

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :

:

Taboo, LLC :

t/a DC Star :

Show Cause

2135 Queens Chapel Road NW :

Hearing

Retailer CN :

(Status)

License No. 78881 :

ANC 5B :

Case Nos. 11-251-00316 & :

11-CMP-00115 :

Allowed Establishment to be :

used for Unlawful or :

Disorderly Purposes, Failed or:

Refused to Allow an ABRA :

Investigator to Enter or :

Inspect Without Delay the :

Licensed Premises or Examine :

the Books and Records of the :

Business, or Otherwise Inter- :

ferred with an Investigation, :

Failed to Follow Security Plan:

Violation of Voluntary Agree- :

ment :

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MAY 9, 2012

The Alcoholic Beverage Control Board met in Suite 400S, 2000 14th Street, Northwest, Washington, D.C. 20009 Ruthanne Miller, Chairperson, presiding.

PRESENT

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD BROOKS, Member

CALVIN NOPHLIN, Member

MIKE SILVERSTEIN, Member

JEANETTE MOBLEY, Member

HERMAN JONES, Member

ALSO PRESENT:

WALTER ADAMS, OAG

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

2 10:11 a.m.

3 CHAIRPERSON MILLER: The next
4 case on our calendar is a Show Cause
5 Hearing, Case No. And move onto the next
6 Show Cause (Status) Case No. 11-251-00316
7 and No. 11-CMP-00115, DC Star, located at
8 2135 Queens Chapel Road Northwest License
9 No. 78881 in ANC 5B.

10 MR. KLINE: Madam Chair, Mr.
11 Adams stepped out to make photocopies of an
12 Offer in Compromise that we will be
13 presenting to the Board.

14 CHAIRPERSON MILLER: Okay.

15 MR. KLINE: So, if the Board
16 could give us just a minute to take care of
17 that matter, we'll probably present the
18 Offer in Compromise.

19 CHAIRPERSON MILLER: Okay. So
20 just a few minutes?

21 MR. KLINE: Yes. He just went to
22 make the photocopies of it.

1 CHAIRPERSON MILLER: Okay.

2 (Whereupon, at 10:12 a.m. off the
3 record until 10:14 a.m.)

4 CHAIRPERSON MILLER: Okay. We're
5 back on the record.

6 Would the parties identify
7 themselves, please.

8 MR. ADAMS: Good afternoon, Madam
9 Chair, Members of the Board Walter Adams
10 representing the District of Columbia.

11 Please pardon me for my late
12 arrival. I just had stepped out for a moment
13 to handle an administrative matter related
14 to this case.

15 CHAIRPERSON MILLER: Okay. We
16 heard. That's okay.

17 MR. KLINE: Good morning. Andrew
18 Kline on behalf of the Licensee.

19 CHAIRPERSON MILLER: Okay.

20 MR. DUA: Raj Dua.

21 CHAIRPERSON MILLER: I'm sorry,
22 what's your name?

1 MR. DUA: Raj Dua for Taboo, LLC.

2 CHAIRPERSON MILLER: Okay. All
3 right.

4 This is a Show Cause Hearing. Do
5 we have any preliminary matters?

6 MR. ADAMS: Yes, there is a
7 preliminary matter, Madam Chairperson. What
8 the parties would like to do is is to submit
9 for your approval an Offer in Compromise.
10 And I guess I'll give a bit of preface here.

11 There are multiple charges in
12 this case that all relate to a Summary
13 Suspension matter from October and also from
14 an assault in February of 2011. If you
15 don't mind, Madam Chairperson, I'd like to
16 approach and I can provide -- we did -- put
17 the terms into writing. I'll read into the
18 record, but I'll also be able to give to you
19 so the Board can follow along as well.

20 CHAIRPERSON MILLER: Okay.

21 MR. ADAMS: All right. Normally
22 when I have Offers of Compromise I don't

1 make any preliminary comments, so I think
2 the events are appropriate in this case.

3 This Show Cause matter extends
4 from a Summary Suspension from October of
5 2011 which dealt with a couple of matters;
6 an assault on a police officer in the
7 vicinity of the establishment and also a
8 stabbing, in which all three patrons were
9 stabbed within the establishment.

10 A Summary Suspension Hearing was
11 held in October which led to this
12 establishment being -- having their license
13 suspended for a period of 30 days and
14 pending the Summary Suspension a -- I'm
15 sorry, a Show Cause Hearing.

16 In addition to that, the District
17 added another charge and we see information
18 regarding an assault that occurred in
19 February of 2011.

20 More or less in this case we feel
21 these are serious incidents. If the
22 District does go to a hearing, and the

1 parties have the hearing, the District
2 believes that there are serious enough
3 charges that we would ask for a very serious
4 outcome, obviously further suspension or
5 even in the worst case, revocation of this
6 license.

7 So, with that said, the parties
8 have worked very diligently to find what we
9 believe is a reasonable solutions for a very
10 serious situation. in particular regarding
11 the management of this establishment. So,
12 I'll read the terms for the record.

13 In this case there are 18
14 charges. The District would agree to
15 dismiss 10 of the 18 charges in the Notice
16 of (Status) Show Cause Hearings. Those
17 charges being Charge 1, 3, 4, 7, 9, 11, 14,
18 16, 17 and 18. The remaining charges, which
19 will be Charges 2, 5, 6, 8, 12, 13 and 15 we
20 would recommend that there be no additional
21 suspension for the establishment based upon
22 the fact that for a Summary Suspension we're

1 seeing that they served a 30 days
2 suspension.

