

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

IN THE MATTER OF: :

:

E & K, LLC :

t/a 13th Street Market :

3582 13th Street NW :

Retailer B - ANC 1A : Show Cause

License No. 78245 : Hearing

Case #18-CC-00037 :

:

(Sale to Minor Violation, :

Failed to Take Steps :

Necessary to Ascertain :

Legal Drinking Age, No :

ABC Manager on Duty, :

Failed to Post the License:

in a Conspicuous Place) :

Wednesday,
 October 17, 2018

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, Member
- MIKE SILVERSTEIN, Member
- JAMES SHORT, Member
- REMA WAHABZADAH, Member

ALSO PRESENT:

KEBEDSHACHEW GIRMA, Licensee

INVESTIGATOR VERNON LEFTWICH, ABRA

AMY SCHMIDT, DC OAG

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

WITNESS	DIRECT	CROSS	REDIR	RECROSS	BOARD
Vernon Leftwich	10	14			17
Kebedshachew Girma	20				24

EXHIBIT	IDENTIFIED	RECEIVED
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GOVERNMENT

1 - Investigative Report	19	19
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1 P-R-O-C-E-E-D-I-N-G-S

2 11:23 a.m.

3 CHAIRPERSON ANDERSON: All right.

4 We're back on the record. Our next case is Case
5 No. 18-CC-00037, 13th Street Market, License No.
6 78245.

7 And let me apologize to the parties.
8 I wasn't keeping track of time. I apologize. I
9 know this matter was scheduled for 11:00. It is
10 now 11:24. So we were doing one of our agendas
11 back there and I do apologize that I should have
12 been more efficient and looked at the clock to
13 make sure that I was here at 11:00. So I do
14 apologize.

15 All right. Can the parties, please,
16 identify themselves for the record, please?

17 MS. SCHMIDT: Yes, good morning. Amy
18 Schmidt, Assistant Attorney General, on behalf of
19 the District of Columbia.

20 CHAIRPERSON ANDERSON: Good morning,
21 Ms. Schmidt. Your name, ma'am?

22 MS. GIRMA: Kebedshachew Girma.

1 CHAIRPERSON ANDERSON: Good morning,
2 Ms. Girma. All right. All right. This is a
3 Show Cause Hearing. Are there any preliminary
4 matters in this case?

5 MS. SCHMIDT: Yes. There are four
6 charges in this case and the licensee has -- is
7 going to stipulate to the first three charges,
8 but we just -- but if the Government could
9 present evidence on the fourth charge, which is
10 the charge of --

11 CHAIRPERSON ANDERSON: So can you tell
12 us --

13 MS. SCHMIDT: Yes.

14 CHAIRPERSON ANDERSON: -- what the--
15 hold on. What are the charges? What are the
16 charges that are being stipulated on?

17 MS. SCHMIDT: The first one is selling
18 alcohol to a minor, which is DC Code § 25-
19 823(a)(1), which is Charge 1.

20 Charge 2 which is failure to ascertain
21 -- failure to take reasonable steps to ascertain
22 whether the person to whom they sold the alcohol

1 was of age, which is 25-823(a)(1).

2 CHAIRPERSON ANDERSON: Okay.

3 MS. SCHMIDT: I'm sorry, it's the
4 wrong one. 25-783(b), I apologize for the
5 misstatement.

6 And Charge 3, which is failure to keep
7 a licensed ABC Manager, which is 25-701(a) and 23
8 DCMR 707.1.

9 And we are going to --

10 CHAIRPERSON ANDERSON: So No. 3 is no
11 ABC Manager?

12 MS. SCHMIDT: Manager, um-hum.

13 CHAIRPERSON ANDERSON: Have you agreed
14 on the charge -- I'm sorry, on the fine amount or
15 is it -- are you leaving it up to
16 the --

17 MS. SCHMIDT: No, we are leaving it up
18 to the Board.

19 CHAIRPERSON ANDERSON: -- leaving it
20 up to the Board?

21 MS. SCHMIDT: They are pleading as to
22 the facts, so we don't need to present testimony

1 as to that.

2 CHAIRPERSON ANDERSON: All right. And
3 what's the fourth -- the only case -- the only
4 charge -- I'm sorry. The only contested charge
5 is which one?

