

DISTRICT OF COLUMBIA  
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 ALCOHOLIC BEVERAGE CONTROL BOARD  
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 MEETING

IN THE MATTER OF:                   :  
   :  
 Toppromo, Inc.                    :  
 t/a Ultrabar/Chroma               :  
 911 F Street NW                   : Protest Hearing  
 Retailer CN - ANC 2C              : (Status)  
 License No. 74767                 :  
 Case # 19-PRO-00163               :  
   :  
 (Application to Renew              :  
 the License)                        :

Thursday  
 November 5, 2020

The Alcoholic Beverage Control Board  
 met via WebEx videoconference, Chairperson  
 Donovan W. Anderson presiding.

PRESENT:

DONOVAN W. ANDERSON, Chairperson  
 RAFI ALIYA CROCKETT, Member  
 EDWARD S. GRANDIS, Member  
 JENI HANSEN, Member  
 JAMES SHORT, JR., Member

ALSO PRESENT:

SIMONE ANDREWS, DC ABRA Staff  
 CHRISTOPHER FORD, Protestant  
 FRED MOOSALLY, Director, DC ABRA  
 MICHAEL SCHAKOW, Protestant  
 ASHLEY STEINBERG, Protestant  
 YANEV SUISSA, Protestant  
 SIDON YOHANNES, Applicant's Counsel

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

2 2:03 p.m.

3 CHAIRPERSON ANDERSON: The next case  
4 on our calendar, 19-PRO-00163, Chroma --  
5 Ultrabar/Chroma, License No. 74767. And I will  
6 ask Ms. Andrews, can you please elevate the  
7 rights of the licensee. I think it's either Mr.  
8 Kline or Ms. Yohannes and the ANC and the Group  
9 of 7, please.

10 MS. ANDREWS: Stand by. I have a long  
11 list for this.

12 CHAIRPERSON ANDERSON: Thank you.

13 (Pause.)

14 MS. ANDREWS: That's all, Mr. Chair.  
15 If there is anyone else in the hearing that is  
16 supposed to be speaking on behalf of this case,  
17 could you please send a message via chat. Okay.

18 CHAIRPERSON ANDERSON: I'll wait for  
19 a minute to see if there's anyone else that's  
20 outstanding.

21 MS. STEINBERG: It doesn't look like  
22 Michael Shankle who's one of our teammates has  
23 been elevated.

24 MS. ANDREWS: Okay. I'll elevate his  
25 rights, ma'am.

1 MS. STEINBERG: He said he's blocked.  
2 Oh, there he is. Great.

3 MS. ANDREWS: Could the parties please  
4 mute themselves unless they are speaking?

5 CHAIRPERSON ANDERSON: All right.  
6 Good afternoon, everyone. This is a protest  
7 hearing status. It's my understanding this case  
8 has been protested by ANC 2C and a Group of 5 or  
9 more, Group of 7 or more. All right. So I will  
10 ask each party to identify themselves for the  
11 record. I will start with the licensee and its  
12 representative.

13 MS. YOHANNES: Good afternoon. Sidon  
14 Yohannes here on behalf of the licensee.

15 CHAIRPERSON ANDERSON: I apologize,  
16 Ms. Yohannes. Can you please -- you along with  
17 everyone else, I need everyone to also spell  
18 their name for the record also, please.

19 MS. YOHANNES: Sure. It's S-I-D-O-N  
20 Y-O-H-A-N-N-E-S.

21 CHAIRPERSON ANDERSON: Thank you, Ms.  
22 Yohannes. Well, let's start with -- do we have  
23 the representative for the group? We can start  
24 with -- we can start there first and then we'll  
25 (telephonic interference).

1 MS. STEINBERG: Ashley Steinberg.  
2 Sorry. I missed what you asked for. Are you  
3 asking for the protestors?

4 CHAIRPERSON ANDERSON: Yes. So --  
5 (Simultaneous speaking.)

6 CHAIRPERSON ANDERSON: -- I now need  
7 -- I need you to identify yourself for the record  
8 and also spell your name for the record, please.

9 MS. STEINBERG: Sure. Hi, I'm Ashley  
10 Steinberg. It's A-S-H-L-E-Y S-T-E-I-N-B-E-R-G.

11 CHAIRPERSON ANDERSON: All right. So  
12 I'll have the other members of the group identify  
13 themselves.

14 MR. SUISSA: I can go next, and then  
15 I can pass off to the next person so that it's  
16 not a million people speaking at the same time.  
17 So I'm Yanev Suissa, Y-A-N-E-V S-U-I-S-S-A. And  
18 then why don't I pass it to Michael to go next.

