

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
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Jasper Ventures, LLC :
t/a Capitale (formerly K Street):
(formerly K Street) :
1301 K Street, NW : Show Cause
Retailer CN : Hearing
License No. 72225 :
Case No. 11-251-00162 :
ANC 2F :
Failed to Follow Security Plan, :
Interfered with an :
Investigation, Allowed the :
Establishment to be Used for an :
Unlawful or Disorderly Purpose, :
Sale to Minor, Failed to take :
Steps Necessary to Ascertain :
Legal Drinking Age :
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MARCH 27, 2013

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

PRESENT
RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
HERMAN JONES, Member
MIKE SILVERSTEIN, Member

ALSO PRESENT
MICHAEL STERN, OAG

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

3:07 p.m.

CHAIRPERSON MILLER: I know we have a second case. Let me just get my papers on that.

MEMBER ALBERTI: Are we prepared?

CHAIRPERSON MILLER: I think so. It's not 4:00. Are you here on --

MR. STERN: We don't have any objections to starting earlier.

CHAIRPERSON MILLER: Okay. This is the same party as the previous case that we just dealt with, correct? Well, I'm talking about Case No. 11-251-00162.

MR. STERN: Yes.

CHAIRPERSON MILLER: Capitale. It's the next case, but it's scheduled for 4:00. It's the same parties?

MR. STERN: It is.

CHAIRPERSON MILLER: And are you both ready for us to call that case?

(No audible response.)

1 CHAIRPERSON MILLER: Okay. Then
2 Capitale located at 1301 K Street, N.W.,
3 License No. 72225 in ANC 2F.

4 And I'm going to ask you to
5 introduce yourselves for the record again.

6 MR. STERN: Michael Stern
7 representing the District of Columbia.

8 MR. SUNG: Kijun Sung for Jasper
9 Ventures.

10 CHAIRPERSON MILLER: Are there
11 any --

12 MEMBER ALBERTI: Can we pause for
13 just one moment?

14 CHAIRPERSON MILLER: Okay. We're
15 going to pause for a minute to get our papers
16 for this case.

17 (Whereupon, at 3:08 p.m. off the
18 record until 3:09 p.m.)

19 CHAIRPERSON MILLER: Okay. Now,
20 are there any preliminary matters in this
21 case?

22 MR. STERN: Yes, there are.

1 CHAIRPERSON MILLER: Okay.

2 MR. STERN: In this case the
3 parties have entered into an Offer in
4 Compromise which we hope the Board will
5 accept. The Offer in Compromise consists of
6 the following: The Respondent will pay a fine
7 of \$6,000 within 30 days; they will have their
8 license suspended for six days; four of those
9 days will be stayed for a period of one year;
10 two of those days will be served, but not on
11 weekends, served during the week.

12 CHAIRPERSON MILLER: Yes.

13 MR. STERN: The Respondent will
14 plead to counts 1, 2 and 3. The fine as
15 broken down would be \$2,000 for each violation
16 and two days stayed for the first two
17 violations and two days served for the third
18 violation. The counts 4 and 5 will be
19 dismissed. I would note for the Board that 4
20 and 5 deal with service of alcohol to people
21 under 21. And this was not an ABRA compliance
22 check and after reviewing the facts we thought

1 it best to proceed this way.

2 CHAIRPERSON MILLER: Do you have
3 dates for the serving of the suspension?

4 MR. STERN: We have not agreed to
5 dates yet.

6 CHAIRPERSON MILLER: Okay.

7 MR. STERN: If the Board will give
8 us your indulgence for just a second. April
9 10th and 11th. That would be a Wednesday and
10 a Thursday.

