

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

2 9:49 a.m.

3 CHAIRPERSON ANDERSON: The next case
4 on our Show Cause Hearing (Status) Calendar is
5 Case No. 18-CMP-00117, Victor Liquors, License
6 No. 88173.

7 Would the parties, please, approach
8 and identify themselves for the record, please?

9 MS. GEPHARDT: Chrissy Gephardt here
10 on behalf of the Office of the Attorney General.

11 CHAIRPERSON ANDERSON: Good morning,
12 Ms. Gephardt.

13 INTERPRETER BRADFORD: Garrett
14 Bradford, Spanish Interpreter, if needed.

15 CHAIRPERSON ANDERSON: Can you raise
16 your right hand, sir? All right. Let me make
17 sure that I find the -- hold on, give me one
18 minute.

19 INTERPRETER BRADFORD: May the
20 Interpreter inquire if this needs interpreted?

21 CHAIRPERSON ANDERSON: You know what,
22 sir, I'm going to -- I'm not even going to ask

1 him. We have had this controversy before and so,
2 therefore, yes. So I'm not going to -- so since
3 the Agency requested you, I'm going to have you
4 do it, because this licensee has appeared before
5 us, before the Board and that was an issue. He
6 made a specific request for an Interpreter.

7 So being consistent with Board
8 policies, I don't want to ask him if he wants one
9 today, because it might be problematic for the
10 Agency. So stand up and raise your right hand,
11 sir, please.

12 Do you solemnly affirm that you will
13 faithfully and accurately interpret the
14 proceedings in this matter from English to
15 Spanish and from Spanish to English to the best
16 of your ability?

17 INTERPRETER BRADFORD: I do.

18 CHAIRPERSON ANDERSON: Yes, again,
19 identify yourself for the record, please, sir.

20 INTERPRETER BRADFORD: Garrett
21 Bradford.

22 CHAIRPERSON ANDERSON: Good morning,

1 Mr. Bradford. Can you ask him to identify
2 himself for the record, please?

3 MR. AYALA: Teofilo Ayala.

4 CHAIRPERSON ANDERSON: Good morning,
5 Mr. Ayala.

6 MR. AYALA: Good morning, Your Honor.

7 CHAIRPERSON ANDERSON: Could you ask
8 Mr. Ayala to sign-in? There is a sign-in sheet
9 on the table. Could you ask him to sign-in,
10 please? Did he sign it already?

11 MR. AYALA: Yes.

12 CHAIRPERSON ANDERSON: Okay.

13 MR. AYALA: Here it is.

14 CHAIRPERSON ANDERSON: Fine. Ms.
15 Gephardt, are there any preliminary matters in
16 this case?

17 MS. GEPHARDT: The only matter in this
18 case that is preliminary is that the Government
19 would like to propose an amendment to the charge.
20 And that would be instead of violating the
21 security plan, that should have been settlement
22 agreement.

1 MR. AYALA: An agreement on what?

2 MS. GEPHARDT: Settlement agreement.

3 CHAIRPERSON ANDERSON: I think we need
4 to -- I don't think -- I'm not sure if he
5 understands. Let him know that the -- what was
6 the specific charge that he was charged with?

7 MS. GEPHARDT: You violated your
8 settlement agreement.

9 CHAIRPERSON ANDERSON: No, what was
10 the -- you said he was initially charged with the
11 security plan.

12 MS. GEPHARDT: Right.

13 CHAIRPERSON ANDERSON: So right. I
14 don't think he understands what you are talking
15 about, so that's why I was asking you to repeat
16 it, so he could -- because I don't think he had
17 understood what you were asking.

18 MS. GEPHARDT: Okay. So there -- so
19 currently the charge says you violated your
20 security plan. Do you know what the security
21 plan is?

22 MR. AYALA: Yes, I have an idea.

1 MS. GEPHARDT: Okay. The notice
2 incorrectly said you violated your security plan.
3 It should have stated you violated your
4 settlement agreement.

5 MR. AYALA: It didn't say that.

6 MS. GEPHARDT: No, it said security
7 plan. So we --

8 MR. AYALA: Okay.

9 MS. GEPHARDT: Okay.

10 CHAIRPERSON ANDERSON: So you are
11 asking to change the -- to just change the
12 charge?

13 MS. GEPHARDT: Change the charge,
14 correct, as a charge for violation of the
15 security -- or excuse me, of the settlement
16 agreement versus the security plan. So no longer
17 the security plan, now it's settlement agreement.

18 CHAIRPERSON ANDERSON: Hold on one
19 minute. I want to make sure he is done first,
20 hold on.

21 MEMBER ALBERTI: So, Ms. Gephardt, I
22 understand that the description may be wrong, but

1 in the charging document, did you state the
2 correct statute?

3 MS. GEPHARDT: This is a case given to
4 me. I have to be honest with you, I'm not --

5 MEMBER ALBERTI: So, you know, I have
6 no problem with changing the description if
7 that's an error, I understand.

8 MS. GEPHARDT: Okay.

9 MEMBER ALBERTI: It's just the --

10 MS. GEPHARDT: But the statute, yeah.

11 MEMBER ALBERTI: -- it could be a
12 typo.

13 MS. GEPHARDT: Right.

14 MEMBER ALBERTI: But as long -- what
15 my concern is is that the correct statute was
16 stated in the charging document and that's the
17 important part here.