6 MS. SCHMIDT: Is failure to display an
7 ABC License in violation of 25-711(a).

8 CHAIRPERSON ANDERSON: So we are
9 having a hearing on that case, right?

10 MS. SCHMIDT: Yes.

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

14 MS. SCHMIDT: No, just will call its
15 witness for this charge.

16 CHAIRPERSON ANDERSON: Ma'am, do you
17 wish to make an opening statement?

18 MS. GIRMA: Yes.

19 CHAIRPERSON ANDERSON: Do you know
20 what an opening statement -- I know you are not
21 an attorney. So I'm sorry, are you an attorney?

22 MS. GIRMA: No.

1 CHAIRPERSON ANDERSON: An opening
2 statement is basically you are not going to give
3 testimony, you are just going to tell me what it
4 is that -- well, you know what, you don't have to
5 make an opening statement at this juncture.

6 Let the Government present its case
7 and once the Government -- the way this -- the
8 proceedings will occur, the Government will call
9 a witness. They will question their witness.
10 Once the Government is done questioning their
11 witness, then you can ask some specific questions
12 of that witness.

13 After that is done, the Board will ask
14 questions of the Government's witness. You will
15 get an opportunity if, say for example, you
16 believe -- then you will get an opportunity to
17 ask questions of that witness based on the
18 questions that the Board asked. If the Board
19 doesn't ask any questions, there are no
20 questions.

21 The Government will then rest its
22 case. And then you can present your case.

1 Do you have any witnesses or are you
2 just -- you are the only one?

3 MS. GIRMA: Yes.

4 CHAIRPERSON ANDERSON: And so what I
5 will do when you -- once the Government has
6 presented its case, then I will swear you in and
7 then you will explain where you are. Okay?

8 MS. GIRMA: Yes.

9 CHAIRPERSON ANDERSON: All right. If,
10 during the proceedings, you need any
11 clarification, please, say if you don't
12 understand, please, let me know and I'll stop and
13 explain to you.

14 All right. So who is the Government's
15 first witness?

16 MS. SCHMIDT: Investigator Vernon
17 Leftwich.

18 CHAIRPERSON ANDERSON: Mr. Leftwich,
19 can you raise your right hand, please?
20 Whereupon,

21 INVESTIGATOR VERNON LEFTWICH
22 was called as a witness by Counsel for the

1 Government, and having been first duly sworn,
2 assumed the witness stand and was examined and
3 testified as follows:

4 INVESTIGATOR LEFTWICH: I do.

5 CHAIRPERSON ANDERSON: All right.

6 Your witness.

7 MS. SCHMIDT: Okay.

8 DIRECT EXAMINATION

9 BY MS. SCHMIDT:

10 Q Investigator Leftwich, were you at the
11 licensed establishment, 13th Street Market at
12 3582 13th Street, N.W., in the District of
13 Columbia on Friday, March 30, 2018?

14 CHAIRPERSON ANDERSON: Ms. Schmidt,
15 and I don't -- it's not my job to tell you how to
16 do it, but can you tell me who he is and --

17 MS. SCHMIDT: I'm sorry, I apologize.

18 CHAIRPERSON ANDERSON: -- give some,
19 please --

20 MS. SCHMIDT: I apologize.

21 CHAIRPERSON ANDERSON: All right.

22 MS. SCHMIDT: Yes.

1 CHAIRPERSON ANDERSON: All right.

2 Thank you.

3 MS. SCHMIDT: Okay. I apologize.

4 BY MS. SCHMIDT:

5 Q Investigator, could you state your
6 name for the record?

7 A Investigator Vernon Leftwich.

8 Q And by whom are you employed?

9 A The Alcoholic Beverage Regulation
10 Administration.

11 Q And in what capacity are you employed?

12 A I'm an Investigator.

13 Q And how long have you been an
14 Investigator with them?

15 A I have been an Investigator for a
16 little over three years.

17 Q And what do your duties include?

18 A My duties include enforcing the
19 regulations as it pertains to alcoholic
20 establishments that are licensed within the
21 District of Columbia, as well as conducting
22 regulatory inspections at those establishments.

1 Q Drawing your attention to Friday,
2 March 30, 2018, were you at 13th Street Market
3 located at 3582 13th Street, N.W.?

4 A Yes, ma'am.

5 Q In the District of Columbia? And why
6 were you there?

7 A I was there -- while we were
8 conducting compliance checks, specifically sale
9 to minor, Investigator Howes went in as -- in an
10 undercover capacity and observed a sale. I was
11 notified of that sale and I went in to do the
12 notification of sale.

13 Q And what did you discover with respect
14 to the posting of the 13th Street Market alcohol
15 license?

16 A As a part of my responsibilities in
17 notifying the establishment of the sale to minor,
18 I must request to speak with an ABC Manager or
19 owner. In addition to that, conduct a regulatory
20 inspection.