11 CHAIRPERSON MILLER: Okay. I'm
12 going to read it back to the Licensee and then
13 the Board will consider it.

14 April 10th and 11th. What days of
15 the week are they? I know it's during the
16 week is what you said.

17 MR. STERN: I'm sorry?

18 CHAIRPERSON MILLER: What day of
19 the week is April 10 and 11?

20 MR. STERN: The 10th is a
21 Wednesday.

22 CHAIRPERSON MILLER: Wednesday,

1 Thursday?

2 MR. STERN: Yes.

3 CHAIRPERSON MILLER: Okay. All
4 right. Then I want to ask the Licensee; and
5 correct me if I'm wrong, but if this is the
6 Offer in Compromise that you are agreeing to,
7 that you will plead charges 1, 2 and 3 and pay
8 a penalty of \$2,000 for each of those charges
9 and you will serve -- well, you'll get two
10 days suspension stayed for charges 1 and 2 and
11 you will serve two days of suspension for
12 charge No. 3. And the days which the license
13 will be suspended will be April 10th and 11th.
14 Is that what you agree to?

15 MR. SUNG: Yes.

16 CHAIRPERSON MILLER: Okay. And do
17 you understand you waive your right to a
18 hearing by agreeing to this settlement offer?

19 MR. SUNG: Yes.

20 CHAIRPERSON MILLER: Okay. Are
21 there Board questions?

22 (No audible response.)

1 CHAIRPERSON MILLER: Oh, Mr.
2 Jones, do you want us to recess and consider
3 the settlement offer and then come back?

4 MEMBER JONES: Yes.

5 CHAIRPERSON MILLER: Okay. Then
6 I'll read the instructions for closed meeting
7 and we'll take a vote on that.

8 Okay. As Chairperson of the
9 Alcoholic Beverage Control Board for the
10 District of Columbia and in accordance with
11 Section 405 of the Open Meetings Amendment Act
12 of 2010, I move that the ABC Board hold a
13 closed meeting for the purpose of seeking
14 legal advice from our counsel on Case No. 11-
15 251-00162, Capitale, per Section 405(b)(4) of
16 the Open Meetings Amendment Act of 2010 and
17 deliberating upon this case for the reasons
18 cited in Section 405(b)(13) of the Open
19 Meetings Amendment Act of 2010. Is there a
20 second?

21 MEMBER SILVERSTEIN: Second.

22 CHAIRPERSON MILLER: Mr.

1 Silverstein has seconded the motion. I'll
2 take a roll call. Mr. Brooks?

3 MEMBER BROOKS: I agree.

4 CHAIRPERSON MILLER: Mr. Alberti?

5 MEMBER ALBERTI: I agree.

6 CHAIRPERSON MILLER: Okay. Ms.
7 Miller agrees. Mr. Silverstein?

8 MEMBER SILVERSTEIN: I agree.

9 CHAIRPERSON MILLER: Mr. Jones?

10 MEMBER JONES: I agree.

11 CHAIRPERSON MILLER: Okay. The
12 motion passes by a vote of 5-0-0. I hereby
13 give notice that the ABC Board will hold a
14 closed meeting in the ABC Board conference
15 room now pursuant to the Open Meetings
16 Amendment Act of 2010 to take a close look at
17 this Offer in Compromise and then we will
18 return shortly.

19 (Whereupon, at 3:16 p.m. off the
20 record until 3:40 p.m.)

21 CHAIRPERSON MILLER: Okay. We're
22 back on the record and the Board had an

1 opportunity to think about the Offer in
2 Compromise that has been presented. And I
3 would like to reiterate what it is and make
4 sure that I have it correct before we take a
5 vote. And that is that the Licensee will
6 plead to the first three charges; failure to
7 follow security plan, interfering with an ABRA
8 investigation and allowing the establishment
9 to be used for an unlawful or disorderly
10 purpose, and will pay a penalty of \$2,000 for
11 each charge and will have its license
12 suspended for two days for counts 1 and 2, and
13 both of those days of suspensions would be
14 stayed. And then for the third charge two
15 days suspension would be served on April 10th
16 and 11th. And I think the only information
17 I'm missing is when the \$6,000 would be paid
18 by.

