

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

- - - - -X

IN THE MATTER OF: :
Yetenbi, Inc. :
t/a Noble Lounge :

1915 9th Street Northwest : Case #15-CMP-00414
License #85258 :
Retailer CT :

Wednesday, January 27, 2016 :

- - - - - X

Wednesday, January 27, 2016

Whereupon, the above-referenced matter
came on for hearing at the Alcoholic Beverage
Control Board, Reeves Center, 2000 14th Street,
N.W., Suite 400S, Washington, D.C. 20009.

1 CHAIRPERSON:

2 DONOVAN ANDERSON

3

4 OTHER PERSONS PRESENT

5 RUTHANNE MILLER

6 NICK ALBERTI

7 JAMES SHORT

8 MICHAEL SILVERSTEIN

9

10 MELOIT TESSERA

11 LOUISE PHILLIPS

12

13

14

15

16

17

18

19

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

2 CHAIRPERSON ANDERSON: All right the next
3 case on our show cause hearing status is #15-CMP-
4 00414 Yetenbi, Noble Lounge, license #85258.
5 Will the parties please approach and identify
6 yourselves?

7 MS. TESSERA: Hi, my name is Meloit
8 Tessera, the owner of Noble Lounge.

9 CHAIRPERSON ANDERSON: I'm sorry --

10 MS. TESSERA: Tessera - T-E-S-S-E-R-A,
11 last name.

12 CHAIRPERSON ANDERSON: Okay.

13 MS. PHILLIPS: Louise Phillips, Assistant
14 Attorney General for the District of Columbia.

15 CHAIRPERSON ANDERSON: Are there any
16 preliminary matters?

17 MS. PHILLIPS: Yes, Mr. Chair, there are. The
18 parties have an offer in compromise to
19 present to the Board. It consists of a fine for
20 \$3000 to be paid within 30 days or the license
21 will be suspended. There are two charges, that
22 would be \$750 for the first charge and \$2250 for

1 the charge #2.

2 CHAIRPERSON ANDERSON: Okay. And Ms.
3 Tessera.

4 MS. TESSERA: Yes.

5 CHAIRPERSON ANDERSON: It's my
6 understanding that -- it's my understanding that
7 there's an offer in compromise of \$3000; \$750 for
8 the first charge and \$2250 for the second charge
9 and that the matter will be paid within 30 days
10 and if the fine is not paid within 30 days that
11 your license will be suspended. Is this your
12 understanding of the offer in compromise?

13 MS. TESSERA: No sir -- it was decided
14 to be paid within 90 days and if it's not paid.

15 MR. ALBERTI: I'm sorry, Ms. Phillips.

16 CHAIRPERSON ANDERSON: 90 days?

17 MS. PHILLIPS: I see that that's here, I
18 apologize. I'm reading from two different e-
19 mails. So it went back and forth.

20 CHAIRPERSON ANDERSON: All right, it's a
21 \$3000 fine payable within 90 days, \$750 for the
22 first charge and \$2250 for the second charge, and

1 that if the fine is not paid within 90 days that
2 the license will be suspended. Is this your
3 understanding of the offer in compromise?

4 MS. TESSERA: I do understand.

5 CHAIRPERSON ANDERSON: And you know that
6 if -- are you aware that if you accept this, by
7 accepting this offer in compromise that you are
8 waiving your right to a hearing?

9 MS. TESSERA: Yes.

10 CHAIRPERSON ANDERSON: And that you are
11 waiving your right to appeal?

12 MS. TESSERA: Yes.

13 CHAIRPERSON ANDERSON: All right. Are
14 there Board members who have any questions or
15 concerns with this offer in compromise? Yes, Mr.
16 Alberti.

17 MR. ALBERTI: Ms. Phillips: So, the no
18 ABC manager on duty that's a third secondary? Is
19 that correct?

20 MS. PHILLIPS: It appears to be the third
21 secondary.

22 MR. ALBERTI: Okay. So, \$750 is the

1 minimum fine for that charge, is that correct?

2 It is. All right. I will just state --

3 MS. PHILLIPS: I can check -- I'll go
4 check.

5 MR. ALBERTI: No, no, no, no. I'm just -
6 - I -- since -- all right.

7 MS. PHILLIPS: I apologize. It's not my
8 case.

9 MR. ALBERTI: That's okay. Then I'll
10 just state it for the record, that is the minimum
11 fine for that charge. Our records show, you
12 probably don't have this, but our records show
13 that that is the third charge for no ABC manager
14 within I think 18 months, or within two years.

