

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

IN THE MATTER OF:
Betty's Gojo Restaurant and Lounge, LLC, t/a Betty's Gojo
7616 Georgia Avenue NW : Show Cause
Retailer CR - ANC 4A : Hearing
License No. 102500
Case #19-AUD-00031
(Failed to Meet Food Sales Requirements)

Wednesday
February 5, 2020

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
BOBBY CATO, JR., Member
RAFI ALIYA CROCKETT, Member
JAMES SHORT, JR., Member

ALSO PRESENT:

JOHN LUI, DC OAG
SELAM LEGESSE, INTERPRETER
KIBREAB EMBAYE, APPLICANT
ADENIYI ADEJUNMOBI, WITNESS

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

2 3:33 p.m.

3 CHAIRPERSON ANDERSON: All right.

4 We're back on the record. Our next case is Case
5 Number 19-AUD-00031, Betty's Gojo, License Number
6 102500. Will the parties please approach and
7 identify themselves for the record, please?

8 MR. LUI: Good afternoon. John Lui on
9 behalf of the Government.

10 CHAIRPERSON ANDERSON: Good afternoon,
11 Mr. Lui. Can you raise your right hand, please?
12 Do you need a translator? All right?

13 (The interpreter was sworn)

14 MS. LEGESSE: I do.

15 CHAIRPERSON ANDERSON: Can you
16 identify yourself for the record, please?

17 MS. LEGESSE: Selam Legesse,
18 interpreter.

19 CHAIRPERSON ANDERSON: All right. Can
20 you just also sign-in, please?

21 MS. LEGESSE: Sure.

22 CHAIRPERSON ANDERSON: Have him
23 introduce himself for the record, please.

24 MR. EMBAYE: Kibreab Embaye.

25 CHAIRPERSON ANDERSON: Mr. Embaye.

1 Good afternoon.

2 MR. EMBAYE: Good afternoon.

3 CHAIRPERSON ANDERSON: All right.

4 This is a show-cause hearing. Are there any
5 preliminary matters?

6 MR. LUI: No, Mr. Chairperson.

7 CHAIRPERSON ANDERSON: All right.

8 Does the Government wish to make an opening
9 statement?

10 MR. LUI: Yes, very briefly.

11 CHAIRPERSON ANDERSON: Go ahead,
12 please.

13 MR. LUI: This is Case Number 19-AUD-
14 00031, regarding Betty's Gojo Restaurant &
15 Lounge, LLC, trading as Betty's Gojo. The
16 location of the establishment is at 7616 Georgia
17 Avenue, NW, 20012. Notice was served in this
18 case regarding one charge, the failure to comply
19 with the food sales requirement in violation of
20 D.C. Official Code Section 25-113 and 23 DCMR
21 Section 2100.

22 This is a primary material violation
23 and this is the fourth primary material violation
24 within four years. The District of Columbia will
25 be calling one witness today, Compliance Analyst

1 Adeniyi Adejunmobi, also known as Neal.

2 CHAIRPERSON ANDERSON: Also known as
3 what?

4 MR. LUI: Neal, N-E-A-L.

5 CHAIRPERSON ANDERSON: Okay. We
6 haven't called you yet, sir. We're not quite
7 ready. That was just an opening statement. All
8 right. All right. Ready to call your first
9 witness?

10 MR. LUI: Yes, Mr. Chairperson.

11 CHAIRPERSON ANDERSON: Who's your
12 first witness?

13 MR. LUI: I would like to call
14 Compliance Analyst Adeniyi Adejunmobi.

15 CHAIRPERSON ANDERSON: Can you raise
16 your right hand, sir?

17 WHEREUPON,

18 ADENIYI ADEJUNMOBI
19 was called as a witness by Counsel for the
20 Government and, having been first duly sworn,
21 assumed the witness stand, was examined and
22 testified as follows:

23 CHAIRPERSON ANDERSON: Have a seat.
24 Please pull the microphone to you.

25 MR. LUI: Could you please spell your

1 first and full name, and your last name?

2 THE WITNESS: Adeniyi Adejunmobi, A-D-
3 E-N-I-Y-I, last name, Adejunmobi, A-D-E-J-U-N-M-
4 O-B-I.

5 BY MR. LUI:

6 Q Mr. Adejunmobi, where do you work?

7 A I'm a compliance analyst for Alcoholic
8 Beverage Regulation Administration, Washington,
9 D.C.

10 Q And how long have you been a
11 compliance analyst?

12 A Approximately ten years.

13 Q And what do you do in your role as a
14 compliance analyst?

15 A I'm responsible for reviewing the
16 quarterly statement itself on the self-reported
17 quarterly statement by the licensees that have CR
18 or CH licenses, or DR. And I'm supposed to
19 review the four quarterly statements every year
20 and see whether they're in compliance with the
21 food standards.

