DISTRICT OF COLUMBIA + + + + + ALCOHOLIC BEVERAGE CONTROL BOARD + + + + + MEETING

IN THE MATTER OF:

Assefa Kidane t/a Manchester Bar and Restaurant 944 Florida Ave, NW Retailer CT License No. 75377 Case No. 13-PRO-00166 Renewal Application

Protest Hearing (Status)

February 26, 2014

The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street N.W., Washington, D.C., Chairman Ruthanne Miller, presiding.

PRESENT RUTHANNE MILLER, Chairperson NICK ALBERTI, Member DONALD BROOKS, Member HERMAN JONES, Member MICHAEL SILVERSTEIN, Member HECTOR RODRIGUEZ, Member JAMES SHORT, Member

ALSO PRESENT:

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1	P-R-O-C-E-E-D-I-N-G-S
2	(10:01 a.m.)
3	CHAIRPERSON MILLER: Our next
4	protest status hearing case is Case Number 13-
5	PRO-00166, Manchester Bar and Grill located at
6	944 Florida Avenue Northwest. License Number
7	75377 in ANC 1B.
8	All right, when you're ready would
9	you identify yourselves for the record please?
10	MR. PERKINS: Darnell Perkins,
11	manager of operations at Manchester Bar and
12	Grill.
13	MS. POOLE: Josephine Poole, the
14	resident at 907 Depit Street Northwest.
15	CHAIRPERSON MILLER: Um, wait a
16	second. I'm sorry, what's your name again?
17	MS. POOLE: Josephine Poole.
18	CHAIRPERSON MILLER: Okay, and you
19	are representing who?
20	MS. POOLE: Yes, I've got a letter
21	
22	CHAIRPERSON MILLER: Okay, that's

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1	good. And you're with a group of seven?
2	MS. POOLE: Yes.
3	CHAIRPERSON MILLER: Okay. And
4	what's your name?
5	MS. MCGRUDER: Joan McGruder.
6	CHAIRPERSON MILLER: Joan
7	McGruder. You're also with the group of
8	seven?
9	MS. MCGRUDER: Yes.
10	CHAIRPERSON MILLER: Okay. Okay,
11	so then, I'm sorry, let me go back to you,
12	sir. What's your name again?
13	MR. PERKINS: Darnell Perkins.
14	CHAIRPERSON MILLER: Perkins. Mr.
15	Perkins, and you're the managing
16	MR. PERKINS: Of operations.
17	CHAIRPERSON MILLER: manager.
18	MR. PERKINS: Yes.
19	CHAIRPERSON MILLER: Do you have
20	some kind of letter of authorization also?
21	MR. PERKINS: No. No, ma'am.
22	CHAIRPERSON MILLER: Are you

Page 4 1 authorized to represent Manchester Bar and Restaurant in some way? 2 3 MR. PERKINS: Yes, ma'am. CHAIRPERSON MILLER: How is that? 4 MR. PERKINS: Actually I was 5 talking to the owner and when we had our first 6 mediation, LaVerne was told that anyone can 7 8 pretty much come to represent, whoever works 9 with the managing could represent the bar. 10 For the status hearing. 11 CHAIRPERSON MILLER: Okay, my notes, and I'd have to look back at the roll 12 13 call transcript, say that the owner must be here at the status hearing. 14 15 MR. PERKINS: We were not aware of that. 16 17 CHAIRPERSON MILLER: You're not aware of that? 18 MR. PERKINS: No, ma'am. 19 20 CHAIRPERSON MILLER: You just 21 thought that someone had to be here to 22 represent the owner?

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1	MR. PERKINS: Yes, ma'am. Yes,
2	ma'am. I'm talking to LaVerne for the status
3	hearing, yes, ma'am.
4	CHAIRPERSON MILLER: Um.
5	MEMBER ALBERTI: Madam Chair, may
6	I make a suggestion?
7	CHAIRPERSON MILLER: Yes, please.
8	MEMBER ALBERTI: That we, that
9	How do I put this? I say that, I'll put it in
10	a negative, that we dismiss the owner from, we
11	dismiss this application unless we have in our
12	possession by the close of business today a
13	letter of representation designating Mr.
14	Perkins as the representative of the owner,
15	Mr. Kidane.
16	So we would give them by the end
17	of today to submit a letter of representation.
18	CHAIRPERSON MILLER: Any comment -
19	-
20	MEMBER ALBERTI: Otherwise the
21	application would be dismissed.
22	CHAIRPERSON MILLER: Are there any