19 MR. STERN: Within 30 days.

20 CHAIRPERSON MILLER: Thirty days.

21 MEMBER ALBERTI: Can you repeat
22 the stayed days?

1 CHAIRPERSON MILLER: Yes.

2 MEMBER ALBERTI: I think what I
3 heard from you is not what I understood
4 earlier.

5 CHAIRPERSON MILLER: It's probably
6 the way I said it.

7 MR. STERN: The Chairperson has it
8 correctly. It's two days suspended for each
9 violation. Four of those days are stayed for
10 a period of one year pending no further
11 violations and two of the days will be served
12 on April 10th and 11th.

13 MEMBER ALBERTI: Okay. That's
14 what I understood. I may have misheard you.

15 CHAIRPERSON MILLER: No.

16 MEMBER ALBERTI: I'm sorry.

17 CHAIRPERSON MILLER: That's okay.

18 MEMBER ALBERTI: I apologize. So
19 it's clear. Okay.

20 CHAIRPERSON MILLER: That's fine.
21 And I just want to confirm with the Licensee
22 that, yes, the \$6,000 will be paid within 30

1 days.

2 MR. SUNG: Yes, ma'am.

3 CHAIRPERSON MILLER: Okay. So
4 that is the Offer in Compromise that's been
5 presented to us. I'm going to move that we
6 accept this Offer in Compromise. Do I have a
7 second?

8 MEMBER SILVERSTEIN: I second.

9 CHAIRPERSON MILLER: Mr.
10 Silverstein has seconded the motion. Any
11 comments or questions before we vote? Mr.
12 Alberti?

13 MEMBER ALBERTI: I will approve
14 this Offer in Compromise but with some
15 reservation. And part of my reservation; I
16 won't explain all of it, but part of it is due
17 to the days that would be served. To my
18 knowledge this establishment -- although in
19 theory is open during the week, there's very
20 little business during the week to my
21 knowledge, and two days served on weekdays is
22 pretty much meaningless in terms of this Offer

1 in Compromise. But I'm looking at the bigger
2 picture and because of that I will -- and with
3 those reservations I will accept this Offer in
4 Compromise.

5 CHAIRPERSON MILLER: Yes, Mr.
6 Silverstein?

7 MEMBER SILVERSTEIN: I share the
8 concerns and comments of my colleague Mr.
9 Alberti. My vote to approve this in no way
10 signifies my approval with either the OIC or
11 the way you've been going about your business,
12 Mr. Sung. In this and all other matters
13 before this Board the record of a licensee in
14 its totality is something that is taken into
15 consideration, and your record, sir, is
16 increasingly troubling.

17 CHAIRPERSON MILLER: Thank you. I
18 would just say I mean I have some -- I'll be
19 voting for this as well, but I have some
20 reservations, but I also am looking ahead and
21 I think that, you know, if that kind of
22 conduct continues there are going to be much

1 more serious penalties ahead. So I hope that
2 -- this is, you know, almost a last chance and
3 an okay compromise for this incident.

4 Okay. Anything else?

5 (No audible response.)

6 CHAIRPERSON MILLER: All right.

7 Then there's a motion that's been seconded.

8 All those in favor, say aye? Aye.

9 MEMBER ALBERTI: Aye.

10 MEMBER SILVERSTEIN: Aye.

11 CHAIRPERSON MILLER: All those

12 opposed?

13 MEMBER BROOKS: No.

14 MEMBER JONES: Opposed.

15 CHAIRPERSON MILLER: All those

16 abstaining?

17 (No audible response.)

18 CHAIRPERSON MILLER: Then the

19 motion passes by a vote of 3-2-0.

20 MEMBER SILVERSTEIN: Madam Chair?

21 CHAIRPERSON MILLER: Yes.

22 MEMBER SILVERSTEIN: For the

1 record it might be helpful to note the two
2 dissents.

3 CHAIRPERSON MILLER: Okay.
4 Dissenting on the Offer in Compromise are Mr.
5 Brooks and Mr. Jones.

6 MEMBER SILVERSTEIN: Thank you,
7 Madam Chair.

8 CHAIRPERSON MILLER: Anything
9 else?

10 (No audible response.)

11 CHAIRPERSON MILLER: All right.
12 Thank you very much.

13 (Whereupon, the hearing was
14 concluded at 3:46 p.m.)
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