19 MR. SCHAKOW: Hi, this is Michael  
20 Schakow, I-C-H-A-E-L, Schakow, S-C-H-A-K-O-W.  
21 And I will pass it on to Christopher.

22 MR. FORD: Thank you, Michael. My  
23 name is Christopher Ford. It's C-H-R-I-S-T-O-P-  
24 H-E-R, last name, Ford, F-O-R-D. And I also have  
25 with me Del Galloway.

1 MR. GALLOWAY: Hello. This is a  
2 twofer. The name is Del, D-E-L, last name,  
3 Galloway, G-A-L-L-O-W-A-Y. Thank you. And turn  
4 it to Brett.

5 MR. SPOONER: Yes, this is Brett  
6 Spooner. That is B-R-E-T-T S-P-O-O-N-E-R. And I  
7 will pass it to Michael Shankle.

8 MR. SHANKLE: Hi, Chairman. My name  
9 is Michael Shankle. I am the ANC Commissioner  
10 for 2C01. And we'll go to Kevin.

11 CHAIRPERSON ANDERSON: And do we have  
12 -- have we identified everyone?

13 MR. WILSEY: I'm also with the ANC,  
14 Kevin Wilsey, K-E-V-I-N W-I-L-S-E-Y. I'm the  
15 Chairman of ANC 2C.

16 CHAIRPERSON ANDERSON: Okay. All  
17 right. Is that everyone? Has everyone  
18 identified themselves? Are we missing anyone?  
19 All right. Who did not -- who was not at the --  
20 from the group, who was not at the roll call  
21 hearing?

22 (No audible response.)

23 CHAIRPERSON ANDERSON: Who was not at  
24 the roll call hearing from the group? I need you  
25 to state your name for the record.

1 MR. SUISSA: Yanev Suissa was not at  
2 the roll call hearing.

3 CHAIRPERSON ANDERSON: Who else was  
4 not at the roll call hearing?

5 (No audible response.)

6 CHAIRPERSON ANDERSON: Who else was  
7 not at the roll call hearing?

8 MR. SPOONER: Brett Spooner was not at  
9 the roll call hearing.

10 CHAIRPERSON ANDERSON: And so you have  
11 identified Mr. Brett Spooner. You said that you  
12 were not at the roll call hearing?

13 MR. SPOONER: That's correct.

14 CHAIRPERSON ANDERSON: Ms. Yohannes,  
15 was Mr. Spooner and Mr. --

16 (Simultaneous speaking.)

17 MS. YOHANNES: Suissa.

18 CHAIRPERSON ANDERSON: Suissa. I hope  
19 I don't (telephonic interference). Were they at  
20 the roll call hearing?

21 MS. YOHANNES: No, they were not.

22 CHAIRPERSON ANDERSON: All right. So  
23 my understanding that the group was granted  
24 conditional standing at the roll call hearing  
25 provided that two of the members show up at this

1 hearing. So it's my understanding that Mr.  
2 Spooner and Mr. Suissa were not at the roll call  
3 hearing. But therefore, I make a motion that --  
4 Board, can you please mute your microphone if  
5 you're not speaking, please? I then make a  
6 motion that the Board provides full standing to  
7 the protestant. Is there a second?

8 MEMBER CROCKETT: Ms. Crockett  
9 seconds.

10 CHAIRPERSON ANDERSON: Crockett has  
11 second the motion. I will now take a roll call  
12 vote and the motion that has been properly second  
13 by Ms. Crockett. Mr. Grandis?

14 (No audible response.)

15 CHAIRPERSON ANDERSON: We are having  
16 a roll call vote, Mr. Grandis. Turn your  
17 microphone on, Mr. Grandis.

18 (Simultaneous speaking.)

