

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

IN THE MATTER OF: :

Heritage Management Services, LLC: :

t/a Heritage India/The Zanzibar : Summary

1901 Pennsylvania Ave., NW : Suspension

Retailer CR - ANC-2B : Hearing

License No. 90050 :

Case #15-251-00001 :

(Chief of Police Closure : :

January 3, 2015) :

January 14, 2015

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 Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
 NICK ALBERTI, Member
 DONALD BROOKS, Member
 MIKE SILVERSTEIN, Member
 HECTOR RODRIGUEZ, Member
 JAMES SHORT, Member

ALSO PRESENT:

AMY SCHMIDT, OAG

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

2 2:08 p.m.

3 CHAIRPERSON MILLER: Okay. Thank you
4 for your indulgence. We are ready to go forward
5 now with Case No. 15-251-00001, Heritage
6 Management Services, LLC t/a Heritage India/The
7 Zanzibar located at 1901 Pennsylvania Avenue,
8 N.W., License No. 90050, Retailer CR in ANC-2B.

9 Okay. So why don't we start with
10 introductions by the parties?

11 MS. SCHMIDT: Good afternoon, Amy
12 Schmidt, Assistant Attorney General on behalf of
13 the District of Columbia.

14 COURT REPORTER: Could you turn your
15 microphone on?

16 MEMBER RODRIGUEZ: Pull it close.

17 MS. SCHMIDT: Good afternoon. Amy
18 Schmidt, Assistant Attorney General on behalf of
19 the District of Columbia.

20 CHAIRPERSON MILLER: Okay.

21 MR. ROEM: Scott Roem from the Veritas
22 Law Firm on behalf of the licensee.

1 MR. KLINE: Andrew Kline, Veritas Law
2 Firm on behalf of the licensee.

3 MR. TULI: Sanjeev Tuli, the licensee.

4 CHAIRPERSON MILLER: I'm sorry, could
5 you repeat your name?

6 MR. TULI: Sanjeev Tuli.

7 CHAIRPERSON MILLER: Okay. All right.
8 This is scheduled for a Summary Suspension
9 Hearing. Is there a preliminary matter?

10 MS. SCHMIDT: Yes. While
11 acknowledging that this is a very serious matter
12 before the Board today and that there was a
13 stabbing and general mayhem in the licensee's
14 establishment on January 3, 2015, however, we
15 have entered an OIC, which we are hoping will
16 address these concerns. And I will read the OIC
17 into the record right now.

18 CHAIRPERSON MILLER: Okay.

19 MS. SCHMIDT: This Offer in Compromise
20 will be presented to the Alcoholic Beverage
21 Control Board by the, okay, Assistant Attorney
22 General at the Summary Suspension proceeding.

1 Please be advised that this is a
2 proposed compromise at the discretion of the
3 Board to accept or reject this offer.

4 The Offer in Compromise consists of
5 the licensee agreeing to all of the following
6 terms:

7 (1) The licensee agrees to submit a
8 revised security plan, which is in full
9 compliance of all applicable laws, including all
10 requirements for security plan under Title 25 of
11 the D.C. Official Code which incorporates all of
12 the below matters:

13 (A) Addresses the
14 establishment's procedure for preserving a crime
15 scene.

16 (B) The revised security plan
17 shall state that a minimum of 14 cameras will be
18 utilized by the establishment.

19 (C) State that the 14 cameras
20 shall remain operational at all times and reveal
21 no blind spots.

22 (2) The licensee also agrees that at

1 least one manager on duty at all times shall be
2 able to fully operate the equipment necessary to
3 view all of the cameras in the establishment.

4 (3) The licensee agrees to incorporate
5 detailed procedures in its security plan on how
6 security personnel are to handle violent
7 altercations in the establishment, including
8 appropriate methods for detaining and controlling
9 aggressive patrons.

10 (4) The establishment's revised
11 security plan shall address the establishment's
12 protocol for drafting and maintaining incident
13 log.

14 (5) Licensee agrees to provide its
15 employees with training on how to aid an injured
16 or ill patron inside the establishment, including
17 calling for outside medical services.

18 (6) Licensee agrees to provide its
19 employees with training in situations where it is
20 necessary to contact MPD immediately, such as a
21 violent incident inside of the establishment or
22 when a patron needs or requests medical

1 attention.

