed ex
22 parte where the licensee waives the hearing or

1 fails to appear unless the hearing is extended
2 for good and sufficient cause. The Board's
3 records reflect that the licensee was properly
4 served on November 30, 2018.

5 Seeing no licensee here today and
6 having no good cause and sufficient cause to
7 extend this hearing, the Board will proceed with
8 the show cause hearing.

9 All right. Does the government wish
10 to make an opening statement?

11 MS. GUNZEL: Yes, a very brief one.

12 Good morning, Board Members. In this
13 case, there are two charges before the Board.
14 The evidence will show that on Saturday, August
15 18, 2018, 1230 DC operated a summer garden on the
16 second floor of the establishment without having
17 the necessary endorsement on its ABC license.

18 The District will also establish that
19 1230 DC operated beyond its Board-approved hours
20 by staying open serving alcohol and allowing a DJ
21 to continue playing music past 2:30 a.m. when
22 1230 DC's hours of sales and entertainment ends

1 at 2:00 a.m. on Fridays.

2 Thank you.

3 CHAIRPERSON ANDERSON: All right.

4 Does the government have a witness?

5 MS. GUNZEL: Yes, Mr. Chair. The
6 government has one witness.

7 CHAIRPERSON ANDERSON: Who's that
8 witness?

9 MS. GUNZEL: ABRA Investigator Kevin
10 Puente.

11 CHAIRPERSON ANDERSON: Okay.

12 Mr. Puente, do you swear or affirm to
13 tell the truth and nothing but the truth?

14 INVESTIGATOR PUENTE: Yes.

15 CHAIRPERSON ANDERSON: Thank you.

16 Your witness.

17 MS. GUNZEL: Thank you.

18 DIRECT EXAMINATION

19 BY MS. GUNZEL:

20 Q Good morning. Please state your name
21 and spell it for the record.

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

1 Q Thank you. So, where do you work?

2 A Alcoholic Beverage Regulation
3 Administration.

4 Q And what's your title there?

5 A Investigator.

6 Q How long have you been an investigator
7 for ABRA?

8 A Approximately three and a half years.

9 Q And what are your primary job
10 responsibilities as an investigator?

11 A To conduct inspections and
12 investigations of licensed ABC establishments in
13 the District of Columbia.

14 Q And do you typically write
15 investigative reports following an inspection?

16 A Yes.

17 Q Okay. Are you familiar with an ABC
18 establishment by the name of 1230 DC?

19 A Yes.

20 Q Did you have occasion to visit 1230 DC
21 on Saturday, August 18, 2018?

22 A Yes.

1 Q And what was the purpose of your visit
2 that day?

3 A Myself, Investigator Mark Brashears,
4 as well as DCRA Inspector Romaner established DC
5 9th Street, and we observed the establishment
6 operating a summer garden, as well as operating
7 past its Board-approved hours.

8 Q Okay. And did you subsequently write
9 an investigative report after your visit?

10 A Yes.

11 Q Okay. I'm going to hand you a copy of
12 your investigative report now. I have extra
13 copies for the Board if necessary.

14 Okay, so what happened when you first
15 arrived at the establishment?

16 A We arrived, we went to the front door,
17 identified ourselves as ABRA investigators to the
18 security guard and asked to speak to the ABC
19 manager, the owner.

20 Q Okay. And what did you do next?

21 A We went to the second floor.

22 Investigator Brashears immediately went to the

1 rooftop summer garden. I waited for the ABC
2 manager, who finally approached me, Mr.
3 Rodriguez. I asked to see the license, and we
4 went to the summer garden.

5 Went outside to the summer garden.
6 There was approximately ten patrons outside.
7 There was patio furniture set up. Some of the
8 patrons were sitting down and they were consuming
9 alcoholic beverages.