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1	comments on that? Do the Protestants
2	understand what we're addressing here? Is
3	that the, well certainly in the status a owner
4	or a designated representative has to be here
5	or the case can be dismissed.
6	And at least a designated
7	representative has been interpreted by us in
8	almost, in most cases to be a written
9	authorization.
10	MEMBER ALBERTI: Actually I'm
11	going to change my recommendation because I
12	just remembered that our records show that the
13	owner's attorney was told that the owner must
14	be here. Must be here.
15	And since the owner is not here I
16	would say that we just outright dismiss this
17	application. I think that it was clear in an
18	email that was made available to me that it
19	was clear that the owner had to show up at
20	this hearing because they had not showed up
21	previously, at the mediation or the roll call.
22	So it's my, that is my

Page 7 1 recommendation. MALE PARTICIPANT: Is that a 2 motion? 3 MEMBER ALBERTI: I don't know. If 4 the Chair wants a motion I will make a motion. 5 6 CHAIRPERSON MILLER: Okay, I just 7 want to, you don't have the language in front of you do you? It's my understanding, and 8 that's what our notes say, that the owner was 9 10 told that they must appear. 11 If you hang on MEMBER ALBERTI: one moment we'll get the email. This is the 12 13 one that was, I think, I think was made available to all of us earlier, but I will 14 read it again. 15 This is an email from Ms. LaVerne 16 17 Fletcher sent February 6th, 2014. And it was addressed to Mr. LeFande who was their, is 18 their legal representative. 19 20 It says, "Mr. LeFande, this is a reminder that the owner of the establishment 21 22 must appear before the Board at the status

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1	hearing presently scheduled for February 26th.
2	The owner did not appear for the roll call or
3	mediation but must appear at the status
4	hearing." And it refers to the owner and it
5	says, must.
6	So I think it's clear
7	CHAIRPERSON MILLER: Right.
8	MEMBER ALBERTI: in the
9	language that the requirement was made that
10	the owner must appear. And it, I won't remind
11	the Chair its always been our policy that we
12	want the owners to appear before the protest
13	hearing so that we know that everybody
14	understands the seriousness of this and what's
15	required of everyone.
16	MEMBER RODRIGUEZ: I agree with
17	that, but Oh, sorry, Madam Chair.
18	CHAIRPERSON MILLER: Oh, no,
19	please.
20	MEMBER RODRIGUEZ: I fully agree
21	with Mr. Alberti because I think that an owner
22	should establish a relationship, a good faith

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1	relationship with a community. And I think
2	that we need to see more of that in these
3	situations. And so I concur with what Mr.
4	Alberti is saying, Madam Chair, on this.
5	CHAIRPERSON MILLER: Okay. Any
6	other comments? Yes, sir?
7	MR. PERKINS: If I may, because I
8	believe there was just a misunderstanding,
9	actually I did speak with Mr. Mpras and Mr
10	MEMBER ALBERTI: Rodriguez.
11	MR. PERKINS: attorney that
12	actually represents Manchester. Actually I
13	spoke with him just on last night, so I really
14	think there probably a miscommunication, a
15	misunderstanding when they actually told me
16	that I can actually come down to represent,
17	because otherwise they, either one of them and
18	the owner would have come down.
19	So if I could get the opportunity
20	to actually call either of the attorneys or
21	Kidane, Mr. Kidane, then I would appreciate
22	that. I really believe they did not know or

Page 10 1 did not read the email. MEMBER SHORT: Madam Chair? 2 3 CHAIRPERSON MILLER: Yes. MEMBER SHORT: If I could just 4 comment quickly. 5 MALE PARTICIPANT: I think she 6 7 wants your attention. MEMBER SHORT: You are not the 8 owner, you are not the attorney and you work 9 10 for the organization? 11 MR. PERKINS: Yes. Yes, sir. MEMBER SHORT: How do we know that 12 13 to be true? How can we verify that? 14 MR. PERKINS: I have my manager's 15 license with me --MEMBER SHORT: Well does that give 16 you authority to represent this business? 17 18 MR. PERKINS: No, sir. MEMBER SHORT: Okay, thank you. 19 Ι 20 just wanted that for there record. 21 CHAIRPERSON MILLER: Okay. MEMBER ALBERTI: Well I -- just so 22