19 CHAIRPERSON ANDERSON: I'm sorry?

20 MEMBER GRANDIS: Yes.

21 CHAIRPERSON ANDERSON: Mr. Grandis has  
22 voted yes. Mr. Short?

23 MEMBER SHORT: Mr. Short, yes.

24 CHAIRPERSON ANDERSON: Ms. Hansen?

25 MEMBER HANSEN: Jeni Hansen, I agree.

1 CHAIRPERSON ANDERSON: Ms. Crockett.

2 MEMBER CROCKETT: Rafi Crockett, I  
3 agree.

4 CHAIRPERSON ANDERSON: And Mr.  
5 Anderson, I agree. The vote is 5 to nothing. So  
6 therefore, standing has been granted to the Group  
7 of 7 at the protest hearing. Are there --

8 MS. STEINBERG: I'm so sorry to  
9 interrupt. I just wanted to clarify something.  
10 This is Ashley Steinberg.

11 CHAIRPERSON ANDERSON: Yes, go ahead.

12 MS. STEINBERG: Also Chris -- pardon  
13 me?

14 CHAIRPERSON ANDERSON: Go ahead. I'm  
15 listening to you.

16 MS. STEINBERG: Okay. I'm really  
17 sorry for interrupting. It's just that Chris  
18 Ford also was not at the hearing. I don't know  
19 whether that matters to you. But I just wanted  
20 to flag it. But he's here now.

21 CHAIRPERSON ANDERSON: All right.  
22 Well, it's not relevant. All I needed was two  
23 members.

24 MS. STEINBERG: I know. I just wanted  
25 to -- just being careful here.



1 CHAIRPERSON ANDERSON: Yeah.

2 MS. STEINBERG: Thank you.

3 CHAIRPERSON ANDERSON: As long as two  
4 additional persons who were not at the status  
5 hearing, as long as they are here today, we're  
6 fine. So --

7 MS. STEINBERG: Perfect. Thank you.

8 CHAIRPERSON ANDERSON: So you're  
9 telling me that Mr. -- now Mr. Ford, I clearly  
10 asked, were you at the -- what did I say? I said  
11 if you were not at the status hearing, please let  
12 me know. And so Mr. Ford, why did you not say  
13 something?

14 MR. FORD: My apologies, Commissioner.  
15 But we also have the two other folks that stood  
16 up. So you mentioned in the beginning that you  
17 only needed two, so that's why I didn't come  
18 forward.

19 CHAIRPERSON ANDERSON: Well, what I'm  
20 trying to do, Mr. Ford, you took the day out of  
21 your very, very busy schedule because you had  
22 nothing better to do to show up at this protest  
23 hearing status. So I want to make sure that you  
24 believe that your time is valuable. If that's  
25 so, that's why I'm recognizing you because of

1 COVID, we're home. We're very busy.

2 So I hope you know that this is being  
3 done in jest. But thank you, Ms. Steinberg, for  
4 bringing it to the attention. So the Board has  
5 voted to grant full standing to the group. And  
6 so the protestant has standing and -- I'm sorry,  
7 the ANC has standing. Also the group has  
8 standing.

9 One thing that I just want to point  
10 out just statutory to the group. If the licensee  
11 decides to sign a settlement agreement with the  
12 ANC, then the protest ends because the group  
13 cannot continue with a protest if there is a  
14 settlement agreement with the ANC. That's just  
15 statutory.

16 And I also want to inform the group  
17 that the Board cannot force the ANC to make you a  
18 party to a settlement agreement if they elect not  
19 to make you a party to a settlement agreement.  
20 And I'm saying this because we've had occasions  
21 where groups have appealed to the Board to say  
22 that we have standing and we want to continue  
23 with the hearing or you need to force them to  
24 make us a part of a settlement agreement. And I  
25 just want to advise the group that's set by

1 statute. The Board cannot do that.

2 So I'm not saying the (audio  
3 interference) I'm just providing information to  
4 say that by statute, the Board is unable to do  
5 that. Okay? Are there any other -- are there  
6 any preliminary issues that needs to be brought  
7 to the Board's attention?

8 MS. YOHANNES: I just want to clarify  
9 quickly. I know that the group has been granted  
10 standing. And I, just for the record, want to  
11 state that it's a Group of 6, not a Group of 7,  
12 because I believe there is one member who has  
13 fallen off or has not appeared for either the  
14 roll call or the status hearing. And that's  
15 David Voyles (phonetic), I believe, if I'm  
16 correct, Voyles.

17 MS. STEINBERG: Yes, he's no longer a  
18 resident in the building.

19 MS. YOHANNES: Okay. Thank you.

20 CHAIRPERSON ANDERSON: All right.  
21 Well, for my purpose, it's -- for my purpose,  
22 standing has been granted. And so they can  
23 decide once they've met the threshold and then  
24 they can decide who else wants to be a part of  
25 their group. And since Ms. Steinberg has been --

1 she is the designated representative of the  
2 group. So as long as she's here and standing has  
3 been granted, then that's fine. So are there any  
4 other preliminary issues? None?