22 Q Could you breakdown the types of
23 licenses that you analyze?

24 A The licenses are CR, which is a
25 restaurant license, CH, which is a hotel, DH,

1 which is a hotel, and DR, which is a restaurant.

2 Q And are you familiar with Betty's
3 Gojo?

4 A Yes.

5 Q How are you familiar with this
6 establishment?

7 A Because, I mean, I'm familiar with
8 most of the establishments that require -- I'm
9 familiar with all the establishments that are
10 required to file a quarterly statement, because
11 part of my job is to review these quarterly
12 statements, and make judgment that they're in
13 compliance with the regs.

14 Q What is in a quarterly statement?

15 A A quarterly statement, based on what
16 the law says, should provide us with the sales,
17 which is the revenue generated for food and
18 alcoholic beverages by those who have those type
19 of licenses, and then they have to provide us
20 with their custom goods sold, which is their
21 expenditures, which is a second section, apart
22 from identifying information, as the license
23 number, the trade name, the corporate ID or
24 whoever owns the establishment.

25 Q Mr. Chairperson, at this point, I

1 would like the Board to take administrative
2 notice of Case Report 19-AUD-0031.

3 CHAIRPERSON ANDERSON: So moved.

4 MR. LUI: Does the Board need copies
5 of the report?

6 CHAIRPERSON ANDERSON: No.

7 MR. LUI: I can have them.

8 CHAIRPERSON ANDERSON: No, we don't.

9 MR. LUI: You don't need them? Okay.

10 CHAIRPERSON ANDERSON: We already have
11 a copy.

12 MR. LUI: I'm going to give one to --

13 CHAIRPERSON ANDERSON: Yes.

14 MR. LUI: And also a copy to the
15 owner.

16 CHAIRPERSON ANDERSON: Yes.

17 MR. LUI: Mr. Adejunmobi, when did you
18 discover -- when did you audit at Betty's Gojo?
19 When did you conduct a compliance check on
20 Betty's Gojo?

21 THE WITNESS: This particular one was
22 done sometime in March last year, 2019.

23 BY MR. LUI:

24 Q And for which year would this have
25 been for?

1 A For 2018, calendar year.

2 Q So what goes into your audit for
3 determining compliant with the food sales
4 requirement, being compliant or non-compliant,
5 for the food sales audit.

6 A Well, the licensee, they have to
7 report their food sales on a quarterly basis.
8 That's mandated by law. So once we have those
9 four quarterly statements, which covers the
10 period four quarters in a year, January through
11 March, first quarter, second quarter, April
12 through June, third quarter, July through
13 September, fourth quarter, October through
14 December.

15 Because the way we look at the
16 compliance is that we look at it on a 12-month
17 basis, although they are required to file on a
18 quarterly basis.

19 So once I have that, I review it, and
20 the figures reported is self-generated by them.
21 It has it actually on the audit. We just check
22 it to see whether they complied based on their
23 self-reported figures. That was the work that
24 was done on this.

25 And based on that, Betty's Gojo failed

1 the food standards. There are two standards.
2 They can meet either one of the two, but they
3 were not meeting either one of the two.

4 Q Could you breakdown the first
5 standard?

6 A The first standard is the Betty's
7 Gojo, using their gross sales, which is defined
8 as food and alcoholic beverage sales only, the
9 total for the 12 months that they reported
10 divided into the total food sales, which is only
11 food sales by itself, no beverages, no alcoholic
12 beverages, and if they come up with at least 45
13 percent and above, they will be in compliance,
14 but in this case, they did not.

15 That's the first standard.

16 Q And what is the second standard?

17 A The second standard is a different
18 calculation, is based on the total food sales for
19 the 12 calendar year, using the DCRA certificate
20 of occupancy that states the number of seats that
21 Betty's Gojo is supposed to have in their stores.

22 Using that, we take the number of
23 seats, we divide it into the total food sales,
24 and that should give us a figure that is not less
25 -- for them to be in compliance, the figure

1 should not be less than \$2000.