21 In my attempt to conduct a regulatory
22 inspection, myself nor the non-ABC Manager and

1 non-owner that was there present at the time,
2 none of us could locate the license, the ABRA
3 License.

4 Q And how did you try to locate that
5 license?

6 A Based on the regulations, the license
7 should be visible to the public. So I looked
8 around the establishment. I looked behind, I
9 looked on all the walls. I looked -- they had
10 two almost cutouts in the establishment, I looked
11 there. Myself nor the individuals that were
12 present at the time could locate the license.

13 Q And was any explanation given to you
14 as to the location of the license?

15 A No. They stated that they had reached
16 out to the owner. The two individuals that was
17 there, one informed me that the owner was at a
18 funeral and could not answer the phone at the
19 time, so they called to reach out to attempt to
20 find the license, but at no response.

21 Q And since March 30, 2018, have you
22 been at the establishment?

1 A Yes, myself and Investigator Howes
2 went to establishment yesterday.

3 Q And did you see a license posted there
4 yesterday?

5 A Yes, the ABRA License was posted
6 behind the register in their kitchen-type area
7 yesterday.

8 Q And was it post -- when you went the
9 first time, was it posted there?

10 A No. Back to yesterday, the license
11 was very visible. It was sitting. It was at
12 eye-level and it was unmistakably there. You
13 could not miss it.

14 MS. SCHMIDT: No further questions, at
15 this time.

16 CHAIRPERSON ANDERSON: Do you have any
17 questions that you want to ask him, ma'am?

18 MS. GIRMA: Yes.

19 CROSS-EXAMINATION

20 BY MS. GIRMA:

21 Q But the license I'm sure --

22 CHAIRPERSON ANDERSON: Ma'am, all

1 right.

2 MS. GIRMA: I'm sorry.

3 CHAIRPERSON ANDERSON: You need to ask
4 -- you are not going to have a conversation.

5 MS. GIRMA: Okay. I'm sorry.

6 CHAIRPERSON ANDERSON: You need to ask
7 --

8 MEMBER SILVERSTEIN: Could you put the
9 microphone closer?

10 CHAIRPERSON ANDERSON: I think, yes,
11 just bring the microphone closer. You need to
12 speak up, Mr. Silverstein can't hear you.

13 So you can ask him what you just asked
14 him, but ask him in the form of a question. So
15 whatever you want to ask him, but ask him in the
16 form of a question, ma'am.

17 BY MS. GIRMA:

18 Q Now, did they take everything on the
19 -- from the wall?

20 A Yes, ma'am.

21 Q And there was no ABRA License?

22 A No, ma'am.

1 Q Because it has been there for 12
2 years. I don't know what happened.

3 CHAIRPERSON ANDERSON: Remember, you
4 are asking him a question.

5 MS. GIRMA: I really don't --

6 CHAIRPERSON ANDERSON: You can say
7 that to me when you close, but right now, you are
8 asking him a question, ma'am.

9 BY MS. GIRMA:

10 Q I really don't know what happened,
11 because when I was there, it was right there.
12 They told me and they said -- I said right here.
13 I mean, I don't know what to say, because this is
14 being -- you can ask any other Inspector that it
15 has been there for the last 12 years.

16 CHAIRPERSON ANDERSON: Well, I guess
17 you are not -- you are making a statement, so
18 it's not a question.

19 Remember, you are --

20 MS. GIRMA: Okay. I asked him if he
21 said it was not there, so --

22 CHAIRPERSON ANDERSON: Do you have any

1 other questions you want to ask him? All right.
2 Any questions by any Board Members of the
3 witness? Yes, Mr. Alberti?

4 MEMBER ALBERTI: Just -- and this is
5 -- I'm going to ask you, do you know the names of
6 the two people you spoke with, so that we are
7 clear with the licensee as to who was there?

8 THE WITNESS: I do not have the report
9 in front of me. This occurred in March and I did
10 not commit it to --

11 MEMBER ALBERTI: But it is in your
12 report?

13 THE WITNESS: Yes.

14 MEMBER ALBERTI: Okay. Thank you. I
15 assume the licensee has seen the report?

16 MS. SCHMIDT: Have you seen the
17 Investigative Report?

18 MS. GIRMA: Yeah.

19 MS. SCHMIDT: Yes.

20 MEMBER ALBERTI: Okay. Very good. I
21 just wanted to make sure everybody --

22 MS. GIRMA: Yes, I saw it.

1 MEMBER ALBERTI: -- was on the same
2 page. Thank you. That's the only question I
3 had.

4 CHAIRPERSON ANDERSON: Do you, ma'am,
5 have any questions to ask of Mr. Leftwich based
6 on the question that Mr. Alberti asked?