3 We would ask that the
4 establishment pay a fine in the amount of
5 \$12,000 within 120 days.

6 The establishment agrees that the
7 co-owner or member of the establishment, Mr.
8 Sonny Preet will no longer serve in any
9 managerial operational capacity for the
10 establishment.

11 Further, the establishment
12 agrees that Sonny Preet will no longer serve
13 in a representative capacity for the
14 establishment in interactions with the
15 District of Columbia Government officials,
16 including MPD -- or Metropolitan Police
17 Department, excuse me, and the Alcoholic
18 Beverage Regulation Administration.

19 The establishment also agrees
20 that whenever the establishment is open and
21 in operation that Mr. Preet is prohibited
22 from being present upon the establishment's

1 premises -- sorry. That title should be
2 curtilage, but it reads "cartilage." I
3 thought that I had that edited out.

4 But the District agrees that to
5 the extent the terms and rights and
6 responsibilities of Mr. Preet are not
7 addressed by terms of this Offer in
8 Compromise that this Offer in Compromise
9 does not affect his responsibilities with
10 the establishment in that corporation.

11 Further, we ask that as part of
12 what the parties agree that the employee's
13 agents of this Licensee that are involved in
14 security controlling access to the premises
15 and those who are serving alcohol must
16 attend and complete TIPS training within 60
17 days of this offer or the Board's
18 consideration.

19 The parties agree that the
20 establishment must bar any physically
21 intoxicated persons from entering the
22 establishment and the establishment agrees

1 to incorporate such requirements into their
2 security agreement.

3 Further, the sign on the
4 establishment will prohibit the admission of
5 any person who does not produce a Government
6 issued identification document. Such
7 document would include a photograph of the
8 person seeking an admission. That would be
9 incorporated into their Security Plan.

10 8: The establishment agrees to
11 perform multi-checks for the performance of
12 a security camera system. Within 30 days
13 the establishment will create a check sheet
14 to document their camera's performance. And
15 the establishment must repair any camera
16 within 10 days of it becoming inoperable.

17 Term 9: The establishment agrees
18 at a minimum to make instant log entries at
19 the following instance:

20 Instances requiring police
21 intervention or medical treatment;
22 Physical altercations;

1 Any camera malfunctions.

2 Such entries shall be made by
3 5:00 p.m. the following business day. I'm
4 not going to read the example.

5 And the establishment agrees to
6 incorporate such requirement into its
7 security agreement.

8 And lastly, the establishment
9 agrees to create a formal procedure for
10 bands and other entertainment whenever
11 fights or physical altercations occur. Upon
12 such instance, the establishment agrees that
13 the entertainment will stop performing
14 music, will turn on house lights until such
15 incident is managed and the establishment or
16 entertainment must make an announcement to
17 the audience regarding it.

18 The establishment agrees to
19 incorporate such requirement into the
20 security agreement.

21 In this case, and I'll just make
22 the very foot comment, that we believe that

1 this is a very tough Offer in Compromise. I
2 think the establishment has been very fair
3 in terms of trying to work to figure out
4 some type of alternative here that would,
5 you know go for something less severe. But I
6 think that in the end that this is
7 reasonable and addresses the interests that
8 have been articulated by the Agency and the
9 Police Department regarding the operations
10 of an establishment which were very evident
11 based upon the October proceeding. And
12 based upon what we believe is a tough and
13 reasonable and fair agreement, we ask that
14 the Board ratify.

15 And just for the record, we did
16 provide to you an Offer in Compromise
17 agreement that sets the terms so that you
18 could follow along with it. And to the
19 extent that there are any questions
20 regarding how the fine aligns with the
21 charges, I'll also provide a separate
22 document that provides how the charges align

1 to the fines.

2 CHAIRPERSON MILLER: Okay.

3 Before the Board questions, let me ask Mr.

4 Kline, do you have anything to say?

5 MR. KLINE: Yes.

6 CHAIRPERSON MILLER: Okay.

7 MR. KLINE: We want the Board to

8 know that the Licensee understands the

9 seriousness of the incidents that gave rise

10 to this Offer in Compromise. My office and

11 Mr. Adams' office worked very hard to come

12 up with a framework that we hoped that the

13 Board will find acceptable to assure the

14 future safety of patrons, employees and

15 others that may be in or around this

16 establishment.

17 The Offer in Compromise we

18 believe it is comprehensive. We believe

19 that it addresses those issues. And

20 assuming that there's compliance with the

21 terms of the Offer in Compromise, which the

22 Licensee has assured me will be the case and

1 has assured the Government will be the case,
2 we do not expect to be before you again in
3 connection -- I'm not even going to say with
4 a matter like this because this is way over
5 the top, but in connection with anything
6 serious in the nature of the violations that
7 you saw previously.

8 The Licensee does take issue with
9 some of the violations, but that would be
10 nitpicking because the Licensee, as I said,
11 certainly understands the seriousness of the
12 incidents that gave rise to this Offer in
13 Compromise. And we would request that the
14 Board accept it.

15 Thank you.

16 CHAIRPERSON MILLER: Okay. Board
17 questions? Mr. Nophlin?

18 MEMBER NOPHLIN: Yes, for the
19 attorney. Sorry.

20 You testified that in fact some
21 of these charges you reduced the litany
22 description by some of these charges were

1 dismissed.