15 MS. PHILLIPS: Well, I do see that they
16 had a no ABC manager Case #13-CMP-57, which the
17 citation looks like it was paid on January 29,
18 2013, and then I see another no ABC manager on
19 duty, #13-CMP-209, where the citation was paid on
20 April 22nd, 2013.

21 MR. ALBERTI: Right. And then so this is
22 the third no ABC manager within approximately two

1 years. I will tell you board members that given
2 the seriousness of the facts of this case, which
3 we all have in our report, and the fact that we
4 have a third time within two years of no ABC
5 manager, and it is the minimum fine for that, I -
6 - I cannot accept this offer in compromise. I
7 just think that this -- the facts of this case
8 are just too egregious for me to accept this
9 offer in compromise.

10 CHAIRPERSON ANDERSON: Are there any
11 other Board members with questions or concerns?
12 Yes, Mr. Short?

13 MR. SHORT: Mr. Chair, I am also
14 concerned in the substantial change with the
15 overcrowding for them, went above the board-
16 approved numbers for them. It gives me great
17 concern. So, like Mr. Alberti, board member
18 Alberti, I do have concerns about this OIC based
19 on their history.

20 CHAIRPERSON ANDERSON: Any of that -- Ms.
21 Miller, do you have any comments?

22 MS. MILLER: Ms. Phillips, I don't

1 usually like to do this but I don't know if you
2 have any comments as to, despite what board
3 members have said, your office believes this is a
4 good offer in compromise, not getting into
5 litigation strategy or anything like that.

6 MS. PHILLIPS: Well, I'd say it looks
7 like they had gone two years without such a
8 charge, so it sounds like they've made some
9 significant steps over two years to resolve the
10 matter. Since it's not my case, I haven't had
11 discussions with the owner regarding what
12 happened this time versus the fact that she's had
13 two more previously. I don't know whether the
14 name change had anything to do with it because it
15 might have had a change in ownership or a change
16 in management or a change in something, because I
17 know they've gone -- isn't this the one that went
18 from Yetenbi to Noble?

19 MS. TESSERA: Yes.

20 MS. PHILLIPS: So, I don't know whether
21 that has anything to do or not, and whether the
22 Board asked a question in that regard. When you

1 don't negotiate an OIC, don't know some of the
2 particulars --

3 MS. TESSERA: Mm hmm.

4 MS. PHILLIPS: -- that aren't within the
5 deliberative process or strategy for OAG
6 strategy.

7 MS. TESSERA: Thank you.

8 CHAIRPERSON ANDERSON: Mr. Silverstein,
9 do you have an opinion on this matter?

10 MR. SILVERSTEIN: The first charge is
11 serious but these are within the guidelines, they
12 are at the lower end, but the point of an offer
13 in compromise is to move these things forward and
14 I -- it's -- both sides are very persuasive. I
15 don't see any reason here, I don't see a poison
16 pill here, so I'll support it.

17 MS. MILLER: I would concur with that.

18 CHAIRPERSON ANDERSON: I'm going to take
19 this under advisement for a minute. Let me do
20 this. As Chairperson of the Alcoholic Beverage
21 Control Board of the District of Columbia and in
22 accordance with Section 4.5 of the Open Meetings

1 Amendment Act of 2010, I move that the ABC Board
2 hold a closed meeting for the purpose of seeking
3 legal advice from our counsel on Case #15-CMP-
4 00414, Yetenbi Restaurant of the Open Meetings
5 Act of 2010 and deliberate upon Case #15-CMP-
6 00414 Yetenbi Restaurant --

7 UNKNOWN SPEAKER: Noble Lounge.

8 CHAIRPERSON ANDERSON: I'm sorry, Noble
9 Lounge, for the reasons cited in Section 405.B 12
10 of the Open Meetings Amendment Act of 2010. Is
11 there a second?

12 MR. SHORT: Second.

13 CHAIRPERSON ANDERSON: Mr. Short has
14 seconded the motion. I will now take a roll call
15 vote on the motion before us now that has been
16 seconded. Ms. Miller?

17 MS. MILLER: Agree.

18 CHAIRPERSON ANDERSON: Mr. Alberti?

19 MR. ALBERTI: I agree.

20 CHAIRPERSON ANDERSON: Mr. Short?

21 MR. SHORT: I agree.

22 CHAIRPERSON ANDERSON: Mr. Silverstein?

1 MR. SILVERSTEIN: I agree.

2 CHAIRPERSON ANDERSON: Mr. Anderson -- I
3 agree. As it appears the motion has passed I
4 hereby give notice that the ABC Board will hold a
5 closed meeting in the ABC conference room
6 pursuant to the Open Meetings Amendment Act of
7 2010 and issue an order. We're going to stay in
8 recess -- be in recess -- for about 10 minutes
9 and we'll come back, okay?