10 Q Okay. And to your knowledge, was the
11 establishment approved to have a summer garden?

12 A No, it was not ever licensed.

13 Q So, you knew that based on looking at
14 the license?

15 A Yes, and previous to the
16 establishment.

17 Q Okay. And you stated that you looked
18 at the license that evening, correct?

19 A Yes.

20 Q What did you do next?

21 A I spoke with Mr. Rodriguez, the ABC
22 manager, and showed him the ABC license that

1 shows no summer garden endorsement, and also
2 advised him that it was 2:30, and he was
3 operating past his hours of operation of sale.

4 Q And what were the establishment's
5 hours of operation in sales that evening?

6 A Two o'clock a.m.

7 Q Okay. And approximately what time was
8 it again?

9 A 2:30 a.m.

10 Q Okay. Was 1230 DC still serving
11 alcoholic beverages?

12 A Yes. I observed the bartender still
13 behind the bar. When I advised Mr. Rodriguez
14 that he was operating past his hours, he went
15 inside and told the bartenders to stop serving.

16 Q Okay. What else did you observe?

17 A I asked Mr. Rodriguez if the owner was
18 present. He stated yes. I asked, "Why am I
19 talking to you? Please get the owner." He said
20 the owner did not want to talk to ABRA. I
21 advised him that he should get the owner
22 otherwise he'll be interference on the owner's

1 part.

2 A few minutes later, the owner came
3 out, Mr. Appada, asked what was wrong. I showed
4 Mr. Appada the ABC license, explained to him no
5 summer garden, as well as his hours of sale in
6 operation.

7 Q And stepping back for a moment, was
8 there anything else that indicated the
9 establishment was still open?

10 A Yes. The DJ was still playing music
11 and making announcements on a microphone.

12 Q Okay. And why is that significant?

13 A Because the entertainment was also to
14 two a.m., and it was still operating past two
15 a.m.

16 Q Okay. And how did you know that?

17 A The music was playing, just noise was
18 loud, people were dancing, and the DJ was still
19 in the DJ booth.

20 Q Okay. Around what time did the
21 establishment actually close down?

22 A After I advised Mr. Appada that he was

1 in violation, he should close down, he gave me --
2 he didn't really say anything. I advised him
3 that I would call MPD for assistance, and that's
4 when he went in, told the DJ to stop the music
5 and the lights came on about 2:45.

6 Q 2:45, okay. Did you observe any other
7 violations while you were there?

8 A No.

9 MS. GUNZEL: Okay. The District has
10 no further questions. Thank you.

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

13 Go ahead, Mr. Short.

14 MEMBER SHORT: Good morning,
15 Investigator Puente. So, it sounds like -- well,
16 I need to ask. Were the operators cooperative
17 completely?

18 INVESTIGATOR PUENTE: The ABC manager
19 was. The owner, he was kind of playing like he
20 did not know what was going on or didn't know all
21 the regulations, but after I explained to him
22 everything, he finally got the hint that he

1 needed to close, but I spoke to him in the past
2 about these violations before for previous
3 instances, so he knew what his operations of
4 hours were.

5 MEMBER SHORT: Okay, but since this
6 violation, has he done it again or --

7 INVESTIGATOR PUENTE: Yes.

8 MEMBER SHORT: No further questions,
9 Mr. Chair.

10 CHAIRPERSON ANDERSON: Any other
11 questions by any of the Board members?

12 Yes, Mr. Silverstein.

13 MEMBER SILVERSTEIN: So, you're saying
14 he had been warned previously?

15 INVESTIGATOR PUENTE: Yes.

16 MEMBER SILVERSTEIN: And you told him
17 then, and he has subsequently again violated?

18 INVESTIGATOR PUENTE: Yes.

19 MEMBER SILVERSTEIN: No further
20 questions.

21 CHAIRPERSON ANDERSON: Any other
22 questions by any of the Board members?

1 (No audible response.)

2 CHAIRPERSON ANDERSON: Any followup
3 questions, Ms. Gunzel, to the investigator based
4 on the questions from the Board?

5 MS. GUNZEL: No, Mr. Chair.

6 CHAIRPERSON ANDERSON: Okay.

7 Thank you, Ms. Puente. You can step
8 down.

9 (Whereupon, the witness was excused.)