2 (7) The licensee agrees that all
3 future video recordings of a crime of violence
4 shall be available for review immediately upon
5 request by MPD or ABRA Investigators and copies
6 will be given to ABRA Investigator or MPD within
7 48 hours of the request.

8 All video footage involving a crime of
9 violence shall be maintained for at least 30
10 days.

11 (8) Completion of a further training
12 session within one week by Tenley Protective
13 Services. This course shall include the training
14 of all security personnel for the establishment
15 that shall cover all addressed in this Offer in
16 Compromise.

17 (9) The licensee is to provide a
18 minimum of two reimbursable detail officers from
19 12:00 a.m. to 60 minutes after closing during any
20 and all Fridays, Saturdays or Sundays in which
21 the establishment is open after 12:00 a.m.

22 (10) The licensee agrees to escort

1 violent aggressors to the MPD Reimbursable Detail
2 officer or officers customarily posted
3 immediately in front of the establishment when
4 such a detail is in place.

5 (11) The licensee agrees to increase
6 the minimum number of security personnel actively
7 employed and working on Fridays, Saturdays and
8 Sundays after 12:00 a.m. to at least six fully-
9 trained security personnel. Agrees to show there
10 is at least one security person working at the
11 establishment for every 50 patrons.

12 (12) All security personnel shall wear
13 uniforms consisting of black shirts with the word
14 security over the front and back and matching
15 black or blue pants and black shoes. Security
16 personnel shall have the option of wearing of
17 matching black hats if they prefer.

18 (13) The licensee agrees to stop
19 admitting patrons at least 30 minutes prior to
20 the end of the permitted hours of service of
21 alcoholic beverages on any night of operation.

22 (14) The licensee agrees to submit a

1 list of all security personnel employed by the
2 establishment, which will be kept on premises
3 with the job title or role of each employee
4 listed. Such list shall be updated upon the
5 hiring or termination of each security employee
6 and shall be available at the establishment upon
7 request by MPD or ABRA.

8 (15) The training session required
9 above shall include the establishment's
10 procedures for preserving a crime scene,
11 searching individual customers upon entrance and
12 handling conflict resolution.

13 The training shall also emphasize
14 procedures for contacting MPD and the hand-off of
15 patrons to MPD and turning over the crime scene
16 to MPD.

17 (16) The licensee agrees to have two
18 metal detector wands available for its employees
19 use at all times. The licensee agrees to conduct
20 a proper search of all patrons entering the
21 establishment after 12:00 a.m.

22 A proper search shall include a pat-

1 down search and wandling of every patron as well
2 as a search of all purses, backpacks or other
3 bags.

4 In addition to the wandling at the
5 entrance of floor level, a second staging area
6 will be utilized at the bottom of the stairwell
7 where a more thorough check of patrons will be
8 conducted.

9 (17) The licensee agrees to document
10 the date on which any weapons are recovered or
11 confiscated from patrons, the type of weapon, the
12 number of weapons, the manner in which the
13 weapons are recovered if confiscated and to
14 consult with MPD on the disposition of the
15 weapons.

16 The licensee will document the date
17 and time of the consultation and include the name
18 and badge number of the officer consulted.

19 (18) The licensee agrees to provide
20 security personnel with two-way radios which
21 shall be utilized for security personnel to
22 permit ease of communication between the bottom

1 floor and ground level.

2 (19) The licensee agrees to submit
3 written proof of the following to the ABC Board
4 by 3:00 p.m. Thursday, January 15, 2015:

5 (1) Evidence that all of the
6 establishment's security cameras are operational
7 and accessible by the licensee's managers.

8 (2) Training certificates
9 verifying that the training of security personnel
10 described above have been completed for all
11 security staff.

12 (3) Evidence that the
13 licensee has contracted with the District of
14 Columbia Metropolitan Police Department for a
15 reimbursable detail at the licensee's
16 establishment during the time specified in
17 paragraph 9.

18 (4) Evidence that the revised
19 security plan submitted in accordance with this
20 OIC has been adopted by the licensee, providing a
21 review with the licensee's security staff.