7 MS. GIRMA: No.

8 CHAIRPERSON ANDERSON: No?

9 MS. GIRMA: No further questions.

10 CHAIRPERSON ANDERSON: Ms. Schmidt?

11 MS. SCHMIDT: No.

12 CHAIRPERSON ANDERSON: Thank you very
13 much, Mr. Leftwich. You can step down.

14 THE WITNESS: Thank you.

15 (Whereupon, the witness was excused.)

16 CHAIRPERSON ANDERSON: Does the
17 Government have another witness?

18 MS. SCHMIDT: No, but the Government
19 moves that just to be sure, just to be -- for the
20 record, moves the report, the Investigator's
21 report into the record for this case for
22 Investigation No. 18-CC-00037.

1 CHAIRPERSON ANDERSON: So moved.

2 (Whereupon, the above-
3 referred to document was
4 marked as Government Exhibit
5 No. 1 for identification and
6 was received into evidence.)

7 CHAIRPERSON ANDERSON: All right.

8 Ma'am, can you stand up, please?

9 Does the Government rest? Yes?

10 MS. SCHMIDT: The Government rests
11 aside from --

12 CHAIRPERSON ANDERSON: Are you ready
13 to present your case, ma'am? Yes? Yes or no?

14 MS. GIRMA: (No audible answer.)

15 CHAIRPERSON ANDERSON: Are you ready
16 now to explain your case? Is that what you want
17 to do now?

18 MS. GIRMA: Yeah.

19 CHAIRPERSON ANDERSON: All right. So
20 stand up a minute, please, ma'am. Stand up,
21 please. Raise your right hand.
22 Whereupon,

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KEBEDSHACHEW GIRMA

was called as a witness for the Licensee, and
having been first duly sworn, assumed the witness
stand and was examined and testified as follows:

THE WITNESS: Yes.

CHAIRPERSON ANDERSON: You can have a
seat. You can now explain. Tell us, explain
your case now, ma'am.

DIRECT EXAMINATION

THE WITNESS: Yes. I wasn't there
because it was an emergency. I wasn't even
thinking about it. I just left my nephew -- he
was not even working, he was visiting United
States and I left him there.

So I went -- like I didn't even make
the service. I went after. I mean, the funeral.
I just stopped by and came back and this
happened.

I was there for 12 years. And I don't
know how that happened. He doesn't have the
manager license or if he is not an employee.

CHAIRPERSON ANDERSON: Speak up,

1 please, ma'am.

2 THE WITNESS: He is not an employee.
3 He is not -- he doesn't have any manager license.
4 I am there seven days a week for the last 12
5 years. So I think that's my fault if--

6 CHAIRPERSON ANDERSON: Do you have
7 anything else you need to say?

8 MS. GIRMA: Pardon me?

9 CHAIRPERSON ANDERSON: Do you have
10 anything else you want to say?

11 MS. GIRMA: No, because when I heard
12 the amount, I don't think I can afford to pay all
13 that, that's all I can say.

14 CHAIRPERSON ANDERSON: All right.
15 Okay. Do you have any questions of her, Ms.
16 Schmidt?

17 MS. SCHMIDT: No, no.

18 CHAIRPERSON ANDERSON: Well, let me
19 ask you, ma'am. I know that -- so where was the
20 license?

21 THE WITNESS: That's what I --

22 CHAIRPERSON ANDERSON: I'm asking you,

1 where was the license?

2 THE WITNESS: The license was right
3 behind me and on the wall.

4 CHAIRPERSON ANDERSON: On the wall
5 where? Where? I have never been into your shop.
6 I don't know where your shop is, so where was the
7 license?

8 MS. GIRMA: There is this register
9 right here.

10 CHAIRPERSON ANDERSON: Yeah.

11 MS. GIRMA: There is my -- in my back
12 there is a little wall that like -- looks like
13 this and then it's like end, but when you come
14 from the front door and you are standing, it
15 shows very clearly.