10 [Recess at 10:15 a.m.]

11 CHAIRPERSON ANDERSON: All right, we're
12 back on the record regarding the Yetenbi
13 Restaurant, Case #15-CMP-00414. The government
14 presented an OIC of \$3000 to be paid within 90
15 days. The first charge is \$750 and the second
16 charge is \$2250 for charge 2. I make a motion
17 that this matter be -- that we accept the offer
18 in compromise. Is there a second?

19 MS. MILLER: Second.

20 CHAIRPERSON ANDERSON: Ms. Miller has
21 seconded the motion. Let's -- all right I think
22 prior -- the Board has expressed their concern,

1 so we'll just go to a vote. Those in favor of
2 accepting the motion -- I'm sorry -- accepting
3 the offer in compromise. Ms. Miller?

4 MS. MILLER: Approve.

5 CHAIRPERSON ANDERSON: Mr. Alberti?

6 MR. ALBERTI: Deny.

7 CHAIRPERSON ANDERSON: Mr. Short?

8 MR. SHORT: Deny.

9 CHAIRPERSON ANDERSON: Mr. Silverstein?

10 MR. SILVERSTEIN: Deny.

11 CHAIRPERSON ANDERSON: Mr. Anderson

12 [inaudible 1:53] The majority of the Board has
13 decided not to accept the matter, and so
14 therefore the vote will be 4 to 1 and we will set
15 this for a show of cause hearing on -- I don't
16 have the date for the hearing but we will set it
17 for a show of cause hearing.

18 MS. PHILLIPS: Mr. Chairman and Board,
19 she tells me that she did fire both of the people
20 who were there that night because the manager
21 left, so she fired the manager and the person
22 that [inaudible 2:41] the manager spoke to said

1 he would be [inaudible] Also she tells me that
2 she has a new certificate of occupancy which
3 might be produced as well. I instructed her to
4 send it to Alcoholic Beverage Control Board so it
5 could be in the file.

6 CHAIRPERSON ANDERSON: That's helpful
7 information, so, therefore, when that comes back
8 that might sway the Board. I think -- the Board
9 is concerned and that -- I think -- so on the
10 charges that it's my understanding that it's the
11 minimum that was in the range and so the Board
12 does have some concerns but I think that with
13 bringing that information forward before the
14 Board maybe we'll consider once it comes back.

15 MS. PHILLIPS: I had time to talk to her
16 while you were on break so I [inaudible 3:41]

17 CHAIRPERSON ANDERSON: Well, yeah when it
18 does and that's a question. I know that the
19 Board voted --

20 MR. ALBERTI: I haven't changed my mind,
21 I just want to know if she submitted the change
22 to Lexington.

1 CHAIRPERSON ANDERSON: And I -- I --
2 based on the information that was presented, are
3 there any board members who would want to revisit
4 the issue?

5 MR. ALBERTI: I don't want to revisit,
6 but I do have a question, so Ms. Tessera?

7 MS. TESSERA: Do I have a question?

8 MR. ALBERTI: No, I have a question for
9 you.

10 MS. TESSERA: Okay, go ahead.

11 MR. ALBERTI: So, have you submitted your
12 new CFO to licensing?

13 MS. TESSERA: Yes, I did.

14 MR. ALBERTI: Okay. So -- and you filled
15 out an application for a change and everything.

16 MS. TESSERA: Yes.

17 MR. ALBERTI: Okay, that will be coming
18 before us. I just want to make sure we have it.
19 Thank you.

20 CHAIRPERSON ANDERSON: All right. Thank
21 you for that information. This matter will be
22 scheduled for a show cause hearing on March 9th,

1 2016, at 11:00 a.m. and maybe then the
2 information that's presented, maybe the Board
3 will consider that once it's presented. It was a
4 difficult matter, so but we will always try to
5 accept offer in compromise that's presented by
6 the government, but we will try. All right.
7 Thank you.

8 MS. TESSERA: Thank you.

9 CHAIRPERSON ANDERSON: The next case on
10 our show cause hearing calendar is Case #14-CMP-
11 00399. This case is continued to a date to be
12 determined.

13 [Whereupon, the above-entitled matter was
14 concluded.]