

IN THE MATTER OF:	:
	:
Ivy City Tavern, Inc.,	:
t/a Ivy City Tavern	:
1356 Okie Street NE	: Show Cause
Retailer CT - ANC 5D	: Hearing (Status)
License No. 93795	:
Case #19-CC-00027	:
	:
(Sale to Minor Violation	:
Failed to Take Steps	:
Necessary to Ascertain	:
Legal Drinking Age)	:

Wednesday  
June 5, 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  
BOBBY CATO, JR., Member  
JAMES SHORT, Member  
MIKE SILVERSTEIN, Member

**ALSO PRESENT:**

SIDONNE YOHANNES, APPLICANT COUNSEL  
FERNANDO RIVERO, DC OAG

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

2 9:48 a.m.

3 CHAIRMAN ANDERSON: The next case on  
4 our calendar is Case Number 19-CC-00027, Ivy City  
5 Tavern, License Number 93795. Will the parties  
6 please approach and identify themselves for the  
7 record?

8 MR. RIVERO: Good morning, Board  
9 members. Fernando Rivero, for the District of  
10 Columbia.

11 CHAIRMAN ANDERSON: Good morning, Mr.  
12 Rivero.

13 MS. YOHANNES: Sidonne Yohannes, on  
14 behalf of the licensee.

15 CHAIRMAN ANDERSON: Good morning, Ms.  
16 Yohannes. Are there preliminary matters in this  
17 case?

18 MR. RIVERO: Yes, the parties have an  
19 offer in compromise to present.

20 CHAIRMAN ANDERSON: And what's the  
21 offer in compromise?

22 MR. RIVERO: The offer consists of a

1 written warning for first time offense under the  
2 statute.

3 CHAIRMAN ANDERSON: A written warning.  
4 Mr. Rivero, this is a case where - this is a  
5 failure to minor, monitoring.

6 MR. RIVERO: Yes.

7 CHAIRMAN ANDERSON: Where our  
8 investigator went to visit Ivy City Tavern with a  
9 14-year-old student. Fourteen year old, and Ivy  
10 City Tavern sold her, after checking her ID, sold  
11 her alcohol. Why is it that this Board should  
12 accept a warning, which is if they sold alcohol  
13 to a 20 year old, a 19 year old, a 17 year old,  
14 but a 14 year old that - who goes to an  
15 establishment and provides her ID that states  
16 that she's 14 years old, and she's still sold.  
17 Why should this Board accept a warning for an  
18 event that personally, as the Board's chair, I  
19 believe that just is egregious.

20 MR. RIVERO: Thank you. The rationale  
21 for the office is as follows:

22 The age of the person who he sold the

1       alcoholic beverages is not a factor in the  
2       statute. What is more important in the statute  
3       is you have to prove intent. The office has  
4       looked at the evidence, and has made the  
5       conclusion that it would be very difficult to  
6       prove the intent that the statute requires for  
7       the egregious showing, and that is why the  
8       warning is offered to the Board at this time.

9               CHAIRMAN ANDERSON: But how can you say  
10       it's not the intent if one was to look at an ID?  
11       First and foremost, I have a driver's license,  
12       and my ID, and my ID is a different shape from  
13       someone who's 14, and this person was born  
14       sometime in the year 2000. It's 2019, how could  
15       someone reasonably look at an ID that says that  
16       this person was born in, what, 2000 -

17              MR. RIVERO: Five.

18              CHAIRMAN ANDERSON: In 2005?

19              MR. RIVERO: Yes.

20              CHAIRMAN ANDERSON: How could a  
21       reasonable person look at an ID and it says that  
22       the person was born in 2005, and you can look at

1       this ID and say, oh this person is 21. That  
2       shows to me the intent to sell alcohol to a  
3       minor. There is no way one could look at an ID  
4       that says that someone is born in 2005 and we're  
5       now in 2019, and five from 19 is not 21. Does  
6       any of the Board members have any comments on  
7       this before I -