Page 11 1 everyone understands, Mr. Perkins? MR. PERKINS: Yes, sir. 2 3 MEMBER ALBERTI: We are going to dismiss, well if we dismiss this application 4 the owner can then file, within ten days, can 5 file a letter asking for reconsideration of 6 our decision. The owner has that opportunity. 7 8 MR. PERKINS: Okay. So when you dismiss the application, meaning the renewal 9 10 is, there is no renewal? 11 MEMBER ALBERTI: You want me to address that, Ms. Miller, or do you feel more 12 13 comfortable --14 CHAIRPERSON MILLER: Well, okay. MEMBER ALBERTI: -- addressing 15 that? 16 CHAIRPERSON MILLER: Why don't we 17 vote on it and then discuss what the next 18 steps would be. How about that? 19 20 MEMBER ALBERTI: We'll answer that 21 question. 22 CHAIRPERSON MILLER: Okay, we will

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1	answer that question.
2	MEMBER ALBERTI: What she's saying
3	is we'll answering that question.
4	MR. PERKINS: Okay.
5	CHAIRPERSON MILLER: Okay, so
6	MEMBER ALBERTI: In a moment.
7	CHAIRPERSON MILLER: I guess, I
8	hear the consensus of the Board so I think I
9	would phrase the motion that we would dismiss
10	this application pursuant to 1603.3 for
11	failure to appear in person or through a
12	designated representative.
13	That says, failure to appear in
14	person or through a designated representative
15	may result in denial of the license
16	application or dismissal of a protest unless
17	in the discretion of the Board good cause is
18	shown for the failure to appear.
19	And then Reg says, a request for
20	reinstatement with the Board must be filed
21	within ten days of the dismissal or denial
22	date.

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1	So in this case the owner has not
2	appeared in person at the status and we do not
3	have a designated representative who has
4	written authorization to represent the owner
5	in this case.
6	And we also have an instance where
7	the owner was told specifically at roll call
8	to appear at status and is not here. So,
9	therefore, I don't see good cause for waiving
10	this requirement so I would move for
11	dismissal. Is there a second?
12	MEMBER RODRIGUEZ: I can second.
13	MEMBER ALBERTI: Second.
14	CHAIRPERSON MILLER: Mr. Rodriguez
15	seconded the motion. All those in favor say
16	aye?
17	(Chorus of ayes.)
18	CHAIRPERSON MILLER: All those
19	opposed? All those abstaining? Okay, the
20	motion passes then 6, 0, 0. Mr. Silverstein?
21	MEMBER SILVERSTEIN: Madam Chair,
22	I would like to, I would like the Board to

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1	address how this effects the Protestants in
2	the event that we do have a request to
3	reinstate. Will they have to show up at any
4	additional hearings?
5	Will this create any additional
6	burdens on them or do we make some sort of an
7	allowance for that?
8	CHAIRPERSON MILLER: Okay, so what
9	happens is
10	FEMALE PARTICIPANT: It's not if
11	they file, it's if you grant a reinstatement.
12	MEMBER SILVERSTEIN: Oh, if we
13	grant a reinstatement.
14	CHAIRPERSON MILLER: Okay. If we
15	grant a reinstatement that means if they, if
16	we grant a
17	MEMBER ALBERTI: Well there's two
18	
19	CHAIRPERSON MILLER: well then
20	basically go back on the calendar.
21	MEMBER ALBERTI: Well wait, wait.
22	I think everyone's confusing the issue here.

Page 15 1 I want to help this out. There are two possible outcomes. 2 3 One is that we grant the reinstatement and that has one set of next steps. 4 MEMBER SILVERSTEIN: 5 Okay. MEMBER ALBERTI: The other outcome 6 is that we don't -- we just dismiss the 7 application and require that the owner file a 8 new application for renewal. That has it's 9 10 own set of repercussions. 11 Maybe you would like to speak to both of those outcomes, Madam Chair. 12 13 CHAIRPERSON MILLER: So it's, the next step will be, a written order will come 14 out, okay. So nothing happens until there is 15 a written order. 16 17 Written order goes out to all the parties. And the Applicant has a chance to 18 file a motion for reinstatement. 19 20 The Protestants can respond or not 21 respond to that. They can oppose or not. The Board will rule on that. 22

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1	If it's reinstated this will come
2	back into the calender, we'll set another
3	statues hearing for, and then a protest
4	hearing.
5	If it's not reinstated, and anyone
6	can correct me if I'm wrong, then you, it's
7	then the licensee will apply again for renewal
8	and it will start the process again. And
9	sometimes protestants say, you know, do they
10	have to write a new letter, do they have to do
11	the same things?
12	Usually, I think you can submit
13	what you have already done, maybe, again. But
14	it is re-placarded and the same rules start
15	over again.
16	MR. PERKINS: If I may, madam
17	Chair? May I, can I call the actually the
18	owner? If I can have a few minutes because I
19	know he's not far from here and maybe see if
20	he can pretty much get down here as soon as
21	possible so we would not have to go through
22	those trials again.

