

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
 :
Cadence, LLC :
t/a Legends : Fact-
1836 Columbia Road, NW : Finding
Retailer CR - ANC-1C : Hearing
License No. 86083 :
 :
(License in Safekeeping) :
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May 22, 2013

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

- RUTHANNE MILLER, Chairperson
- NICK ALBERTI, Member
- DONALD BROOKS, Member

- MIKE SILVERSTEIN, Member

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

(9:43 a.m.)

CHAIRPERSON MILLER: Our next case is a Fact-Finding Hearing.

(Whereupon, at 9:44 a.m. a recess until 9:46 a.m.)

CHAIRPERSON MILLER: Okay. So I'm now going to call a Fact-Finding case. The parties are here for Legends located at 1836 Columbia Road, N.W., License No. 86083, in ANC-1C.

MR. HURWITZ: Good morning, Members of the Board. My name is Ely Hurwitz. I'm counsel for the licensee.

MR. KLINE: Good morning, Andrew Kline on behalf of a prospective transferee.

Madam Chairperson, before we get to that, I had another matter that you previously called, Mighty Pint, and I suggested that it might be recalled. We will not need to recall that and I want to excuse the applicant if that's okay with the Board.

1 CHAIRPERSON MILLER: Absolutely,
2 yes.

3 MR. KLINE: Thank you.

4 CHAIRPERSON MILLER: Okay. This
5 involves a license that has been in
6 safekeeping for quite a while. I believe we
7 had a hearing on this before and this is a
8 follow-up to that hearing where I think, Mr.
9 Hurwitz, you were going to get some answers
10 for the Board.

11 MR. HURWITZ: Yes.

12 MR. KLINE: I think I have got
13 those answers, Madam Chair. I represent
14 Voulkanos, LLC, the principal is Demetrius
15 Liontiris and we will be filing an application
16 to transfer the license for use at 2414-2416
17 18th Street.

18 The application is about three-
19 quarters done. We are waiting on a couple of
20 documents. We are waiting on the police
21 clearance and a final lease. We can file
22 without the lease, but we should be able to

1 file within the next 10 days to two weeks.

2 And I understand the Board's
3 concern about licenses sitting in safekeeping
4 indefinitely, but it would seem that this
5 hopefully would address that matter for the
6 Board.

7 CHAIRPERSON MILLER: Yes, but can
8 you just clarify who is representing whom here
9 then?

10 MR. KLINE: I represent the
11 prospective transferee --

12 CHAIRPERSON MILLER: Okay.

13 MR. KLINE: -- Voulkanos, V-O-U-L-
14 K-A-N-O-S, LLC, whose principal is Demetrius
15 Liantiris, L-I-O-N-T-I-R-I-S. And Mr.
16 Hurwitz, obviously, represents the current
17 licensee, who has been before you --

18 CHAIRPERSON MILLER: Right.

19 MR. KLINE: -- as I understand it,
20 previously.

21 CHAIRPERSON MILLER: Okay. Just
22 have you filed an appearance yet to

1 represent --

2 MR. KLINE: Well, no, because I
3 don't represent the current licensee. I
4 represent a prospective applicant and will
5 file the Notice of Appearance when we file the
6 transfer application.

7 CHAIRPERSON MILLER: Okay. Yes.

8 MR. KLINE: Which, as I said,
9 should be in the next 10 days to two weeks.

10 CHAIRPERSON MILLER: Right. And
11 this is just a Fact-Finding Hearing.

12 MR. KLINE: Right.

13 CHAIRPERSON MILLER: Right.

14 MR. KLINE: But then again, I
15 think that this is probably the fact that you
16 most want to know about, but I'll leave that
17 to you.

18 CHAIRPERSON MILLER: Okay. So
19 could you just repeat again when you expect to
20 file it?

21 MR. KLINE: We will have it filed,
22 let's say, within the next two weeks.

1 CHAIRPERSON MILLER: Okay. Mr.
2 Hurwitz, do you have anything else?

3 MR. KLINE: We have the holiday,
4 so --

5 CHAIRPERSON MILLER: Okay. That's
6 good.

7 MR. HURWITZ: And I hope that this
8 satisfies the Board's request for additional
9 information, that this license is moving
10 forward.

11 CHAIRPERSON MILLER: Okay. Any
12 questions by Board Members? Okay. Mr.
13 Brooks?

14 MEMBER BROOKS: Yeah. I just have
15 a question. Mr. Kline, you said the
16 prospective lessor, I guess that's the correct
17 term, at -- where is the location?

18 MR. KLINE: 2414-16 18th Street,
19 N.W.

20 MEMBER BROOKS: Okay. So he has
21 got to move his license or transfer the
22 license that is for, I guess, sale, like -- to

1 this location.