18 MS. GEPHARDT: Right. That's exactly
19 right. I did not bring my code book with me.
20 823.6.

21 CHAIRPERSON ANDERSON: The charge was
22 section --

1 MS. GEPHARDT: That's security plan
2 apparently. So the settlement agreement, like I
3 said I need -- I would need the code book.

4 MEMBER ALBERTI: So maybe we ought to
5 take a pause here, because I'm going to -- I am
6 not comfortable with this, if the charging
7 document has the wrong statute in it. I think
8 that that's just a given that we have to do that.

9 MS. GEPHARDT: Um-hum, right.

10 MEMBER ALBERTI: So --

11 CHAIRPERSON ANDERSON: It doesn't
12 matter. In this particular case, the statute --
13 it's 25-823.6. He was charged with 25-82 --
14 section -- a violation of 25-823.6. The licensee
15 fails to follow settlement agreement, settlement
16 plan or Board Order. So all three provisions are
17 in that same statute.

18 MEMBER ALBERTI: Okay. So okay, all
19 right.

20 CHAIRPERSON ANDERSON: But it doesn't
21 matter.

22 MEMBER ALBERTI: Okay. We're good.

1 CHAIRPERSON ANDERSON: It's correct.

2 MEMBER ALBERTI: We're good.

3 CHAIRPERSON ANDERSON: So the correct
4 statute was charged, just the wrong word was in
5 the description.

6 MEMBER ALBERTI: She has clarified for
7 the record.

8 CHAIRPERSON ANDERSON: All right.

9 MEMBER ALBERTI: Thank you, Chairman
10 Anderson.

11 CHAIRPERSON ANDERSON: You're welcome.

12 MEMBER ALBERTI: That clarifies it for
13 me. Thank you.

14 MS. GEPHARDT: And then also there is
15 no notice problem, correct, because it's the same
16 provision of the statute, it's just the word is
17 settlement agreement and not security plan.

18 MEMBER ALBERTI: Okay. Thank you. I
19 just wanted to make sure it was clear for the
20 record.

21 MS. GEPHARDT: No, that's -- I --
22 thank you.

1 MEMBER ALBERTI: And that's all I
2 wanted to do.

3 MS. GEPHARDT: You're absolutely
4 correct about that.

5 MEMBER ALBERTI: Thank you.

6 CHAIRPERSON ANDERSON: All right.
7 With that clarification, I make a motion that we
8 accept that the change be made since it is the
9 correct statutory violation with charge. Just
10 the incorrect word was utilized in the charging
11 document.

12 MEMBER SHORT: I second.

13 CHAIRPERSON ANDERSON: Mr. Short has
14 seconded the motion.

15 All those in favor say aye.

16 ALL: Aye.

17 CHAIRPERSON ANDERSON: Those opposed?

18 MR. AYALA: Why?

19 CHAIRPERSON ANDERSON: I'm sorry, the
20 matter passes 5-0-0.

21 Yes, sir, do you have something to
22 say?

1 MR. AYALA: Why are they -- why are
2 you changing it after six months? I don't
3 understand.

4 MS. GEPHARDT: Because the wrong word
5 was used. It was security plan, but it was
6 supposed to be settlement agreement. However, it
7 is the same charge in terms of the -- the same
8 statute was violated. It was the way it was
9 described as the security plan and should have
10 been the settlement agreement.

11 MR. AYALA: But that should have
12 already been put in there if there was a mistake.

13 MS. GEPHARDT: Well, that's up to the
14 Board.

15 MR. AYALA: And that's what I was
16 thinking, you know, coming here and then
17 everything changes.

18 CHAIRPERSON ANDERSON: You came here
19 today to -- sir, today is just a preliminary
20 matter. It's just -- what happens at, at least,
21 the hearing today is that you don't contest the
22 matter. This is the matter of being here today.

1 At the Show Cause Hearing, that is
2 when you would bring your documents and witnesses
3 if you are contest this matter.

4 Did you understand that, what occurs
5 today at today's hearing?

6 MR. AYALA: Okay.

7 CHAIRPERSON ANDERSON: All right. So
8 this matter is scheduled for a Show Cause Hearing
9 on October 7 -- I'm sorry, on November 7th at
10 4:30.

11 So are you aware then on November 7th
12 at 4:30, if you contest this charge, that's when
13 you can bring your witnesses and whatever
14 documents that you have to dispute the charge.

15 And the charge is that whatever the
16 infraction is is that you have been charged with
17 now violating the terms of your settlement
18 agreement. All right? Okay. Thank you.

19 So October 7th at 4:30.

20 MR. AYALA: Thank you.

21 INTERPRETER BRADFORD: Chairman,
22 November 7th?

1 CHAIRPERSON ANDERSON: I'm sorry,
2 November 7th at 4:30. I apologize. Okay. All
3 right. Thank you.

4 INTERPRETER BRADFORD: Chairman, may
5 the Interpreter be dismissed?

6 CHAIRPERSON ANDERSON: Yes, you can
7 be.

8 (Whereupon, the Show Cause (Status)
9 Hearing was concluded at 9:59 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: Victor's Liquors

Before: DCABRA

Date: 10-03-18

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.



Court Reporter

NEAL R. GROSS

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