2 Anything \$2000 or above, they will be
3 in compliance. That is the other standard. So
4 45 percent or \$2000 per seats, but they were not
5 meeting none of the two standards.

6 Q Now, let me direct your attention to
7 Exhibit 1. Do you recognize this document?

8 A Yes.

9 Q What is this?

10 A Exhibit 1 is a quarterly statement
11 filed by Betty's Gojo for first -- well, Exhibit
12 1 covers the whole -- all four of them. Yes, all
13 four of them, but they're the same. The figures
14 on them are different.

15 Q Okay.

16 A Yes.

17 Q And on this page, well, they separated
18 by exhibits.

19 A Yes, I think I saw that.

20 Q For Exhibit 1, what quarter is this
21 for?

22 A This is for spring.

23 Q And at the bottom, who signed this
24 quarterly statement form?

25 A Unfortunately, I may not be able to

1 pronounce the name, but I can spell it. A-B-E-B-
2 A, the last name is spelled, W-E-L-D-B-E-G-E-B-R-
3 I-E, and the title is president.

4 Q And could you read that statement
5 above her name?

6 A "I hereby certify under penalty of
7 perjury that the information in this statement is
8 true and correct in the best of my knowledge and
9 belief."

10 Q Could you turn to the next page,
11 Exhibit Number 2?

12 A Yes.

13 Q And what is this quarterly statement
14 for?

15 A Second quarter, 2018.

16 Q And again, who signed this form?

17 A The same individual as the previous
18 one.

19 Q And the title?

20 A President. The title, owner.

21 Q And again, the statement provides?

22 A I hereby certify under perjury -- or
23 under penalty of perjury, that the information in
24 this statement is true and correct to the best of
25 my knowledge and belief.

1 Q And again, turning to the next
2 exhibit, Exhibit Number 3. What is this
3 quarterly statement for?

4 A Third quarter, 2018.

5 Q And again, on the bottom, who signed
6 this quarterly statement?

7 A The same individual, and the title
8 here is president/owner.

9 Q And again, that statement above the
10 same individual, her name is? What is her name?

11 A Abeba -- I mean, because I really
12 don't want to mispronounce the name. That would
13 be an insult.

14 Q You can spell it.

15 A A-B-E-B-A, W-E-L-D-B-E-G-E-B-R-I-E.

16 Q And the statement above her name
17 states what?

18 A I hereby certify under penalty of
19 perjury that the information in this statement is
20 true and correct to the best of my knowledge and
21 belief.

22 Q And then on the next exhibit, Exhibit
23 4, what quarter is this for?

24 A This is quarter four, 2018.

25 Q And who signed this quarterly

1 statement?

2 A A-B-E-B-A, first name, last name, W-E-
3 L-D-B-E-G-E-B-R-I-E-L, and the title is
4 president.

5 Q And again, what does the statement say
6 above her name?

7 A I hereby certify under penalty of
8 perjury that the information on this statement is
9 true and correct to the best -- this is very --
10 it's not too clear, but it's the same thing as on
11 the previous ones.

12 MR. LUI: I have no further questions
13 for this witness.

14 CHAIRPERSON ANDERSON: Do you have any
15 questions you want to ask, sir?

16 MR. EMBAYE: (through the interpreter)
17 Yes. The 2018 report, it's not correct. I have
18 all the receipts. This is not what we did, what
19 we reported.

20 CHAIRPERSON ANDERSON: You're asking
21 him questions. That's not a statement, so if you
22 have any questions based on his testimony, then
23 you ask him based on his testimony.

24 MR. EMBAYE: No, I do not have a
25 question.

1 CHAIRPERSON ANDERSON: All right. Any
2 questions by the Board Members? So what was the
3 percentage of alcohol sales?

4 THE WITNESS: Percentage of alcohol
5 sales?

6 CHAIRPERSON ANDERSON: Yes.

7 THE WITNESS: that is not stated in
8 the report.

9 CHAIRPERSON ANDERSON: No, what I'm
10 saying, what were their percentage of food sales?
11 I'm sorry.

12 THE WITNESS: Oh, food sales. Oh, the
13 percentage of their food sales is, I believe, 10
14 percent.

15 CHAIRPERSON ANDERSON: Ten percent?

16 THE WITNESS: Yes, sir.

17 CHAIRPERSON ANDERSON: And what is it
18 supposed to -- under --

19 THE WITNESS: It has to be at least
20 45.

21 CHAIRPERSON ANDERSON: And it's only
22 10 percent.

23 THE WITNESS: Yes, it was only 10
24 percent, based on the report. If you look, so on
25 Page 2, it's right at the top there, the

1 calculations on 2.