16 CHAIRPERSON ANDERSON: But --

17 MS. GIRMA: Maybe there was some --

18 CHAIRPERSON ANDERSON: -- go ahead,
19 ma'am.

20 MS. GIRMA: -- confused, I don't know
21 what happened, because I swear it has been there
22 for the last 12 years.

1 CHAIRPERSON ANDERSON: So because I
2 understand how the person in your shop might not
3 have known where the license is, but Mr.
4 Leftwich, he is -- and the person -- since he was
5 not an employee, he was just there for the
6 moment, but the Investigator, he knows what a
7 license is.

8 MS. GIRMA: Right. And --

9 CHAIRPERSON ANDERSON: So how would he
10 not -- if -- I'm just asking. If it is as
11 visible as you say it was, how could he not have
12 seen it?

13 MS. GIRMA: That's what I said, I have
14 this license, where would I put it? I mean, it's
15 in a frame. I have so many different ones. I
16 have a lot of congratulation letters from the --
17 they have seen it. Why would I want to put it
18 somewhere else? What's what I -- and it was
19 right there. When I saw the report, I said what
20 happened? Did you guys move it before he comes
21 or when you were moving it, there was something
22 that mixed up?

1 You know, my sister she came. She is
2 a visitor, so nobody knows. So there is nothing
3 I could say. I'm definitely sure he didn't see
4 it and I know that it was there. I don't know
5 what to tell you really.

6 CHAIRPERSON ANDERSON: All right.
7 Thank you, ma'am.

8 Ms. Schmidt, any questions of her
9 based on --

10 MEMBER ALBERTI: May I ask?

11 CHAIRPERSON ANDERSON: Oh, I am sorry.

12 MEMBER ALBERTI: That's all right. I
13 know, I understand.

14 CHAIRPERSON ANDERSON: Go ahead, Mr.
15 Alberti. Turn your microphone on.

16 MEMBER ALBERTI: Ms. Girma, so the
17 license -- okay. At the time the Investigator
18 came in, you believe the license was posted. Is
19 that correct?

20 MS. GIRMA: Yes.

21 MEMBER ALBERTI: Was it -- was there
22 any other licenses or documents in the frame with

1 it?

2 MS. GIRMA: Yes, there is so many,
3 secondary license. There is a grocery license.
4 There is a business license. I mean, there is so
5 many of them.

6 MEMBER ALBERTI: Okay. So how were
7 they -- describe to me how they are displayed.
8 Are they displayed all in one big frame?

9 MS. GIRMA: No, separate. This is on
10 top. And there is another one and it's like
11 there is so many, I wish I took a picture. I
12 didn't.

13 MEMBER ALBERTI: Yes, that would have
14 been very helpful.

15 MS. GIRMA: I know, but, you know, it
16 used to be --

17 MEMBER ALBERTI: So --

18 MS. GIRMA: -- a big one, so I
19 just --

20 MEMBER ALBERTI: -- it's not possible
21 that it got hidden behind another one? No?
22 Because if it was there, it would have been

1 visible.

2 MS. GIRMA: Visible.

3 MEMBER ALBERTI: Okay. All right.

4 And it's your contention -- you are saying that
5 when Mr. Bale told you that somebody was in, what
6 happened? What transpired? Did you look for the
7 license? What happened then?

8 MS. GIRMA: Well, I asked them, I said
9 did you take it out before he asked you or did
10 you --

11 MEMBER ALBERTI: Well, no. I mean,
12 what happened? How did you locate the license
13 once he told you?

14 MS. GIRMA: He -- everything was
15 there.

16 MEMBER ALBERTI: On the wall?

17 MS. GIRMA: He took everything and on
18 the sign it said we were looking for the license.
19 Because I was at a funeral, I took my license?

20 MEMBER ALBERTI: No, so right. He
21 told you. And then --

22 MS. GIRMA: I remember --

1 MEMBER ALBERTI: -- what was your --
2 after he told you they were looking for the
3 license, what was your first reaction?

4 MS. GIRMA: I said what happened? Did
5 you guys have things that you might have--

6 MEMBER ALBERTI: Did you find --

7 MS. GIRMA: -- mixed it up?

8 MEMBER ALBERTI: -- the license?

9 MS. GIRMA: Yeah, of course.

10 MEMBER ALBERTI: Where did you find
11 it?

12 MS. GIRMA: It was piled up, all the
13 license was piled up and they said we were
14 looking for one and --

15 MEMBER ALBERTI: It was piled up?
16 Where?

17 MS. GIRMA: They put -- you know, they
18 took off all the license to show him, I think.
19 And then I said so this was the license, what
20 happened? Maybe did you have some papers that
21 covered that, that he didn't see it? You know.

