

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

2 10:13 a.m.

3 CHAIRPERSON ANDERSON: All right. Our
4 next case is Case No. 18-CMP-00048, Lupo Verde,
5 License No. 88527.

6 Will the parties, please, approach and
7 identify themselves for the record, please?

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

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

13 MR. MIRZADEH: Farhad Mirzadeh for
14 Lupo Verde.

15 CHAIRPERSON ANDERSON: Good -- your
16 last again, sir?

17 MR. MIRZADEH: Mirzadeh.

18 CHAIRPERSON ANDERSON: Mirzadeh? Are
19 you an attorney, sir?

20 MR. MIRZADEH: No, I'm not.

21 CHAIRPERSON ANDERSON: What's your
22 role in representing?

1 MR. MIRZADEH: I'm the designated
2 agent for the restaurant.

3 CHAIRPERSON ANDERSON: Hold on.

4 MR. MIRZADEH: I submitted the form
5 just a few minutes ago.

6 CHAIRPERSON ANDERSON: Okay. All
7 right. All right. I just wasn't aware, so
8 that's one of the reasons why I asked you.

9 MR. MIRZADEH: Yes.

10 CHAIRPERSON ANDERSON: So do we have
11 information that Mr. Mirzadeh -- who did you
12 provide it to, sir? I need -- because if you are
13 an attorney, then I'm fine with that, but if you
14 are not an attorney, I need something to say that
15 you are authorized to represent --

16 MR. MIRZADEH: Right. Can I go grab
17 it real quick?

18 CHAIRPERSON ANDERSON: Sure, yeah.
19 Who was it given to?

20 MR. MIRZADEH: To a clerk here. I
21 think it was -- oh, it's right here. The Clerk
22 of the Court.

1 CHAIRPERSON ANDERSON: All right. Mr.
2 Mirzadeh, good morning, sir. As far as the
3 formality, it's --

4 MR. RIVERO: Can I have a copy for my
5 file?

6 CHAIRPERSON ANDERSON: Well, I think,
7 with all due respect, sir, you need to show it to
8 the Government, too, so the Government will know
9 that -- your representation, especially this is a
10 full -- this is supposed to be a full hearing,
11 so --

12 MR. MIRZADEH: I appreciate the
13 Board --

14 CHAIRPERSON ANDERSON: -- I want to
15 make sure that whatever decision is made today,
16 someone can't say that I did not authorize this
17 person to represent us today. And so I want to
18 make sure that -- when you are an attorney, it's
19 much easier, because I know that at least we
20 report to a higher order.

21 So I have some recourse I can take if
22 someone comes in and says I'm an attorney and I

1 represent an establishment, but if you are not an
2 attorney, then there is not -- I don't have any
3 options once you leave here. So that's -- it's
4 just a formality. So we will provide Mr. Rivero
5 with your authorization.

6 This is a full Show Cause Hearing.
7 Are there any preliminary matters in this case?

8 MR. RIVERO: Yes.

9 CHAIRPERSON ANDERSON: And what is
10 that, Mr. Rivero?

11 MR. RIVERO: The preliminary matter
12 before the Board today is the Government's Motion
13 to Dismiss this case. And the basis for that
14 motion, at this time, is insufficient evidence to
15 move forward to prove by a preponderance of the
16 evidence that there has been a violation of Title
17 25 as the Government has alleged in its Notice to
18 Show Cause.

19 The investigative report, which is a
20 part of the Agency file and which I presume you
21 have before you, has its own exhibits.

22 And Exhibit No. 4 of that report is

1 the settlement agreement that is the issue in
2 this case. That settlement agreement has Mr.
3 Ferris as a party to that agreement. Mr. Ferris
4 was the complainant in this case that generated
5 the investigation. And so he is a signatory.

6 Paragraph 12 of that agreement is what
7 I would call a cure provision, which directs how
8 the settlement agreement will be enforced, but it
9 indicates that in the event of a violation, the
10 complainants or whoever the signatories are to
11 the agreement are to provide very specific notice
12 to the establishment and provide 30 days to cure.
13 And that notice is to be made by certified mail.

14 The record is currently devoid of that
15 evidence. We don't have any evidence that notice
16 was provided in the form other an email. As a
17 result, we are not able to move forward, at this
18 time, and we would ask that the case be
19 dismissed. Thank you.

20 CHAIRPERSON ANDERSON: All right.
21 Thank you, Mr. Rivero. I guess I don't need to
22 ask the applicant, the licensee whether or not

1 they agree with it.

2 So unless you want to say something,
3 Mr. -- unless you want to say something?

4 MR. MIRZADEH: No.

5 CHAIRPERSON ANDERSON: Sometimes it's
6 best not to say anything.

7 MEMBER SILVERSTEIN: Sometimes it's
8 best to take yes for an answer.

9 CHAIRPERSON ANDERSON: Well, with that
10 said, I make a motion that we accept the
11 Government's Motion to Dismiss. Is there a
12 second?

13 MEMBER SILVERSTEIN: I second, Mr.
14 Chairman.

15 CHAIRPERSON ANDERSON: Mr. Silverstein
16 has seconded the motion.

17 All those in favor say aye.

18 ALL: Aye.

19 CHAIRPERSON ANDERSON: Those opposed?
20 All right. So the matter passes 7-0-0. Yeah,
21 the matter passes 7-0-0.

22 We will issue a Board order on this

1 matter.

2 MR. RIVERO: Thank you, Board Members.

3 CHAIRPERSON ANDERSON: Okay. Thank
4 you very much.

5 MR. MIRZADEH: Thank you.

6 CHAIRPERSON ANDERSON: Have a good
7 day. All right.

8 The Board then is in -- will be in
9 recess until our 1:30 p.m. hearing. Thank you.

10 (Whereupon, the Show Cause Hearing was
11 concluded at 10:18 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: Lupo Verde

Before: DCABRA

Date: 09-26-18

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

Neal R Gross

Court Reporter

NEAL R. GROSS

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