

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF: :
 :
Optimismo, LLC :
t/a Optimism : Show Cause
3301 12th Street, NE : Hearing
Retailer CT - ANC-5B :
License No. 83552 :
Case #14-CMP-00258 :
 :
(No ABC Manager on Duty :
(two counts), Failed to Post :
Pregnancy Sign, Failed to :
Post Current Legal Drinking :
Age Notice) :

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:

- LOUISE PHILLIPS, OAG

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

2 10:38 a.m.

3 CHAIRPERSON MILLER: Okay. The next
4 case we have on the calendar is a Show Cause
5 Hearing. It's Case No. 14-CMP-00258, Optimism
6 located at 3301 12th Street, N.E., License No.
7 83552, in ANC-5B.

8 MS. PHILLIPS: Good morning, Madam
9 Chair. Louise Phillips, Assistant Attorney
10 General for the District of Columbia.

11 CHAIRPERSON MILLER: Good morning.

12 MR. BROWN: Good morning, Jesse Brown,
13 owner of Optimism.

14 CHAIRPERSON MILLER: Okay. So this is
15 a Show Cause Hearing, but do we have any
16 preliminary matters?

17 MS. PHILLIPS: Yes, Madam Chair, we
18 do. I was able to speak to the owner, Mr. Brown,
19 while we were outside while you were conducting
20 the Fact-Finding Hearing. He did indicate that
21 he had received a copy of the notice and that he
22 understood it and we have an Offer in Compromise

1 to offer the Board, at this time.

2 I believe there are four charges in
3 this matter. There will be an OIC of a total
4 fine of \$1,400. This will include a charge of
5 \$650 fine for Charge 1. A \$650 charge, a fine
6 for Charge 2. A \$100 fine for Charge 3 and a
7 written warning for Charge 4.

8 And Mr. Brown agrees to pay within 30
9 days and he understands that if he doesn't pay
10 within 30 days, they will come out and get your
11 license and it will be suspended.

12 CHAIRPERSON MILLER: Before we go to
13 Mr. Brown, I just want to be clear about the
14 breakdown, in particular Charge 3, failure to
15 post a sign. Our notes indicate this is the
16 first failure to post a sign. And my question is
17 is that a mandatory warning?

18 MS. PHILLIPS: Well --

19 CHAIRPERSON MILLER: How would you
20 deal with it?

21 MEMBER ALBERTI: It's not. It's not
22 the first.

1 MS. PHILLIPS: I didn't think it was,
2 so --

3 CHAIRPERSON MILLER: Oh, it's not?
4 That's why I wanted to ask you whether --

5 MS. PHILLIPS: I need to look again.

6 CHAIRPERSON MILLER: Okay.

7 MS. PHILLIPS: You know, I look at the
8 time when I --

9 MEMBER ALBERTI: Ms. Miller? Our
10 notes show a history -- Ms. Miller?

11 CHAIRPERSON MILLER: Yes?

12 MEMBER ALBERTI: I'm sorry. Our notes
13 show a history of failure to post the pregnancy
14 sign back in December 2012. And a fine was paid
15 for that infraction in August of 2013, that's my
16 notes --

17 MS. PHILLIPS: Thank you. If --

18 MEMBER ALBERTI: -- on the history.

19 CHAIRPERSON MILLER: Okay.

20 MS. PHILLIPS: -- I find the notes in
21 the file, I will --

22 MEMBER ALBERTI: I'm just trying to

1 help out.

2 MS. PHILLIPS: Thank you very much.

3 CHAIRPERSON MILLER: Thank you.

4 MS. PHILLIPS: It doesn't matter who
5 puts it in the record, as far as I'm concerned.
6 And that's what the investigative history says on
7 the -- attached to --

8 CHAIRPERSON MILLER: Okay. Thank you.
9 Thank you. There is a discrepancy in my notes,
10 but I see the investigative history now where it
11 says that. So I just wanted to make sure that we
12 weren't penalizing somebody who was -- should
13 have a warning by law, so but that's not the
14 case.

15 MS. PHILLIPS: Okay.

16 CHAIRPERSON MILLER: Okay. Mr. Brown,
17 are you agreeable to this Offer in Compromise of
18 a \$1,400 fine? As it breaks down: Charge 1 is
19 \$650, Charge 2 is \$650, Charge 3 is \$100 and
20 Charge 4 is a warning.

21 MR. BROWN: Yes.

22 CHAIRPERSON MILLER: You are?

1 MR. BROWN: Yes, I am.

2 CHAIRPERSON MILLER: I have one other
3 question. When is this payable by?

4 MS. PHILLIPS: 30 days --

5 MEMBER ALBERTI: 30 days.

6 CHAIRPERSON MILLER: 30 days?

7 MS. PHILLIPS: -- Madam Chair.

8 CHAIRPERSON MILLER: And is there
9 consequences if he doesn't pay?

10 MS. PHILLIPS: Yes. If he doesn't pay
11 within 30 days, his license will be suspended
12 until he pays and Mr. Brown indicated that he
13 understood that.

14 CHAIRPERSON MILLER: Mr. Brown, you
15 understand that and you are agreeable to that?

16 MR. BROWN: Yes.

17 CHAIRPERSON MILLER: Okay. All right.
18 Any questions by any Board Members?

19 MEMBER ALBERTI: If I may?

20 CHAIRPERSON MILLER: Yes.

21 MEMBER ALBERTI: I have a question.

22 Mr. Brown, I see two failure to have an ABC

1 Manager on duty back-to-back here within a couple
2 of weeks back in May 2014.

3 How many ABC Managers do you employ?

4 MR. BROWN: I actually have three ABC
5 Managers. And at the time that happened, I was
6 actually -- my partner was running it, at the
7 time, and so I didn't know.

8 MEMBER ALBERTI: Okay. But you do
9 have three?

10 MR. BROWN: I actually have three,
11 yes.

12 MEMBER ALBERTI: So you have someone
13 to cover all of the shifts?

14 MR. BROWN: Yes.

15 MEMBER ALBERTI: Great. Thank you.
16 That's all I wanted, assurance of that. Thank
17 you so much.

18 MR. BROWN: Yes, sir.

19 CHAIRPERSON MILLER: Any other
20 questions? Okay. Then at this point, I would
21 move to approve the Offer in Compromise of a
22 total fine of \$1,400 breaking down to \$650 for

1 the first charge, \$650 for the second charge,
2 \$100 for the third charge and a warning for the
3 fourth charge. And the fine is payable within 30
4 days. And if it's not received within 30 days,
5 then the license will be suspended until payment
6 of the fine.

7 MEMBER SHORT: Second.

8 CHAIRPERSON MILLER: Mr. Short has
9 seconded the motion.

10 All those in favor say aye.

11 ALL: Aye.

12 CHAIRPERSON MILLER: All those
13 opposed? All those abstaining? The motion
14 passes 6-0-0. Is it six?

15 MEMBER ALBERTI: Yes.

16 (Whereupon, the Show Cause Hearing in
17 the above-entitled matter was concluded at 10:44
18 a.m.)

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