2 CHAIRPERSON ANDERSON: I don't have
3 any further questions. You can step down. Thank
4 you.

5 THE WITNESS: Okay, sir.

6 CHAIRPERSON ANDERSON: Does the
7 Government have any other witnesses?

8 MR. LUI: No, Mr. Chairperson.

9 CHAIRPERSON ANDERSON: Does the
10 Government rest?

11 MR. LUI: Yes.

12 CHAIRPERSON ANDERSON: How do you plan
13 to present your case, sir?

14 MR. EMBAYE: First of all, the law
15 says --

16 CHAIRPERSON ANDERSON: Hold on one
17 second. Can you raise your right hand, sir?

18 WHEREUPON,

19 KIBREAB EMBAYE

20 was called as a witness and, having been first
21 duly sworn, assumed the witness stand, was
22 examined and testified as follows:

23 CHAIRPERSON ANDERSON: Okay. Go
24 ahead.

25 THE WITNESS: First of all, the law

1 says the food sales have to be \$2000 and I do
2 have that.

3 CHAIRPERSON ANDERSON: How many seats
4 do you have in your establishment? You know
5 what? I apologize, I forget I'm not asking you
6 questions. You're presenting here, so go ahead.

7 No, continue, what else do you need to
8 say?

9 THE WITNESS: According to the law it
10 says I have to sell at least \$2000 worth of food
11 and I do have receipts that show that I did.

12 CHAIRPERSON ANDERSON: Anything else
13 you want to say?

14 THE WITNESS: No.

15 CHAIRPERSON ANDERSON: Thank you. Mr.
16 Lui, any questions you want to ask him?

17 MR. LUI: I don't have any questions.

18 CHAIRPERSON ANDERSON: Mr. Embaye,
19 now, you said that the law states you have --
20 have you come to this agency for any training?

21 THE WITNESS: (through interpreter) I
22 did not come, but my wife did.

23 CHAIRPERSON ANDERSON: Now, do you
24 know that the -- so you believe it's as long as
25 you sell \$2000 worth of food that it's compliant,

1 is that your position?

2 THE WITNESS: Yes, that's what I
3 believe and in 2018, we were new owners, but in
4 2019, we made sure that we sell more than \$2000
5 worth.

6 CHAIRPERSON ANDERSON: How long have
7 you had -- when did you get your license, sir?

8 THE WITNESS: 2018, on the fourth
9 month.

10 CHAIRPERSON ANDERSON: April of 2018.

11 THE WITNESS: Yes.

12 CHAIRPERSON ANDERSON: All right. Any
13 other questions by any of the Board Members?
14 None? Thank you, sir. Do you have anything else
15 you have to -- you want to state?

16 THE WITNESS: In case you guys would
17 like to look at my receipts, I have them with me,
18 and if you also need additional information and
19 evidence, I can bring them.

20 CHAIRPERSON ANDERSON: Thank you.

21 MR. LUI: Court's indulgence.

22 CHAIRPERSON ANDERSON: Okay. We're
23 off the record for a couple minutes.

24 (Whereupon, the foregoing matter went
25 off the record at 3:53 p.m. and went back on the

1 record at 3:53 p.m.)

2 CHAIRPERSON ANDERSON: We're back on
3 the record. Does the Government have a closing
4 statement?

5 MR. LUI: Yes, very briefly. Should
6 we wait for --

7 CHAIRPERSON ANDERSON: No, we have a
8 quorum.

9 MR. LUI: Oh. Board Members, we heard
10 from -- testimony from Compliance Analyst Adeniyi
11 Adejunmobi, who testified that he conducted an
12 audit of Betty's Gojo for the year of 2018, and
13 he reviewed all four quarterly statements, and he
14 went through all the exhibits, 1 through 4, for
15 quarter one, quarter two, quarter three, and
16 quarter four, and at the end of every single
17 page, there was a statement that certified under
18 penalty of perjury that these statements are true
19 and correct, signed by the owner of the business.

20 They were submitted to ABRA and this
21 is a clear violation of this establishment's
22 failure to comply with the food sales requirement
23 under both standards.