5 MS. STEINBERG: Nothing from us.

6 CHAIRPERSON ANDERSON: All right.  
7 Normally at these protest hearing status hearing,  
8 I would provide a date, a time for the protest  
9 hearing. However, I am unable to provide that  
10 date at this juncture. The Agency will contact  
11 you shortly and provide some dates in the new  
12 year when we will have the protest hearing.

13 What I will say to the groups if  
14 you're able to have a settlement -- if you're  
15 able to meet and discuss and sign an agreement,  
16 so be it. The Board would be happy because my  
17 view has always been if you do settlement  
18 agreements, then all sides will be happy with  
19 whatever the end decision is. In the decision,  
20 the Board is open and willing to make a decision.  
21 But maybe not everyone is going to be happy.

22 So that's one of the reasons why I  
23 just put it out there if you can settle it. If -  
24 - the Board will not frown on that. But if it  
25 has to come to a hearing, then we're fine with

1 that. Okay? All right.

2 (Simultaneous speaking.)

3 CHAIRPERSON ANDERSON: I'm sorry.

4 Yes. Who's speaking?

5 MR. WILSEY: This is Commissioner  
6 Wilsey.

7 CHAIRPERSON ANDERSON: Yes, Mr.  
8 Wilsey.

9 MR. WILSEY: I do have a question  
10 about the moving along for a protest hearing.  
11 What considerations is your Agency giving for  
12 setting these dates up? This is one of these  
13 cases where it's nearly impossible for us to come  
14 to any kind of agreement or even work on a  
15 protest without the establishment being open  
16 because one of the major concerns here is noise.

17 And we started working on it, and  
18 we've basically come to an impasse because of  
19 COVID. It's nobody's fault, but there's no --  
20 and I talked to their attorney about this. And  
21 so it's sort of a sticky situation, and we're  
22 just sort of wondering what kind of parameters  
23 you're putting in place for these hearings. Are  
24 we going to have a hearing after establishments  
25 are allowed to open in full and -- you know?

1                   CHAIRPERSON ANDERSON: Well, I think  
2 part of what's going on now, we're in Phase 2.  
3 And based on the numbers that have been reported,  
4 I don't know when we're going to come out of  
5 Phase 2. And I'm hoping that the Mayor does not  
6 take us -- not the Mayor. The health department  
7 doesn't suggest to the Mayor that we move back to  
8 Phase 1 or Phase 0. So I don't know.

9                   However, I don't know where we are  
10 going to do it. As you're aware, this is  
11 probably a hearing we should've had in the  
12 spring. But because of COVID, we're now trying  
13 to come forward.

14                   And the Agency has not put a schedule  
15 as yet when it is that we're going to schedule  
16 these hearings. But the parties -- is this a --  
17 this is a renewal. Is that correct?

18                   (Simultaneous speaking.)

19                   MR. WILSEY: Yes.

20                   CHAIRPERSON ANDERSON: The parties can  
21 jointly send a motion to the Agency to postpone  
22 whatever date that we suggest. So if we suggest  
23 a date to have the protest hearing and if both  
24 sides jointly agree that we want to wait until  
25 COVID and because we are so -- and I'm saying

1 this, this way, that we are so certain that COVID  
2 is going to come to end. And so therefore, we  
3 can have this protest hearing after COVID, after  
4 we have had whatever we need to have so we can go  
5 back to what's considered regular life. Then  
6 that is your option.

7 So once we schedule the date, the  
8 parties can jointly ask the Agency to postpone  
9 the date to another date to be determined. So  
10 that is part of the discussion that both sides  
11 can have. And the Board will work with you. And  
12 so because there is a renewal, you don't have  
13 that strict timeline to say that we have to have  
14 a protest hearing within that specific period of  
15 time because the establishment is open.

16 (Simultaneous speaking.)

17 MR. WILSEY: It's already been going  
18 on for a whole year, so --

19 CHAIRPERSON ANDERSON: So as I said  
20 before, this is an uncharted time.

21 MR. WILSEY: Yes.

22 CHAIRPERSON ANDERSON: I did not know  
23 that I would be doing a hearing here on Webex.  
24 But I'm not very comfortable because we've been  
25 doing these hearings. Today, that's the first

1 day that we have done protest hearing status.