22 MEMBER ALBERTI: Okay. All right.

1 Thank you. I have no further questions.

2 CHAIRPERSON ANDERSON: Are you saying
3 that -- did they take all the license for him to
4 go through? Is that -- are you saying that they
5 took the license down for him to -- for them to
6 go through?

7 MS. GIRMA: Yeah, because my sister
8 was going through it and I said what happened?
9 So how come like he didn't see it? Did you have
10 something like that it get confused or covered
11 up? They said no. I said then what happened?

12 CHAIRPERSON ANDERSON: Okay. And Mr.
13 Short?

14 MEMBER SHORT: Good morning still,
15 ma'am. Is that your actual license there now?
16 Is that your --

17 MS. GIRMA: Yes.

18 MEMBER SHORT: Is your store open now?

19 MS. GIRMA: Pardon me?

20 MEMBER SHORT: Is your business open?

21 MS. GIRMA: No.

22 MEMBER SHORT: You are closed now?

1 MS. GIRMA: I'm closed.

2 MEMBER SHORT: I had to ask. So you
3 normally need to be there all the time, 24 hours
4 a day. Okay.

5 MS. GIRMA: It has been there for 12
6 years though. I know exactly what I'm supposed
7 to do, so --

8 MEMBER SHORT: It was in that same
9 frame?

10 MS. GIRMA: Same frame. You can see
11 it was not like moved regularly.

12 MEMBER SHORT: Thank you. That's all
13 I have.

14 CHAIRPERSON ANDERSON: Any other
15 questions by any other Board Members?

16 Ms. Schmidt, any questions based on
17 the --

18 MS. SCHMIDT: No questions.

19 CHAIRPERSON ANDERSON: -- questions
20 the Board was asking?

21 MS. SCHMIDT: No.

22 CHAIRPERSON ANDERSON: Do you have

1 anything else you want to say, ma'am?

2 MS. GIRMA: No, sir.

3 CHAIRPERSON ANDERSON: All right. Ms.
4 Schmidt, so what is it that you are asking the
5 Board to do then?

6 MS. SCHMIDT: With respect to Charge
7 1, since this is a second sale to minor
8 violation, we are asking for a \$4,000 fine within
9 30 days or the license shall be suspended. And
10 the license shall be suspended for 10 days with
11 six days stayed for one year and four days
12 served.

13 And all employees --

14 CHAIRPERSON ANDERSON: Go slower. I'm
15 writing what you are saying down, so 10 --

16 MS. SCHMIDT: Okay.

17 CHAIRPERSON ANDERSON: -- days
18 suspension.

19 MS. SCHMIDT: Four days. And all
20 employees who serve alcoholic beverages should be
21 trained in the Alcohol Training program within
22 three months.

1 CHAIRPERSON ANDERSON: Okay.

2 MS. SCHMIDT: And then with respect to
3 the second charge, failure to take reasonable
4 steps necessary to ascertain legal drinking age,
5 since -- we are asking that for a \$1,000 fine to
6 be paid within 30 days or the license shall be
7 suspended indefinitely. And the license shall be
8 suspended for five days with all the five -- with
9 all five days stayed for one year.

10 And with respect to the no ABC Manager
11 on duty, even though it is a fifth secondary tier
12 violation, we are asking for a \$2,000 fine within
13 30 days.

14 And the same for the license not
15 conspicuously posted, another \$2,000 fine.

16 So a total of \$9,000 fine and 10 days
17 -- 15 days suspended with six days -- I'm sorry,
18 with 11 days stayed and four days served.

19 CHAIRPERSON ANDERSON: So you are
20 asking for a suspension for Charge 1 and --

21 MS. SCHMIDT: And 2.

22 CHAIRPERSON ANDERSON: -- Charge 2?

1 MS. SCHMIDT: Yes.

2 CHAIRPERSON ANDERSON: Okay. And I'm
3 sorry, you said four days?

4 MS. SCHMIDT: For Charge 1 --

5 CHAIRPERSON ANDERSON: For Charge 1,
6 how many days stayed? Oh, six stayed.

7 MS. SCHMIDT: Six stayed and four days
8 served.

9 CHAIRPERSON ANDERSON: All right.
10 Four served. And --

11 MS. SCHMIDT: Charge 2, five days with
12 all five days stayed.

13 CHAIRPERSON ANDERSON: Okay. So just
14 a four day suspension then?

15 MS. SCHMIDT: Yes.

16 CHAIRPERSON ANDERSON: All right. All
17 right. Ma'am, what is it that you are asking?
18 Of all the charges, now we are talking about the
19 fine, what is it that you want -- you are asking
20 the Board to do as far as Charge 1 and the fine?
21 You know -- you heard what the Government -- the
22 recommendation from the Government. What is it

1 that you are asking us to do?