2 MR. ADAMS: We're asking for the
3 charges to be dismissed as a part of the
4 settlement agreement. So, they have not yet
5 dismissed, but we're asking that the Board
6 permit its dismissal to --

7 MEMBER NOPHLIN: My question is
8 then how did you arrive at that decision for
9 some of these charges?

10 MR. ADAMS: Well, this is a very
11 serious case. What we were trying to
12 accomplish in looking at the charges is, I
13 guess from a prosecutorial standpoint --
14 broadly part of trying to figure out the
15 dismissal was looking at what would be the
16 overall context. In this case I think the
17 big piece was trying to make sure there was
18 regular ongoing management of the
19 establishment in terms of who is involved
20 and then looking to figure out what would be
21 a reasonable fine amount as well. But as I
22 think what Mr. Kline was alluding to,

1 whereas I believe that there are certain
2 charges that are very strong for the
3 Government, I believe that there are also
4 charges that there are weaknesses as well.

5 I believe that the establishment
6 would be able to at least present reasonable
7 defenses for some of the charges that we're
8 recommending dismissal for. And as a result,
9 more or less, I guess in terms of trying to
10 frame something that was fair, we took in
11 consideration things that were either --
12 that we may not necessarily be able to
13 establish or even the Board may not
14 necessarily be able to reasonable establish.
15 And we also looked at bluntly whether
16 certain of the charges may be somewhat
17 ancillary.

18 And again, the big piece was the
19 management issue and then trying to color by
20 what other penalty would be reasonable. And
21 I think that overall that the total fine is
22 reasonable, but then we, again, in

1 consideration included what might have been
2 potential weakness in the Government's case.

3 MEMBER NOPHLIN: I think I
4 understand. So you're not going to go back
5 and reexamine these charges, this is
6 something you've already negotiated with
7 your client?

8 MR. ADAMS: Yes.

9 MEMBER NOPHLIN: Or not your
10 client, I'm sorry. With the attorney?

11 MR. ADAMS: Well, actually, both
12 with the client and with counsel, yes.

13 MEMBER NOPHLIN: Okay. Thank
14 you, Madam Chair.

15 CHAIRPERSON MILLER: Others? Mr.
16 Alberti?

17 MEMBER ALBERTI: Mr. Adams --

18 MR. ADAMS: Yes, sir.

19 MEMBER ALBERTI: -- on Charge 15
20 on your sheet here, Voluntary Agreement
21 violation.

22 MR. ADAMS: Yes,.

1 MEMBER ALBERTI: Is that the
2 correct charge?

3 MR. ADAMS: Yes, it is.

4 MEMBER ALBERTI: Okay. So my
5 notes tells me that this is their first
6 secondary tier violation, is that correct?

7 MR. ADAMS: Well, actually for
8 this what we're doing would be -- well, yes,
9 and it'd the first secondary and first
10 primary violations within a two year period.
11 Yes, that is correct.

12 MEMBER ALBERTI: Okay. Thank you
13 for that clarification, correct with two
14 years.

15 CHAIRPERSON MILLER: Could you --

16 MR. ADAMS: Yes.

17 MEMBER ALBERTI: Thank you.

18 CHAIRPERSON MILLER: Could you
19 just for the record, which charge is it,
20 what is it called?

21 MEMBER ALBERTI: Charge 15.

22 CHAIRPERSON MILLER: Charge 15.

1 MEMBER ALBERTI: Voluntary
2 Agreement violation.

3 CHAIRPERSON MILLER: Oh, okay.

4 MEMBER ALBERTI: I think that's
5 stated in there.

6 CHAIRPERSON MILLER: Okay. Thank
7 you.

8 MEMBER ALBERTI: A \$1,000, well
9 that's outside the statutory guidelines, so
10 would you like to speak -- could you speak
11 to that, please?

12 MR. ADAMS: I think, obviously,
13 that the Board has certain discretion in
14 terms of both the security plan and
15 Voluntary Agreements which are contemplated
16 in the same section of whether the
17 violations are in the nature of a primary
18 tier violation. In this case, we would make
19 the argument that it would be. However, if
20 the Board -- if there's some issue with
21 that, then I guess maybe there might be some
22 way that we can rearrange this. But more or

1 less I believe that standing on itself for
2 the purposes of considering the settlement,
3 we believe that the Board has already made
4 the decision that it has a certain
5 discretion in terms of the interpretation of
6 D.C. Code 825.823(6). If part of this
7 violation is stating that they're open after
8 hours, after the hours that are in the
9 Voluntary Agreement for the purposes of the
10 Board's consideration, we'll ask for it to
11 be considered as a primary violation. And I
12 think that will answer the question without
13 necessarily disturbing the terms.

14 MEMBER ALBERTI: So, what you're
15 suggesting in your response to me is that
16 this be considered by the Board as -- and I
17 apologize, I don't have the statute, I can't
18 reference the statute off the top of my
19 head. but it's open after hours?

20 MR. ADAMS: Yes.

21 MEMBER ALBERTI: Violation of
22 being open after hours, so we do that

1 statute rather than considering it as a
2 violation of the Voluntary Agreement, is
3 that correct?

4 MR. ADAMS: Well, it would be a
5 violation of the Voluntary Agreement, but
6 the violation would be of the nature of a --
7 that would be consistent with a primary tier
8 violation is.