8               MR. SHORT: Yes.

9               CHAIRMAN ANDERSON: Yes, Mr. Short.

10              MEMBER SHORT: Just to make one  
11      observation. I too just am very concerned that  
12      someone could read a juvenile's identification  
13      card, not a driver's license, an identification  
14      card, and still sell to that person alcohol,  
15      knowing the statute. And, therefore, I'm leaning  
16      toward also - and I understand the Government's  
17      reason, and using the statute as it does. But  
18      for the record, I'd just like to simply say to me  
19      this appears to be egregious, outrageous, and  
20      very unreasonable that someone would sell alcohol  
21      to a person who has on their ID 2005, and this is  
22      - I mean 2000 - yes, they're born in 2005, and

1       this is now 2014. I just - not saying that the  
2       offer in compromise I would offer the  
3       Government's theory of it when it comes to that.  
4       But at any rate, I just would like to go on  
5       record as stating that an establishment that  
6       sells to a person who is 14 years old is just  
7       being irresponsible. That's all I have Mr.  
8       Chair. That you.

9                   CHAIRMAN ANDERSON: Any other comments?  
10       Yes, Mr. Silverstein.

11                   MEMBER SILVERSTEIN: I would like to  
12       associate myself with the comments just made by  
13       my colleague, Mr. Short, and by our Chair. The  
14       question is where do you draw the line. If not  
15       14, is ten, six, four. There has to be an  
16       understanding of what is egregious, and this  
17       Board has decided that 14 is egregious. Whether  
18       that is the cut off or not we've not decided, but  
19       there comes a point where you simply have to use  
20       common sense. And common sense in this case  
21       would trump the idea of an absurd solution - of  
22       an absurd conclusion that 14 is not egregious.

1 It is egregious.

2 CHAIRMAN ANDERSON: All right. Any  
3 other comments by other Board members? Any  
4 comments you want to make, ma'am.

5 MS. YOHANNES: I will just note that it  
6 was a U.S. passport card, and not just an  
7 identification card. The physical features of  
8 the ID as noted by the Board are not the same,  
9 are not - there's no words, which is the  
10 difference. And I also just agree with the  
11 Government here in that the statute is clear in  
12 regards what's egregious, and age is not a  
13 factor.

14 CHAIRMAN ANDERSON: In my view at this  
15 moment, even the fact that the person didn't have  
16 an ID, and the person had a U.S. Passport card,  
17 that you're looking at U.S. passport card, and  
18 you still can't figure out that if someone is  
19 born in 2005 that - this is 2019, this person is  
20 not 21, so maybe tomorrow, but I'm not prepared  
21 to accept this today. My recommendation to the  
22 Board is to reject this offer in compromise. Is

1       there a second?

2                   MEMBER SHORT: Second.

3                   CHAIRMAN ANDERSON: Mr. Short has  
4       seconded the motion. All those in favor say aye.

5                   (CHORUS OF AYES.)

6                   Those opposed?

7                   (NO AUDIBLE RESPONSE.)

8                   We are rejecting the offer in  
9       compromise. Maybe tomorrow, but not today. This  
10      is - and I'll put it out there, if - and as far  
11      as the industry is concerned this is the easiest  
12      case for the industry. This is the easiest one,  
13      because if this agency send someone out, and it's  
14      clear that this person is underage, that's easy.  
15      She's 14, that's easy. That is easy. This is  
16      not Agency sent in a 20 year old, this is a 14  
17      year old, and if we do that who knows what's  
18      going on. So I'm not prepared to do that today.

19                   Anyway, this matter is scheduled for  
20      a show cause hearing on June 19th at 10:00. Maybe  
21      I can convince - can be convinced between now  
22      and then, but not today. Okay, thank you.



1 MS. YOHANNES: Thank you.

2 MR. RIVERO: Thank you.

3 (Whereupon, the above-entitled matter  
4 went off the record at 9:56 p.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: Ivy City Tavern

Before: DC ABRA

Date: 06-05-19

Place: Washington, DC

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my direction; further, that said transcript is a  
true and accurate record of the proceedings.

  
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Court Reporter

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