2 MS. GIRMA: You know, the business is
3 so slow.

4 CHAIRPERSON ANDERSON: Speak up,
5 ma'am.

6 MS. GIRMA: The business is not doing
7 very well. It's very slow, especially the whole
8 year. And if the Government can reduce the fines
9 for me?

10 CHAIRPERSON ANDERSON: Well, it's not
11 the Government decides.

12 MS. GIRMA: We --

13 CHAIRPERSON ANDERSON: Hold on, hold
14 on, hold on. You had a chance to negotiate with
15 the Government. Now, you are here for us. So
16 you need to tell us, don't say the Government.
17 Just tell me --

18 MS. GIRMA: Yes.

19 CHAIRPERSON ANDERSON: -- because we
20 are now going to make a decision. The Government
21 made a recommendation.

22 MS. GIRMA: Okay.

1 CHAIRPERSON ANDERSON: I need you to
2 tell us what is it you want us to do on the first
3 charge, as far as fine. Do you want us to fine
4 you? Do you want us not to fine you? Would you
5 want to say -- of course, are you --

6 MS. GIRMA: I don't want you to fine
7 me.

8 CHAIRPERSON ANDERSON: Well, you tell
9 me what is it you want us to do.

10 MS. GIRMA: Of course, I don't want
11 you to fine me, but there is, so if you can
12 reduce the fine? And I don't understand the --
13 how -- do I have to close the store?

14 CHAIRPERSON ANDERSON: All right.
15 When we talk about the suspensions?

16 MS. GIRMA: yes.

17 CHAIRPERSON ANDERSON: It says that
18 your store can be open, but you cannot serve
19 alcohol. And if the alcohol is -- if you have
20 alcohol, it has to be locked up, so it cannot be
21 served. You cannot sell alcohol during the
22 period of time that you are suspended. But your

1 business can still be open.

2 MS. GIRMA: Okay.

3 CHAIRPERSON ANDERSON: But you cannot
4 serve alcohol during that period of suspension.
5 So that's why I'm saying tell me what it is you
6 want us to do.

7 MS. GIRMA: For how many days?

8 CHAIRPERSON ANDERSON: I'm sorry?

9 MS. GIRMA: For how many days?

10 CHAIRPERSON ANDERSON: Well, the
11 Government is basically asking us to suspend you
12 for the first charge, they have asked us to
13 suspend you for 10 days, that you actually serve
14 four and that we stay six days.

15 Meaning that if you commit another
16 violation within a year, then you have to serve
17 those days. But right now what -- all the
18 Government is asking us to do is to suspend you
19 for four days.

20 Now, if you are saying you could tell
21 us I don't want to be suspended for any days, but
22 you could tell me what you -- what is it you want

1 us to do. I'm not trying to put -- I'm just
2 telling you what your options are, ma'am.

3 MS. GIRMA: If you can give -- you
4 know, reduce the charges a little bit and not
5 also close me for four days, I would appreciate
6 it.

7 CHAIRPERSON ANDERSON: That's for
8 Charge 1. What do you want us to do for Charge 2?

9 (No audible answer.)

10 CHAIRPERSON ANDERSON: Charge 2, the
11 Government is asking for a \$1,000 fine and they
12 are asking for five days suspension and all will
13 be stayed within -- all those -- all the days be
14 stayed for one year. Meaning that you will not
15 serve the days. All it means is that if you
16 commit another infraction within one year, then
17 you have to serve those days.

18 MS. GIRMA: Okay.

19 CHAIRPERSON ANDERSON: What about
20 Charge 2 again? They want us to charge -- to
21 fine you \$2,000 and they are also asking that we
22 -- that you have to pay all of this money within

1 30 days. I mean, do you -- how much -- I mean,
2 you can ask. I mean, you can say --

3 MS. GIRMA: If I can get an extension?

4 CHAIRPERSON ANDERSON: How much
5 extension you are asking for, ma'am?

6 MS. GIRMA: About maybe five months or
7 so.

8 CHAIRPERSON ANDERSON: Okay. And for
9 the charge that you are here arguing, what is it
10 you want to do for that one?

11 MS. GIRMA: It's your decision. I
12 don't know I mean.

13 CHAIRPERSON ANDERSON: Well, no, it's
14 not my -- yes, it's our decision.

15 MS. GIRMA: Please --

16 CHAIRPERSON ANDERSON: But you are
17 telling me what you want.

18 MS. GIRMA: -- they have against us,
19 so there is nothing I can -- I would say. I know
20 that I have the license. But he said he didn't
21 see it, so --

22 CHAIRPERSON ANDERSON: All right. All

1 right. Okay. The record is now closed.