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1	(Off record comments.)
2	MR. PERKINS: If I can have a few
3	minutes to call because I know he's not far
4	from here.
5	(Off record comments.)
6	CHAIRPERSON MILLER: We've, do the
7	protestants have anything they want to say to
8	that? We've already voted but he is asking us
9	to hold off on this.
10	MS. POOLE: Yes, it's because, if
11	they, we tried to get along with the party and
12	we need a sound proof because we can hear
13	everything that going on downstair. And they
14	got my window shaking, my picture dropping off
15	the wall.
16	We tell him to cut the music down,
17	he don't. And we done call the police. I bet
18	a couple, over a 100 some time they go and
19	they tell him, the manager cut the music down.
20	But the time the police leave
21	CHAIRPERSON MILLER: Okay, we're
22	not going to get into

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1	MEMBER SILVERSTEIN: We're not
2	hearing the case.
3	CHAIRPERSON MILLER: We can't get
4	into the merits. But I'm going to say is, if
5	the Board agrees, we have already voted and
6	this is done. But you have a period for a
7	motion for a reinstatement and in that period
8	if you have something, the owner has something
9	that can convince us to reinstate then that
10	would be the time to make that argument.
11	MEMBER SILVERSTEIN: They're
12	showing good faith but the owner is not.
13	CHAIRPERSON MILLER: Yes, Mr.
14	Brooks.
15	MEMBER BROOKS: I don't disagree
16	but I just want to make the ladies are clear
17	
18	CHAIRPERSON MILLER: Okay.
19	MEMBER BROOKS: have any other
20	questions for the Board before we dismiss.
21	Are you clear as to what's going on here?
22	MS. MCGRUDER: Yes. I just want

Page 19 to make this clear that that license has to be 1 either reinstated or, and then we are 2 3 probably, and then you will re-placard that establishment. Chances are we have to go 4 through the motions again? 5 MEMBER SILVERSTEIN: 6 No. MEMBER ALBERTI: Absolutely. If 7 8 we --9 MS. MCGRUDER: If. 10 MEMBER ALBERTI: If it's re-11 placarded then --MEMBER SILVERSTEIN: We have to 12 13 rewrite it. 14 MEMBER ALBERTI: -- you will have 15 to resubmit --16 CHAIRPERSON MILLER: Have to 17 rewrite it. MEMBER ALBERTI: -- your protest. 18 You can send in a letter saying please accept 19 20 _ _ 21 CHAIRPERSON MILLER: Yes. MEMBER ALBERTI: -- the materials 22

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	Page 20
1	we sent in the first time as applicable to the
2	new protest.
3	MS. MCGRUDER: Okay.
4	MEMBER ALBERTI: All right? But,
5	so it's one option for you to do or you can
6	just send in a new letter of protest. But you
7	will have to actually re-protest.
8	If we re-placard this. All right?
9	MS. MCGRUDER: Okay.
10	MEMBER ALBERTI: And the process,
11	so the process starts again. But I will say
12	that gives, one of the advantages is that you
13	will have more time to negotiate with the
14	owner. And hopefully you can come to an
15	agreement before a protest. Hopefully.
16	MS. MCGRUDER: Will these
17	MEMBER ALBERTI: I understand
18	you've had a difficult time, but I'm, there's
19	always, I'm always optimistic about this.
20	MS. MCGRUDER: Okay, do we still
21	have the protest in April the 9th
22	CHAIRPERSON MILLER: No.

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1	MS. MCGRUDER: No, we don't have -
2	CHAIRPERSON MILLER: No, no.
3	That's all cancelled.
4	MS. MCGRUDER: Okay.
5	CHAIRPERSON MILLER: And, so thank
6	you, Mr. Brooks, for bringing that up. And I
7	would say that I, Mr. Mpras is familiar with
8	our regulations so, I think he was on notice
9	that this was a possibility, so.
10	All right, if you have any
11	questions any of you feel free to call our
12	office. In the meantime, Ms. Anderson and Ms.
13	Jenkins. Okay.
14	MR. PERKINS: Thank you.
15	CHAIRPERSON MILLER: Thank you
16	very much.
17	MS. POOLE: Appreciate it.
18	CHAIRPERSON MILLER: All right.
19	MEMBER ALBERTI: Thank you, Mr.
20	Perkins.
21	(Whereupon, the hearing in the
22	above matter was concluded at 10:18 a.m.)

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