2 So the ABC Board has been -- we've  
3 been in operation. So we've met every Wednesday  
4 since August -- I'm sorry, since March. But  
5 yesterday we had show cause hearing status for  
6 the first time. And today is our first day of  
7 having protest hearing status.

8 So we're trying to figure it out to  
9 get back to normal, whatever that is. But we  
10 will work with you. The Board and the Agency,  
11 we'll work with you to make sure that whatever  
12 decision is made, it's in the best interest of  
13 all parties. Okay? All right.

14 MS. YOHANNES: Thank you.

15 CHAIRPERSON ANDERSON: You're welcome.

16 MR. WILSEY: Thank you.

17 CHAIRPERSON ANDERSON: All right. So  
18 now that we've scheduled this matter for a  
19 protest hearing, there are a few things that I  
20 would like to -- I've not read that before. Is  
21 that correct? Did I read the instructions?

22 (Simultaneous speaking.)

23 MS. YOHANNES: That's correct.

24 MR. SHANKLE: Yes.

25 CHAIRPERSON ANDERSON: Yes or no, did



1 I read the instructions?

2 MS. YOHANNES: You did.

3 (Simultaneous speaking.)

4 CHAIRPERSON ANDERSON: I did? Did I  
5 read the instructions before? Okay.

6 MR. WILSEY: You did not.

7 CHAIRPERSON ANDERSON: All right. I  
8 have my script that I'm trying to follow along.  
9 So I know Mr. Wilsey, you took me off my routine  
10 that I'm trying to do. You just took me off my  
11 routine, so I'm trying to remember where I was.  
12 All right. We have to -- in light of these  
13 times, we have to try our best to make the best  
14 of it. And that's what I was trying to do. So  
15 all right.

16 Now that we've scheduled this matter  
17 for a protest hearing, there are a few things  
18 that I would like to instruct you about so that  
19 the protest hearing is focused and addresses only  
20 those issues that are being protested. You  
21 either have already received or will soon be  
22 receiving an email from Imani Moreland that  
23 contains a copy of the protest information form  
24 and a copy of an exhibit form. Both parties are  
25 required to complete and submit the protest

1 information form, PIF, and the exhibit form at  
2 least seven days before the date of the hearing.

3 If we do not receive a copy of your  
4 forms seven days before the hearing, your  
5 application or your protest may be subject to  
6 dismissal. These documents not only need to be  
7 submitted to ABRA but to the opposing party as  
8 well. Please know that these documents greatly  
9 assist the Board in narrowing the protest issues,  
10 facilitating the process, and keeping the parties  
11 on point.

12 Each side will have 90 minutes to  
13 present their case. This includes all direct and  
14 cross examination of witnesses. The Board does  
15 not intend to hear testimony on matters that are  
16 not relevant to these issues that are being  
17 protested nor will the Board tolerate repetitive  
18 testimony. Are there any questions?

19 (No audible response.)

20 CHAIRPERSON ANDERSON: All right.  
21 Hearing none, we thank you greatly for your  
22 cooperation. If you have any questions at any  
23 time leading up to the hearing, please do not  
24 hesitate to contact Assistant General Counsel  
25 April Randall at 202-442-4353. Hold on one

1 minute, please.

2 And so if I look at my phone, it's not  
3 because I'm getting a personal phone call. Maybe  
4 I'm forgetting something. And so therefore,  
5 folks are reminding that. So I just want people  
6 to know that if I pick up my phone, it's not  
7 because I have something more important to do  
8 than to have (audio interference).

9 So as I said, I was just reminded that  
10 if you're in no rush to move forward with the  
11 protest hearing, the Board is in no rush. So at  
12 any point, you can -- once we have provided some  
13 dates, if all sides agree to postpone it, the  
14 Board will grant to postpone the date to a date  
15 that's mutually agreeable to everyone. Okay? So  
16 --

17 MR. SHANKLE: Thank you.

18 CHAIRPERSON ANDERSON: -- thank you  
19 for your participation today.

20 MR. SHANKLE: Thank you very much.

21 CHAIRPERSON ANDERSON: And have a  
22 great year. And I hope not to see you in the new  
23 year. That means that you have agreed to a  
24 settlement agreement and everyone is happy.  
25 Okay. Have a great day. Thank you very much.



A	B		
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In the matter of: Ultrabar

Before: DCABRA

Date: 11-05-20

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