22 In the event that this information

1 submitted meets the ABC Board's approval, I'm
2 sorry, the ABRA Board's approval, the
3 establishment's liquor license will no longer be
4 suspended and the establishment will be able to
5 sell and serve alcoholic beverages starting at
6 7:00 p.m. on Friday, January 16, 2015.

7 (20) If the documentation referred to
8 in paragraph 19 is either not submitted or
9 submitted after 3:00 p.m. on January 15, 2015 or
10 not approved by the Board, the establishment's
11 license shall remain suspended until the
12 continued Summary Suspension Hearing shall be
13 held on Wednesday, January 21, 2015 at 10:00 a.m.

14 The establishment shall be permitted
15 to sell alcohol once the Board is satisfied that
16 all of the above matters have been addressed.

17 (21) The matter shall be referred to
18 the Office of the Attorney General for a Show
19 Cause Hearing.

20 CHAIRPERSON MILLER: Okay. Thank you.
21 Do you have anything else you want to say with
22 respect to why you think the Board should accept

1 the Offer in Compromise?

2 MS. SCHMIDT: As stated before, this
3 is a serious matter. There is no getting around
4 this. However, based on conversations with the
5 attorneys for the licensee and the fact that
6 these are very -- that these measures --
7 hopefully these measures will be adopted, that it
8 seems like the situation that had occurred before
9 hopefully will not occur again.

10 CHAIRPERSON MILLER: Okay. Mr. Roem
11 or Mr. Kline, do you have anything you want to
12 add?

13 MR. ROEM: I do not. Well, briefly,
14 just we also acknowledge the seriousness of the
15 incident and recognize that broad steps need to
16 be taken in order to demonstrate the way the
17 establishment will pickup its operation in the
18 future.

19 We think that the Offer in Compromise
20 goes a long way towards showing that. It's a
21 comprehensive plan that is very similar to what
22 we have done in other incidents, such as this,

1 which is more targeted to this specific incident
2 and which addresses whatever we could think would
3 be requested by the Board.

4 CHAIRPERSON MILLER: Okay. Thank you.
5 Are there Board questions?

6 I just want to ask you, do you think
7 that this addresses how to prevent or underlying
8 causes of violence in the establishment?

9 MS. SCHMIDT: Well, I don't know if
10 there is a -- to be quite blunt, you know,
11 sometimes alcohol in the establishment, it's a
12 very, very hard thing to prevent. The only way
13 to guarantee it is to take away someone's license
14 to sell alcohol, which is not -- we are not going
15 to go through prohibition again.

16 However, I think, you know, certain
17 things have happened and are put in here to make
18 sure that if these events do occur, that -- for
19 example the reimbursable detail, that is
20 something that we insured was in there.

21 And the fact that security -- like the
22 security in this instance, security was not

1 identified by -- identifiable at all. In fact,
2 at the time, security -- that was one reason.
3 Now, if security is identified, more
4 identifiable, this might help.

5 If there is a presence that people
6 know that they can't get away with anything
7 because there is security there, that will also
8 help prevent these instances. And that's one
9 reason we put that in the security -- in this
10 plan.

11 MR. ROEM: I would agree. I mean, if
12 we are talking about the causes of violence, I
13 think even revoking the liquor license wouldn't
14 eliminate the causes of violence. It's a
15 societal thing. Violence can happen on the Metro
16 or anywhere else. In this case, it happened in a
17 security establishment -- I mean, in an alcohol
18 establishment, a restaurant and an establishment
19 that serves alcohol.

20 And we think that the measures we put
21 in place though, will help address the issues of
22 violence because there will be, you know, pat-

1 downs and more targeted enforcement before people
2 enter the establishment that could prevent
3 certain types of violence.

4 There will be a stronger security
5 presence from the start. So if someone is prone
6 to do violence, perhaps they will see the
7 reimbursable detail along with the extra security
8 staff and, as she mentioned, marked security
9 staff that has security on their uniform, so that
10 you know that this is not a place that would
11 permit such a thing. So I think it does address
12 that issue.

