

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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Arm, LLC :
t/a Lux :
649 New York Avenue, NW :
Retailer CN : Show Cause
License No. 71743 : Hearing
Case No. 12-251-00137 :
ANC 6E :
Failed to Follow Security Plan; :
Allowed the Establishment to be :
Used for an Unlawful or :
Disorderly Purpose :
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MAY 1, 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

ALSO PRESENT
WALTER ADAMS, OAG

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

12:07 p.m.

CHAIRPERSON MILLER: We have one other case on the Board's morning calendar. That's Case No. 12-251-00137, Lux located at 649 New York Avenue, N.W., License No. 71743 in ANC 6E.

Good morning.

MR. ADAMS: Good morning, or good afternoon.

CHAIRPERSON MILLER: Or afternoon, I guess, just barely. Would the parties introduce themselves for the record?

MR. ADAMS: Good afternoon, Madam Chair and Members of the Board. Walter Adams representing the District.

MR. KLINE: Good afternoon. Andrew Kline on behalf of the Licensee.

MR. ANDARGIE: Henock Andargie on behalf of Lux.

CHAIRPERSON MILLER: Okay. This is a show cause hearing. Are there any

1 preliminary matters?

2 MR. ADAMS: Yes, there is a
3 preliminary matter, Madam Chair. The parties
4 would like to propose to the Board an Offer in
5 Compromise for this show cause hearing.

6 There are four charges in this
7 case. For charge 1, which is for a violation
8 of the establishment's security plan, the
9 District proposes that that charge be resolved
10 for a warning. For charges 2 and 3, which are
11 also security plan charges, the District will
12 ask for dismissal of those charges. And for
13 charge 4, for the establishment being used for
14 an unlawful or disorderly purpose, the
15 District asks for a warning for charge 4.

16 So in summary, for charges 1 and 4
17 the District asks for a warning and for
18 charges 2 and 3 the District asks for
19 dismissal.

20 CHAIRPERSON MILLER: Okay. I'm
21 going to ask the Licensee, the Offer in
22 Compromise that the Government has articulated

1 is a warning for charges 1 and 4 and dismissal
2 of charges 2 and 3. Is that what the Licensee
3 is agreeable to?

4 MR. KLINE: Yes.

5 MR. ANDARGIE: Yes.

6 MR. KLINE: And if I may be heard.

7 Just for the Board's edification, I want the
8 Board to know even though that is the offered
9 Offer in Compromise, that the Licensee
10 certainly takes the situation, the facts
11 contained in the report, very seriously. The
12 offer of a warning however is consistent with
13 the court of appeals' decision in 1900 M
14 Restaurant Associates vs. D.C. ABC Board, and
15 the imposition of a warning is consistent with
16 the court's opinion in that case. And we
17 would respectfully request that the Board
18 accept that Offer in Compromise, but know that
19 the Licensee understands the Board's concern
20 with incidents in licensed establishments and
21 is taking every measure to assure the safety
22 of its patrons.

1 CHAIRPERSON MILLER: Okay.

2 MR. KLINE: Thank you.

3 CHAIRPERSON MILLER: And does your
4 client understand that he waives his right to
5 a hearing by entering into an Offer in
6 Compromise?

7 MR. KLINE: Yes. If the offer is
8 accepted, waive the right to a hearing and
9 waive any right to appeal, yes.

10 CHAIRPERSON MILLER: All right.
11 Any questions by Board Members?

12 (No audible response.)

13 CHAIRPERSON MILLER: Okay. In
14 light of the court of appeals' decision that's
15 been referenced, I would move that we accept
16 this Offer in Compromise, a warning for
17 charges 1 and 4 and dismissal of charges 2 and
18 3. Is there a second?

19 MEMBER BROOKS: Second.

20 CHAIRPERSON MILLER: Mr. Brooks
21 has seconded the motion. Any other questions
22 or comments by Board Members?

1 (No audible response.)

2 CHAIRPERSON MILLER: Not hearing
3 any, all those in favor then of the motion,
4 say aye?

5 (Chorus of ayes.)

6 CHAIRPERSON MILLER: All those
7 opposed?

8 (No audible response.)

9 CHAIRPERSON MILLER: All those
10 abstaining?

11 (No audible response.)

12 CHAIRPERSON MILLER: Then the
13 motion passes approving the Offer in
14 Compromise by a vote of 4-0-0. Thank you.

15 MR. ANDARGIE: Thank you, very
16 much.

17 CHAIRPERSON MILLER: Thank you.
18 Okay. That concludes the morning's calendar
19 and we'll now go into recess.

20 (Whereupon, the hearing was
21 concluded at 12:12 p.m.)

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