9 MEMBER ALBERTI: Correct. I
10 understand what you're suggesting here, but
11 my question to you is what are you charging
12 them as? Because basically that's what the
13 Board has to consider is what the Licensee
14 is being charged with. I mean, I have to
15 take that into consideration.

16 I can't decide that oh, you know,
17 this secondary is worse than that secondary
18 and so I'm going to go outside the
19 guidelines. I guess maybe I have that
20 discretion, but we try to limit that. I
21 mean, I try to stay within the statutory
22 guidelines.

1 MR. ADAMS: That is understood,
2 Mr. Alberti.

3 I think I'll stand to my last
4 statement, that it is a Voluntary Agreement
5 violation for purposes of the settlement and
6 based upon the nature of the violations we
7 would ask for the Board's discretion to see
8 it as a primary tier violation. You know, I
9 guess we'll come to that later if that
10 becomes problematic.

11 MEMBER ALBERTI: So you're
12 suggesting it because of the nature of the
13 violation, it should be fined outside the
14 statutory guidelines?

15 MR. ADAMS: Yes, because I
16 apologize I don't have the statute with me.
17 Similar to if --

18 MEMBER ALBERTI: It doesn't
19 matter. I know what it stems from. I know,
20 I've read the report, so we have that in our
21 record.

22 MR. ADAMS: Yes. Yes.

1 MEMBER ALBERTI: Thank you.

2 MR. ADAMS: Thank you, Mr.

3 Alberti.

4 MEMBER ALBERTI: It stems from
5 operating after hours?

6 MR. ADAMS: Yes, that's true. Mr.
7 Alberti.

8 MEMBER ALBERTI: Thank you.

9 CHAIRPERSON MILLER: Other Board
10 questions? Mr. Silverstein?

11 MEMBER SILVERSTEIN: Mr. Adams
12 and Mr. Kline, this may be the most
13 troubling case that I've heard in all my
14 time on the Board, and that even includes
15 cases where people have died.

16 Specifically, I'm referring to
17 how the Licensee is somehow able to find the
18 unidentified minor who was stabbed in this
19 case, bring him down and have him change his
20 story. And then upon further questioning by
21 ABRA, change his story back.

22 I don't know if I've seen

1 anything as outrageous as their charge, as
2 unspeakable as this charge, which was clear
3 on its face witness tampering of an
4 unidentified minor who should have been
5 protected.

6 How can we possibly accept
7 anything that does not involve the days and
8 the suspension for this horrific -- horrific
9 action.

10 MR. ADAMS: Well, Mr. Chairman,
11 obviously -- Mr. Silverstein, more or less,
12 I leave it to the Board's judgment.

13 And speaking for Government,
14 again what we're looking at is the terms of
15 what -- in the end there's very little room
16 for what we believe would possibly be a
17 settlement.

18 (1), it wasn't until very
19 recently where the Government had really
20 considered anything with this case. There
21 were certain issues that were discussed
22 regarding the management of the

1 establishment in terms of -- well, yes, this
2 is one of the most serious charges that
3 there's been. I think that one of the
4 biggest issues in this case is regarding
5 what settlement could be trusted.

6 I mean, obviously, normally
7 sometimes with establishments we would just
8 change the security plan or we would change
9 the Voluntary Agreement, or just change
10 hours. But that really wasn't the option
11 here. There had to be something much, much
12 more material to occur.

13 In this case the big thing that
14 the Government -- before the Government even
15 would consider anything was that there be a
16 complete realignment of the management
17 within the establishment. Because from
18 speaking with the people on the ground
19 between the Police Department and witnesses
20 and ABRA Investigators, a lot of the issues
21 tend to deal with the interactions of one of
22 the owners.

1 So, since there are two owners
2 that own this establishment, we more or less
3 said that this would be -- something that's
4 potentially reasonable. Frankly, what was
5 stated was that we believed that the other
6 side of the management tend to be
7 professional, and that's what we considered.

8 In terms of additional suspension
9 days, in this case we understand that the 30
10 days is a substantial suspension. And
11 granted, that was part of the Summary
12 Suspension. You know, the Board could have
13 made an indefinite suspension, but you know
14 in this case it didn't. But since there was
15 a 30 day suspension which, you know could
16 potentially cripple a business, we felt that
17 it was fairly punitive plus a \$12,000 fine.
18 We felt that maybe -- and with the major
19 changes to management that even considering
20 how bad the charges were, even the Board's
21 findings, that this would be, for lack of a
22 better term, you know the last type

1 alternative that would be acceptable to an
2 establishment to retain its license and be
3 able to operate.

4 MR. KLINE: Mr. Silverstein two
5 points. One is, as Mr. Adams said, the
6 establishment did serve 30 days. But in this
7 case unlike the normal Summary Suspension
8 case, the days were not -- the Board took
9 the unusual step of suspending the license
10 for a fixed period rather than what we've
11 seen in most of these cases, which is
12 looking at where the establishment is and
13 whether there is an ongoing imminently
14 dangerous condition. We found that to be a
15 bit unusual, so it seemed like there was a
16 fixed 30 days being imposed, at least that
17 was my view in coming into the case after
18 the fact.