2 Do the parties wish to file proposed
3 findings of fact and conclusions of law or waive
4 their right to do so?

5 MS. SCHMIDT: The Government waives
6 its right.

7 CHAIRPERSON ANDERSON: And what that
8 means, ma'am, you can also say you waive it, that
9 we will make a decision based on the presentation
10 that --

11 MS. GIRMA: Okay.

12 CHAIRPERSON ANDERSON: -- was
13 presented.

14 MS. GIRMA: All right. Okay.

15 CHAIRPERSON ANDERSON: All right. All
16 right. As Chairperson of the Alcoholic Beverage
17 Control Board for the District of Columbia and in
18 accordance with Section 405 of the Open Meetings
19 Amendment Act of 2010, I move that the ABC Board
20 hold a closed meeting for the purpose of seeking
21 legal advice from our counsel on Case No. 18-CC-
22 00037, 13th Street Market, per Section 405(b)(4)

1 of the Open Meetings Amendment Act of 2010, and
2 deliberating upon Case No. 18-CC-00037, 13th
3 Street Market, for the reasons cited in Section
4 405(b)(13) of the Open Meetings Amendment Act of
5 2010.

6 Is there a second?

7 MEMBER SILVERSTEIN: Second.

8 CHAIRPERSON ANDERSON: Mr. Silverstein
9 has seconded the motion. I will now take a roll
10 call vote on the motion before us, now that it
11 has been seconded.

12 Ms. Wahabzadah?

13 MEMBER WAHABZADAH: I agree.

14 CHAIRPERSON ANDERSON: Mr. Silverstein?

15 MEMBER SILVERSTEIN: I agree.

16 CHAIRPERSON ANDERSON: Mr. Short?

17 MEMBER SHORT: I agree.

18 CHAIRPERSON ANDERSON: Mr. Alberti?

19 MEMBER ALBERTI: I agree.

20 CHAIRPERSON ANDERSON: Mr. Cato?

21 MEMBER CATO: I agree.

22 CHAIRPERSON ANDERSON: Mr. Anderson?

1 I agree.

2 As it appears that the motion has
3 passed, I hereby give notice that the ABC Board
4 will hold a closed meeting in the ABC Board
5 conference room pursuant to the Open Meetings
6 Amendment Act of 2010 and issue an order within
7 90 days.

8 What we will do, ma'am, we will listen
9 to -- the Board -- we have listened to the
10 presentation by the Government. We have listened
11 to your presentation. And we will deliberate and
12 we will issue an order within 90 days. And that
13 will tell you what is it that you have to do once
14 the 90 days have issued -- once the decision has
15 been issued.

16 Thank you for being here today.

17 MS. GIRMA: Thank you.

18 CHAIRPERSON ANDERSON: Have a good
19 day. All right.

20 It is now -- you know what, let me--
21 okay. So we have -- all right. All right. So
22 the case is dismissed. Thank you.

1 MS. GIRMA: Thank you.

2 CHAIRPERSON ANDERSON: What I am going
3 to do since we are here --

4 MS. SCHMIDT: I don't think you want
5 to say dismissed.

6 CHAIRPERSON ANDERSON: I'm sorry.
7 Well, you -- I said you are dismissed, that's
8 what I said.

9 MS. SCHMIDT: You said the case was
10 dismissed.

11 CHAIRPERSON ANDERSON: I apologize.
12 I thought I said you are dismissed.

13 MS. SCHMIDT: Okay.

14 CHAIRPERSON ANDERSON: The parties.

15 MS. SCHMIDT: Okay.

16 CHAIRPERSON ANDERSON: The parties are
17 dismissed.

18 MS. SCHMIDT: Thank you.

19 CHAIRPERSON ANDERSON: Thank you. All
20 right.

21 (Whereupon, the Show Cause Hearing was
22 concluded at 11:52 a.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: E & K, LLC

Before: Alcoholic Beverage Control Board

Date: 10-17-18

Place: Washington, D.C.

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my direction; further, that said transcript is a
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Court Reporter

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