24 The food sales percentage fell well
25 under the 45 percent that was required for the

1 year of 2018. In fact, we only had 10 percent of
2 food sales percentage. And as to the second
3 standard, they also failed the food sales per
4 occupant, in which they were required to have
5 \$2000 per occupant for the year of 2018, but in
6 this situation, in this case, there was only
7 \$660.

8 We ask that the Board find in favor of
9 the Government and issue a fine or penalty under
10 D.C. Code 25-830.

11 CHAIRPERSON ANDERSON: Any final
12 comments you want to make, sir, and what is it
13 you want the Board to do?

14 MR. EMBAYE: What I said earlier
15 about, like, we were new owners in 2018 and we
16 were not sure what we were doing, but for 2019, I
17 have all the receipts that we've been in
18 compliance.

19 CHAIRPERSON ANDERSON: Thank you. All
20 right. The record is now closed. Do the parties
21 wish to file proposed findings of fact and
22 conclusions of law or waive their right to do so,
23 meaning that, do you want us to make a decision
24 on the evidence presented today?

25 MR. LUI: The Government waives.

1 CHAIRPERSON ANDERSON: Do you wish to
2 waive also, sir?

3 MR. EMBAYE: Your final judgment, I
4 could hear it if it's good or if it isn't.

5 CHAIRPERSON ANDERSON: All right. As
6 Chairperson of the Alcoholic Beverage Control
7 Board, in accordance with D.C. Official Code
8 Section 2574B of the Open Meetings Act, I move
9 that the ABC Board hold a closed meeting for the
10 purpose of seeking legal advice from our counsel
11 on 19-AUD-0031, Betty's Gojo, pursuant to D.C.
12 Official Code Section 2574B4 of the Open Meetings
13 Act and deliberating upon 19-AUD-0031, Betty's
14 Gojo, for the reason cited, and D.C. Official
15 Code Section 2574B13 of the Open Meetings Act.
16 Is there a second?

17 MEMBER CROCKETT: Second.

18 CHAIRPERSON ANDERSON: Ms. Crockett
19 has seconded the motion. I will now take a roll
20 call motion before us now that the motion has
21 been seconded. Ms. Crockett?

22 MEMBER CROCKETT: I agree.

23 CHAIRPERSON ANDERSON: Mr. Cato?

24 MEMBER CATO: I agree.

25 CHAIRPERSON ANDERSON: Mr. Short.

1 MEMBER SHORT: I agree.

2 CHAIRPERSON ANDERSON: Mr. Anderson.

3 I agree. As it appears that the motion has
4 passed, I hereby give notice that the ABC Board
5 will recess these proceedings to hold a closed
6 meeting in the ABC Board conference room pursuant
7 to Section 2574B of the Open Meetings Act. We'll
8 issue a decision within 90 days. Thank you very
9 much for being here.

10 As Chairperson of the Alcoholic
11 Beverage Control Board for the District of
12 Columbia, in accordance with D.C. Official Code
13 Section 2574B of the Open Meetings Act, I move
14 that the ABC Board hold a closed meeting on
15 February 12, 2020 for the purpose of seeking
16 legal advice from our counsel on the matters
17 identified on the Board's legal licensing and
18 investigating agenda for February 12, 2020, as
19 published in D.C. Register on February 7, 2020.

20 Is there a second?

21 MEMBER SHORT: Second.

22 CHAIRPERSON ANDERSON: Mr. Short has
23 seconded the motion. I will now take a roll call
24 vote on the motion before us now that it has been
25 seconded. Mr. Short.

1 MEMBER SHORT: I agree.

2 CHAIRPERSON ANDERSON: Mr. Cato.

3 MEMBER CATO: I agree.

4 CHAIRPERSON ANDERSON: Ms. Crockett.

5 MEMBER CROCKETT: I agree.

6 CHAIRPERSON ANDERSON: Mr. Anderson.

7 I agree. As it appears that the motion has
8 passed, I hereby give notice that the ABC Board
9 will hold this closed meeting pursuant to the
10 Open Meetings Act. Notice will also be posted on
11 the ABC Board hearing room bulletin board, placed
12 on the electronic calendar on ABRA's web site,
13 and published in the D.C. Register in as timely a
14 manner as is practical.

15 It is 4:01 and we are adjourned for
16 the day. Thank you.

17 (Whereupon, the hearing in the above-
18 entitled matter was concluded at 4:02 p.m.)

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C E R T I F I C A T E

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In the matter of: Betty's Gojo 00031

Before: DCABRA

Date: 02-05-20

Place: Washington, DC

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