19 The second issue is, and this is
20 always delicate, we're not here -- we're
21 presenting to you a compromise and a
22 settlement. I don't want to get into arguing

1 the merits. But I agree with you, the
2 charge that's been leveled is a very serious
3 one and causes us all concern. However, in
4 these cases, in fact before we came before I
5 was having this discussion with one of the
6 other AGs where we said we've looked at all
7 the evidence, we've looked at all the legal
8 arguments and we were prepared to present
9 all of those, and these settlements always
10 involve that consideration, which you don't
11 have in front of you.

12 What you have in front of you is
13 the bare charges in the report which doesn't
14 necessarily take into consideration what
15 arguments we might make and what defenses we
16 might present.

17 I agree with you, the charge is
18 troubling. This settlement, this Offer in
19 Compromise is an effort to resolve this
20 matter, have the Licensee turn over a new
21 page, put this behind it, let the Board
22 hopefully put it behind it and not be before

1 you again.

2 As I said at the outset, if you
3 look at the restrictions and the controls
4 that have been put in, our concern, our
5 focus was on rehabilitating this Licensee
6 and, again, making this premise so its safe
7 for people to go in.

8 And in terms of days, it was felt
9 that the 30 days as a punishment, which has
10 already been served, was ample and that we
11 should focus on the amount of the fine, and
12 that's what Mr. Adams and I did.

13 MEMBER SILVERSTEIN: Thank you.
14 No further questions.

15 CHAIRPERSON MILLER: Mr. Jones,
16 did you have a question?

17 MEMBER JONES: Yes. Thank you
18 very much.

19 The first question I have relates
20 to the charging document. What charging
21 document did you use to come to the terms of
22 the OIC that you presented to us?

1 MR. ADAMS: I used the -- Notice
2 of Status and Show Cause Hearings for this
3 case, I guess Case Nos. 11-251-00315 and 11-
4 CMP-00115 as well.

5 MEMBER JONES: 115?

6 MR. ADAMS: 115.

7 MEMBER JONES: Okay. I just
8 wanted to make sure we were on the same
9 page. Because the charging document that I
10 have, and I may have a bad copy or an old
11 copy, I'm not sure. But the charging
12 document that I'm looking at actually
13 there's a total of 19 charges in there. And
14 I think Charge 19 is associated with or tied
15 to Case No. 11-CMP-00115.

16 MR. ADAMS: That's right.

17 MEMBER JONES: Is that part of
18 the -- I did not hear it included nor do I
19 see it typed as part of the document you
20 provided to us as part of the OIC. Was that
21 a deliberate omission? And if so, for what
22 reason?

1 MR. ADAMS: It was not a
2 deliberate omission. It was a Title 12
3 omission Charge 19 should have been
4 included. I will apologize. We've been
5 doing a lot of running around and rushing.
6 Okay. That is a final omission. So that --
7 Charge 19 should have been included and
8 would have been included as one of the
9 charges to be dismissed. So it'll be
10 dismissing 11 of the 19 charges in that
11 case.

12 MEMBER JONES: All right. Thank
13 you for that clarification.

14 As it relates to Charge 4, the
15 stabbing victim incident, I just noticed
16 that that was dismissed and I was just
17 wondering what, if any, rationale went into
18 that versus the other -- what made one
19 versus the other dismissable or not
20 dismissable? Is that something you'd care
21 not to speak on?

22 MR. ADAMS: I care to be very

1 careful.

2 I think that those choice,
3 whether in terms of being to establish the
4 charge, whether there potentially would be
5 any weaknesses with the potential charge.
6 More or less, I believe that Charge 2 is
7 representative of the event for that evening
8 for the purposes of settling the matter.

9 MEMBER JONES: Okay. Fair
10 enough.

11 And also in your OIC you speak
12 essentially Section 4 -- Section 4
13 subsection (a), subsection (b) and
14 subsection (c) you speak to the relationship
15 of some Sonny Preet?

16 MR. ADAMS: Yes.

17 MEMBER JONES: Ongoing as far as
18 the licensed establishment is concerned?

19 MR. ADAMS: Yes.

20 MEMBER JONES: So just for my
21 clarification this individual, Mr. Preet
22 will remain an owner of the establishment, a

1 co-owner of the establishment?

2 MEMBER JONES: That is correct.

3 And the reason being is that I'm not sure
4 whether the Board has -- to which of the
5 Board has jurisdiction, but this does not
6 have anything to do with, I guess, the
7 financial or other aspects of the
8 establishment. More or less we believe that
9 by having limitation on the managerial and
10 the operational piece, that that would
11 sufficiently be able to deal with what any
12 potential safety or any other operational
13 issues that have been observed by the
14 establishment.

15 The addition does not seek to, I
16 guess, over step in any way in terms of
17 dealing with the financial implications for
18 the establishment.

19 MEMBER JONES: Okay. So this
20 individual will still be associated with the
21 license, which is associated with the
22 licensed establishment as an owner of the

1 establishment?

2 MR. ADAMS: To my knowledge
3 that's correct. I'll let Mr. Kline address
4 that.

5 MR. KLINE: Yes. I believe Mr.
6 Preet is looking at possible ways to divest
7 himself of his ownership, but has not
8 arranged that at this point. It was felt
9 that in resolving this matter that assuring
10 that he was on the premises addressed the
11 concern of the Government, because that
12 dealt with the management in terms of how
13 the place was going to be run. As you can
14 see, there's a pretty detailed provision in
15 the Offer in Compromise which even goes so
16 far as to say that he will not be on the
17 premises.