13 CHAIRPERSON MILLER: Okay. Any other
14 questions?

15 MEMBER ALBERTI: Just one moment,
16 please. I have no questions. Thank you.

17 CHAIRPERSON MILLER: Okay.

18 MEMBER ALBERTI: Actually, I will make
19 one comment.

20 What is weighing on me right now, is
21 most concerning and I'll tell you that I'm not
22 comfortable right now, is not the procedures that

1 are on paper, it's whether I have confidence that
2 this operator can appropriately implement
3 procedures. Can responsibly manage it no matter
4 what procedures are in place. And I'm struggling
5 with that. That's all I have to say.

6 I'm struggling with confidence that
7 this licensee can appropriately manage this
8 establishment no matter what procedures we see on
9 paper having that put in place.

10 MR. ROEM: Well, I will state that,
11 you know, the evidence of one or two incidents
12 aside, Mr. Tuli has a very long track record of
13 working in hospitality establishments that goes
14 far beyond what you have heard about in this one
15 instance or in another instance.

16 We are talking about overseeing
17 establishments in London, in hotel establishments
18 that have had a large number of patrons going in
19 and out and he has vast experience in this, but I
20 understand your concerns and I hope that he will
21 be able to address those and be able to prove
22 that he has the ability to implement all of this.

1 CHAIRPERSON MILLER: Mr. Silverstein?

2 MEMBER SILVERSTEIN: Thank you, Madam
3 Chair. I don't believe we should accept any
4 Offer in Compromise in this matter because of the
5 seriousness of what happened and it demands a
6 full hearing. Due diligence here means we need
7 to know exactly what took place on January 3rd and
8 the licensee needs to have the opportunity to
9 respond to the allegations and charges in the
10 investigative report. And we are the ones who
11 need to determine what steps should be taken to
12 protect the safety and welfare of the public.

13 An Offer in Compromise is an effective
14 tool to expedite many cases. It's a very useful
15 shortcut and it helps us out greatly. I just
16 don't think this is the time for a shortcut and
17 so I'm going to vote to deny the OIC and to take
18 this case to a full hearing, because we and the
19 public need to know exactly what happened here to
20 our satisfaction and move forward based on a full
21 examination of the facts.

22 MEMBER RODRIGUEZ: Is that a motion?

1 CHAIRPERSON MILLER: No, it's just
2 comments. Do you -- but we will have a motion.
3 Do you have any comments?

4 MEMBER RODRIGUEZ: No comments.

5 CHAIRPERSON MILLER: Does anybody else
6 have a comment?

7 Okay. I would say that, you know, in
8 response to what Mr. Roem says, I understand
9 that, you know, you can't protect against all
10 acts of violence and there are random acts of
11 violence. But what concerns me is that this is
12 at least the second time in this owner's history
13 and so my concern is what is going on in the
14 establishment that might lead to this violence.

15 In addition to this OIC gives a lot of
16 remedial provisions, but I guess I also think
17 that I need to see more about what happened and
18 what is the right remedies. I can't tell from
19 this that this will address it fully enough.

20 So I'm also going to be in favor of
21 denying this Offer in Compromise, which is rare
22 for me, because I usually think that it's great

1 if the parties can come together and work out
2 solutions, but I don't feel that comfortable that
3 these are the right or all the right provisions
4 that are necessary, even though some of them are
5 very good.

6 Others? I think that I'll make a
7 motion at this point then that we deny this Offer
8 in Compromise.

9 MEMBER SHORT: Second.

10 CHAIRPERSON MILLER: Mr. Short has
11 seconded the motion.

12 All those in favor say aye.

13 ALL: Aye.

14 CHAIRPERSON MILLER: All those
15 opposed? All those abstaining? The motion
16 passes then 6-0-0 to deny. I think you have
17 heard why, at least from some of us. So I think
18 that means that we have a hearing tomorrow.

19 MS. SCHMIDT: At 10:00 a.m.?

20 CHAIRPERSON MILLER: Okay. Yes, 10:00
21 a.m. All right. Thank you.

22 MR. ROEM: Yes.

1 CHAIRPERSON MILLER: So that concludes
2 this hearing.

3 MR. KLINE: Thank you.

4 CHAIRPERSON MILLER: See you tomorrow
5 at 10:00.

6 (Whereupon, the Summary Suspension
7 Hearing in the above-entitled matter was
8 concluded at 2:25 p.m.)

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