10 CHAIRPERSON ANDERSON: Does the Board
11 have -- I'm sorry. Does the government have any
12 other witnesses?

13 MS. GUNZEL: No, Mr. Chair.

14 CHAIRPERSON ANDERSON: Does the
15 government wish to make a closing statement?

16 MS. GUNZEL: A brief closing
17 statement.

18 CHAIRPERSON ANDERSON: Yes, sure. Go
19 ahead.

20 MS. GUNZEL: Board Members, today, the
21 government has provided sufficient evidence for
22 the Board to find that on August 18, 2018, 1230

1 DC operated a summer garden without an
2 endorsement and operated beyond its Board-
3 approved hours of sales and entertainment.

4 We heard from ABRA Investigator Puente
5 that on that date, Investigator Puente visited
6 the establishment and observed a summer garden
7 with patrons consuming alcohol and sitting on
8 patio furniture. However, Investigator Puente
9 testified that 1230 DC did not have an
10 endorsement for a summer garden on its ABC
11 license.

12 Investigator Puente also testified
13 that he witnessed the establishment continue to
14 operate and sell alcohol past 2:30 a.m. even
15 though the establishment's hours of operation and
16 sales end at 2:00 a.m. on Fridays. Investigator
17 Puente also told us he observed a DJ continuing
18 to play music past 2:30 a.m. even though the
19 establishment's hours of entertainment ended at
20 2:00 a.m. as well.

21 The District has therefore met its
22 burden and has proven both charges. The

1 government defers to the Board's judgement on the
2 penalties that should be imposed on the
3 establishment.

4 Thank you.

5 CHAIRPERSON ANDERSON: All right.

6 Thank you.

7 As chairperson of the Alcoholic
8 Beverage Control Board for the District of
9 Columbia and accordance with Section 405 of the
10 Open Meetings Amendment Act of 2010, I move that
11 ABC Board hold a closed meeting for the purpose
12 of seeking legal advice from our counsel on Case
13 Number 18-CMP-00203, 1230 DC, per Section
14 405(b)(4) of the Open Meetings Amendment Act of
15 2010 and deliberating upon 18-CMP-00203, 1230 DC
16 for the reasons cited in Section 405(b)(13) of
17 the Open Meetings Amendment Act of 2010.

18 Is there a second?

19 MEMBER SHORT: Second.

20 MEMBER SILVERSTEIN: Second.

21 CHAIRPERSON ANDERSON: Mr. Short and
22 Mr. Silverstein have seconded the motion. I will

1 now take a roll call vote on the motion now that
2 it's been second.

3 Ms. Wahabzadah.

4 MEMBER WAHABZADAH: I agree.

5 CHAIRPERSON ANDERSON: Mr.
6 Silverstein.

7 MEMBER SILVERSTEIN: I agree.

8 CHAIRPERSON ANDERSON: Mr. Short.

9 MEMBER SHORT: I agree.

10 CHAIRPERSON ANDERSON: Mr. Alberti.

11 MEMBER ALBERTI: I agree.

12 CHAIRPERSON ANDERSON: Mr. Cato.

13 MEMBER CATO: I agree.

14 CHAIRPERSON ANDERSON: Mr. Anderson,
15 I agree.

16 As it appears that the motion has
17 passed, I hereby give notice that the ABC Board
18 will hold a closed meeting in ABC Board
19 Conference Room pursuant to Open Meeting
20 Amendment of Act of 2010, and we will issue an
21 order within 90 days.

22 Thank you very much, Ms. Gunzel, for

1 you -- thank you very much for your presentation
2 today, and this case is submitted. Thank you.

3 MS. GUNZEL: Thank you.

4 (Whereupon, the above-entitled matter
5 went off the record at 10:23 a.m.)
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In the matter of: Connexion Group, LLC, t/a 1230 DC

Before: DC ABRA

Date: 2-13-19

Place: Washington, DC

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