18 MEMBER JONES: Yes.

19 MR. KLINE: And it was felt that
20 that would address that issue unless and
21 until he could make other arrangements with
22 respect to potential disposition of his

1 interest.

2 MEMBER JONES: All right. But as
3 far as this OIC his divestiture or
4 continuing ongoing ownership is not part of
5 this OIC, so that's speculative in terms of
6 what may or may not happen in the future?
7 As of today what we need to consider is that
8 he is still an owner, he is still a part of
9 the license establishment and is part of the
10 license?

11 MR. KLINE: Yes.

12 MEMBER JONES: Okay.

13 MR. KLINE: I mean, there's some
14 discussion about quote/unquote "taking him
15 off the license," but that's not the way our
16 law works.

17 MEMBER JONES: No.

18 MR. KLINE: The way our law
19 works is that if -- then you're a qualified
20 owner and approved the Board. And in looking
21 at that substantively, as I said before, we
22 felt the way to address that was to deal

1 with management and that would seem to
2 address the Board's concerns and it
3 certainly addresses Mr. Adams and mine in
4 terms of the ongoing running the business.

5 MEMBER JONES: Okay. In just for
6 clarification, Mr. Adams, in terms of as it
7 relates 25-301 Subsection(a) Subsection (1),
8 general qualifications for all applicants.
9 The Applicant is of good character and
10 generally fit for the responsibility of
11 licenseship. In your understanding and how
12 you became comfortable with presenting this
13 as part of the OIC, did you take that into
14 consideration and if so, how did you
15 reconcile that in your mind?

16 MR. ADAMS: That part of the
17 section was not specifically reviewed in
18 terms of the good character provision.
19 However, I think to our understanding that
20 in terms of trying to strike this Offer in
21 Compromise it really was dealing with what
22 we felt or, more or less, we had to deal

1 with what we believed were grounds for
2 negotiation. It seemed as though, obviously
3 that there wasn't an agreement on whether
4 any person would be taken out of the
5 corporation. The focus again was really on
6 the management, the every day management of
7 the establishment. And if we're able to
8 ensure that from an every day standpoint
9 that, you know the Investigators are dealing
10 with certain personnel, that they do not
11 deal with other personnel, that certain
12 personnel are not dealing with the every day
13 ins and outs of the business that more or
14 less, without making any specific on the
15 record judgments regarding character, that
16 it would be addressed.

17 More or less, I would state that
18 in looking at that section, normally that's
19 looked at in terms of the application
20 process for prospective licensee. And
21 because a judgment had already been made at
22 a certain point, I'm not sure if the

1 Government would have tried to have made any
2 type of specific -- I guess, you know
3 acknowledgement or record regarding, I guess
4 the character of the person. However, I
5 think certain terms of the agreement speaks
6 for itself in terms of trying to find a way
7 that's enforceable that we're able to ensure
8 some form of control. And also, that in the
9 end it being in offer, it would be
10 agreeable. And fortunately this seems to be
11 a model of that was agreeable in terms of
12 the negotiations.

13 MEMBER JONES: Fair enough. I
14 just wanted to understand your rationale.

15 MR. ADAMS: Sure.

16 MR. KLINE: If I could just add
17 to that.

18 MEMBER JONES: Sure.

19 MR. KLINE: I understand, Member
20 Jones, your concerns, but 25.301 relates to
21 before issuing, transferring to a new owner
22 or renewing a license. So, that would be the

1 appropriate time to look at the fitness
2 criteria. That may seem logical from an
3 ongoing basis, but that's what the statute
4 says.

5 MEMBER JONES: Fair enough. But
6 just for clarification purposes and given
7 the latitude that has been expressed in
8 terms of being able to offer OICs you're not
9 necessarily downed by that work or word
10 what's in the reg, because clearly there
11 have been steps made outside of an OIC
12 outside of the reg. So you could choose to
13 include that, I just wanted to understand
14 your rationale for why it wasn't included
15 based on my reading and based on what Mr.
16 Adams has presented, it wasn't that it
17 wasn't included. It was interpreted
18 differently.

19 MR. KLINE: Fair enough. Thank
20 you.

21 MEMBER JONES: No, thank you.
22 Thank you.

1 CHAIRPERSON MILLER: Thank you.

2 Mr. Adams, I just wanted to ask
3 you in your introductory remarks you
4 characterized this settlement as a tough
5 settlement.

6 MR. ADAMS: Yes.

7 CHAIRPERSON MILLER: Even though
8 you said the case could give rise to such
9 severe sanctions as revocation, right?

10 MR. ADAMS: Yes. We believe that
11 if taken to a hearing it could give rise to
12 revocation or, frankly, whatever the Board
13 finds in its discretion. More or less, this
14 is something that obviously negotiated and
15 in terms of from a voluntary standpoint is
16 something that the establishment would
17 luckily is willing to live with and the
18 Government is willing to live with. So, I
19 think both sides gave. And you know, quite
20 honestly, you know we could have asked more.
21 They obviously didn't want to give as much
22 as they gave. And that's how we came to what

1 we believe would be reasonable in terms of
2 really again addressing what were our
3 interests.

4 CHAIRPERSON MILLER: Right. I get
5 your reasonable part and the part that's
6 addressing the problems, you know in those
7 terms. You just characterized it as tough,
8 and so I was just wondering why you
9 characterized it as tough.

10 MR. ADAMS: Sure. Except from
11 the standpoint that any -- we knew that any
12 organization especially in terms of
13 ownership would not want to be disturbed.
14 And it was very tough from the standpoint
15 that we met with the parties, we -- there
16 was a lot of back and forth in terms of what
17 was put out there and ultimately there's
18 some reluctance from the establishment.
19 Because we're asking for a lot. We're
20 asking for a major piece of decision making
21 and what so far as been a part of the
22 management for this structure to basically

1 be terminated and be eliminated from it.

2 So, from my standpoint
3 personally, I have never asked for that in
4 any OIC. This is the first time for me and
5 I think that from that standpoint I believe
6 that because I haven't asked for it before,
7 I haven't heard it before, it's a bit
8 abnormal and severe. But we felt that it was
9 something that would be -- that works.

10 CHAIRPERSON MILLER: Thank you.

11 Okay. Other questions?

12 Okay. Any other final comments?

13 Did you want to comment?

14 MR. KLINE: No, thank you.

15 CHAIRPERSON MILLER: Okay.

16 MR. ADAMS: The District has no
17 further comments.

18 CHAIRPERSON MILLER: Okay. So
19 what I'm going to suggest is that the Board
20 go into closed meeting and discuss this
21 settlement agreement with counsel.

22 So regarding the closed meeting, as

1 Chairperson of the Alcoholic Beverage
2 Control Board for the District of Columbia
3 and in accordance with Section 405 of the
4 Open Meetings Amendment Act of 2010, I move
5 that the ABC Board hold a closed meeting for
6 the purpose of seeking legal advice from our
7 counsel on Case No. 11-251-00316 and 11-CMP-
8 00115, DC Star per Section 405 of the Open
9 Meetings Amendment Act of 2010 in
10 deliberating upon Case 11-251-00316 and 11-
11 CMP-00115 proposed settlement agreement for
12 DC Star for the reasons cited in 405(b)(13)
13 of the Open Meetings Amendment Act of 2010.

14 Is there a second?

15 MEMBER NOPHLIN: Second.

16 CHAIRPERSON MILLER: I'll now
17 call a Roll Call vote on the motion before
18 us, now that it's been seconded.

19 Mr. Nophlin?

20 MEMBER NOPHLIN: I agree.

21 CHAIRPERSON MILLER: Mr. Brooks?

22 MEMBER BROOKS: I agree.

1 CHAIRPERSON MILLER: Mr. Alberti?

2 MEMBER ALBERTI: I agree.

3 CHAIRPERSON MILLER: Ms. Miller

4 agrees.

5 Mr. Silverstein?

6 MEMBER SILVERSTEIN: I agree.

7 CHAIRPERSON MILLER: Ms. Mobley?

8 MEMBER MOBLEY: I agree.

9 CHAIRPERSON MILLER: Mr. Jones?

10 MEMBER JONES: I agree.

11 CHAIRPERSON MILLER: Okay. The

12 vote is seven-zero-zero to approve the

13 motion.

14 I hereby give notice that the ABC

15 Board will hold a closed meeting in the ABC

16 Board Conference Room now pursuant to the

17 Open Meetings Amendment Act of 2010. Okay.

18 So we will adjourn to the Board Room and you

19 all can take a short break.

20 Thank you.

21 (Whereupon, at 10:54 a.m. off the

22 record until 11:22 a.m.)

1 CHAIRPERSON MILLER: Okay. We're
2 back on the record.

3 The Board had occasion to
4 consider the parties proposed Offer in
5 Compromise. I would offer these comments to
6 start. Obviously, this case involved very
7 serious violations. I was not on the Board
8 at the time that the Board had the Summary
9 Suspension Hearing so I'm not necessarily as
10 well versed in the facts of the case.

11 Looking at the proposed OIC and listening to
12 argument on it, it's my view that it's very
13 positive about it as it seems to address the
14 problems that gave rise to these events, and
15 that the Licensee has already served 30
16 days, which is a concern of the Board's.

17 And it seemed to be within reason assigned
18 for the violations that remain in the case.

19 Again, I wasn't on the Board when
20 we had the Summary Suspension Hearing, so I
21 believe that view are in the minority and I
22 will let others speak or move a motion,

1 because I think I'm in the minority.

2 MEMBER NOPHLIN: Madam Chair, if
3 I may?

4 CHAIRPERSON MILLER: Yes.

5 MEMBER NOPHLIN: I move that we
6 not accept the Offer in Compromise for a
7 fine of \$12,000 to be paid within 20 days
8 and along with the conditions that were
9 submitted to the Board by both parties.
10 That's my motion.

11 MEMBER JONES: Second.

12 CHAIRPERSON MILLER: Are there
13 any comments to the motion that's been made?

14 Okay. There is a motion on the
15 table to reject the Offer in Compromise that
16 has been seconded. I'm going to take a Roll
17 Call vote on this. Oh, no.

18 All those in favor say aye.

19 ALL: Aye.

20 CHAIRPERSON MILLER: All those
21 opposed? All those abstaining? Okay.

22 Then the vote is six-one-zero to

1 reject the Offer in Compromise.

2 Now we will go forward if you're
3 ready with the Show Cause Hearing, right?

4 MR. ADAMS: Yes, I am. Board's
5 indulgence for two seconds.

6 CHAIRPERSON MILLER: Okay.

7 MR. KLINE: Madam Chairperson, we
8 were wondering if the Board would entertain
9 a ten minute recess to discuss this matter
10 and perhaps look at some other approaches,
11 and also look at ways that we might simplify
12 the hearing.

13 CHAIRPERSON MILLER: Okay. I
14 think that might save time. So you think
15 you need ten minutes?

16 MR. KLINE: Yes.

17 CHAIRPERSON MILLER: So we'll
18 come back in ten minutes.

19 MR. ADAMS: Thank you.

20 MR. KLINE: Thank you.

21 (Whereupon, at 11:26 a.m. off the
22 record until 12:37 a.m.)

1 CHAIRPERSON MILLER: Okay. We're
2 back on the record.

3 MR. ADAMS: Yes, Madam Chairman.
4 Before I guess the District put on a
5 witnesses or make any other preliminary
6 arguments, the parties would like to propose
7 another preliminary issue to the Board.

8 CHAIRPERSON MILLER: Okay.

9 MR. ADAMS: And specifically what
10 we would like to do is to amend the current
11 compromise. We had a chance to discuss it,
12 amending this Offer in Compromise.

13 This, the Offer in Compromise,
14 most of the terms remain the same. Two
15 major issues would be different.

16 Number one, in terms of
17 suspension of parties we would agree that
18 there would be a -- that would be a 30 days
19 suspension, zero days served and 30 days
20 stayed with the condition that the
21 establishment does not have any other ABC
22 violations within a one year period.

1 In addition, there would be a
2 change to the fine. The fine currently is
3 listed at \$12,000. We would increase the
4 fine to \$16,000. And I can provide the Board
5 a chart to provide how the change would be
6 structured.

7 CHAIRPERSON MILLER: Okay.

8 MR. ADAMS: Now, the change would
9 be structured in the following ways:

10 First of all, in the prior
11 compromise proposal there's some charges in
12 our Security Plan that were made.
13 Specifically for Charges 10, 12, 13 and 15
14 the fine that was assessed was -- sorry, I
15 take it back. For Charges 10, 12 and 13 the
16 charge assessed a \$1,000 each. We would
17 amend that to \$1200 each.

18 For Charge 16 -- or I'm sorry,
19 Charge 14 --

20 MEMBER SILVERSTEIN: Mr. Adams?

21 MR. ADAMS: Yes.

22 MEMBER ALBERTI: Mike, please,

1 would you let him finish? Mike? Mike,
2 would you let him finish, please?

3 MEMBER SILVERSTEIN: I'm sorry.

4 CHAIRPERSON MILLER: Okay. Let's
5 start again.

6 MR. ADAMS: For Charge 14 it'll
7 be -- and the preliminary on the original
8 proposal it did not include a fine and now
9 it would include a \$1250 fine.

10 For Charge 17 there was no fine,
11 and that was one of the dismissal charges,
12 but in this case it would not be dismissed
13 and it would be a \$2,000 fine for Charge 17.

14 The charge does not include a
15 charge -- I put in handwriting Charge 19
16 still will be a dismissal.

17 CHAIRPERSON MILLER: Just for the
18 record, Mr. Adams, are other Security Plan
19 violations 1250?

20 MR. ADAMS: Yes. All of the
21 Security Plan violations are 1250 and the
22 Voluntary Agreement violations still be a

1 \$1,000.

2 MEMBER ALBERTI: Okay. So you're
3 amending what you said originally?

4 MR. ADAMS: Yes, I am.

5 MEMBER ALBERTI: Okay. Thank
6 you. I just wanted to make sure that's clear
7 on the record.

8 But I mean originally you said
9 1200 for those Security Plan --

10 MR. ADAMS: 1250, I apologize.

11 MEMBER ALBERTI: -- it was 1250.
12 Thank you.

13 I just want to make sure it's on
14 the record.

15 CHAIRPERSON MILLER: Any other
16 comments on the amended OIC? Okay.

17 Any other questions from Board
18 Members on the amended OIC?

19 Let me ask you, Mr. Adams, also
20 the \$16,000 penalty when is that to be paid
21 by?

22 MR. ADAMS: Oh, I'm sorry. That's

1 to be within the 120 day period.

2 CHAIRPERSON MILLER: Okay. Okay.

3 As I understand the amended OIC has added a
4 30 day suspension of license with 30 days
5 stayed provided there's no violations within
6 a one year period. And a \$16,000 penalty to
7 be paid within a 120 day period. Is that
8 correct?

9 MR. ADAMS: That is correct,
10 Madam Chair.

11 CHAIRPERSON MILLER: Okay. All
12 right.

13 MR. KLINE: And that is our
14 understanding of the revised Offer in
15 Compromise as well. And it is acceptable to
16 the Licensee in the event of its
17 acceptability.

18 CHAIRPERSON MILLER: Okay. Okay.
19 All right. If there are no further
20 questions from Board Members I would move
21 that we adopt the amended OIC. Any comments?

22 Okay. All those in favor say

1 aye.

2 AYE: All.

3 CHAIRPERSON MILLER: All those
4 opposed.

5 MEMBER JONES: Opposed.

6 MEMBER MOBLEY: Opposed.

7 CHAIRPERSON MILLER: All those
8 abstaining?

9 And the vote is five-to-two-to-
10 zero to accept the amended offer. All right.
11 Thank you.

12 CHAIRPERSON MILLER: Thank you.

13 That ends this hearing and
14 hearings for this morning. So the Board will
15 be adjourned.

16 (Whereupon, at 12:42 a.m. the
17 Show Cause Hearing.)

18

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