2 MR. KLINE: Correct.

3 MEMBER BROOKS: On 18th Street?

4 MR. KLINE: Correct. It's --

5 MEMBER BROOKS: On Columbia Road.

6 I'm sorry.

7 MR. KLINE: Yes, I think it is
8 currently on Columbia Road, right.

9 MEMBER BROOKS: That's fine.

10 MR. KLINE: So this is a transfer
11 of location and a transfer of ownership.

12 MEMBER BROOKS: Okay. We're
13 talking about a couple of weeks?

14 MR. KLINE: In terms of the
15 filing, sure.

16 MEMBER BROOKS: All right. Thank
17 you. That's all I have, Madam Chair.

18 CHAIRPERSON MILLER: Thank you.

19 MEMBER ALBERTI: Mr. Silverstein
20 has a question.

21 CHAIRPERSON MILLER: Mr.
22 Silverstein?

1 MEMBER SILVERSTEIN: Yes. Mr.
2 Kline, after that, how close is this place to
3 turning the key?

4 MR. KLINE: I don't know the
5 answer to that question.

6 MEMBER SILVERSTEIN: You don't?

7 MR. KLINE: With what they --

8 MEMBER SILVERSTEIN: Are you going
9 to need additional time in safekeeping, is my
10 question.

11 MR. KLINE: Not anything more than
12 a normal construction period. I mean, we're
13 not talking about -- you know, the intent is
14 for Voukkanos to open a restaurant at that
15 location. And I'm sorry I don't know the
16 current state of the premises, so I wouldn't
17 want to tell you, you know, that it's a month
18 of work or it's three months, but, obviously,
19 six months you could build a whole -- you
20 know, with an existing building, you can
21 completely outfit. So I wouldn't expect it to
22 be more than that.

1 MEMBER SILVERSTEIN: Okay. This
2 is the old B&K News Stand building?

3 MR. KLINE: I think that's right.

4 MEMBER SILVERSTEIN: Okay.

5 MR. KLINE: You know better than I
6 do.

7 MEMBER SILVERSTEIN: I'm able to
8 cheat by looking at the Google Map right
9 there.

10 MR. KLINE: Got it.

11 CHAIRPERSON MILLER: Okay. All
12 right. Other questions?

13 MEMBER SILVERSTEIN: No further
14 questions.

15 CHAIRPERSON MILLER: Okay.

16 MR. KLINE: Oh, there is one other
17 piece of information. There is an existing
18 tenant in there that is a month-to-month, but
19 they are going to be -- they are month-to-
20 month. They are going to be out.

21 CHAIRPERSON MILLER: Okay.

22 MR. KLINE: They are waiting for

1 this deal and then --

2 CHAIRPERSON MILLER: Okay.

3 MEMBER SILVERSTEIN: Okay. My
4 only concern or question was whether this
5 would require additional time in safekeeping
6 for a build-out or if there were any great
7 numbers of permits that needed to be taken
8 care of and I would kind of like to know that
9 up front.

10 MR. KLINE: Well, certainly --

11 MEMBER SILVERSTEIN: Which would
12 be helpful.

13 MR. KLINE: -- the normal -- yes.
14 I mean, in terms of the normal course of
15 build-out. I mean, that's what I said that
16 there will need to be time to --

17 MEMBER SILVERSTEIN: Okay.

18 MR. KLINE: -- outfit the
19 premises, permits and so and so forth. So,
20 yes, the normal processing time, getting
21 building permit, get the Certificate of
22 Occupancy and restaurant inspection and ready

1 the premises as a restaurant for opening.

2 MEMBER SILVERSTEIN: Thank you,
3 sir.

4 CHAIRPERSON MILLER: I just want
5 to follow-up. Did -- what is that? Did you
6 say within six months?

7 MR. KLINE: I mean, six months is
8 reasonable if we run into an issue, then we
9 would come. I would hope that the Board would
10 have us back.

11 CHAIRPERSON MILLER: Yes.

12 MR. KLINE: And we could show you
13 that, you know, this is not a phantom, that we
14 have a building permit. You know, if we
15 haven't finished it and are not ready to
16 reopen, the Board -- or ready to open, if the
17 Board wants to see us again, then we certainly
18 have to come back and show the Board that this
19 is bona fide and that we are moving forward.

20 CHAIRPERSON MILLER: Okay. Mr.
21 Alberti?

22 MEMBER ALBERTI: Mr. Kline, can

1 you provide for us a lease agreement for
2 Voulkanos?

3 MR. KLINE: Can I provide it?

4 MEMBER ALBERTI: Introduce it?

5 MR. KLINE: I don't have it today,
6 no. It's not finalized. That's one of the
7 issues that needs to be resolved in connection
8 with the filing of the application. But I do
9 expect that that will be done, as I said,
10 within the next couple of weeks.

11 The parties have a Letter of
12 Intent worked out and they know it's a firm
13 deal.

14 MEMBER ALBERTI: How long -- how
15 far along are they on these plans? I mean,
16 does he have concept? Does he have
17 architectural drawings? What does he have?

18 MR. KLINE: No, he doesn't.

19 MEMBER ALBERTI: How far along is
20 he?

21 MR. KLINE: We are at the stage
22 where they have shook hands on a business

1 deal. The business deal needs to be
2 memorialized by a lease agreement. And,
3 obviously, like any smart business person, Mr.
4 Lontiris is not going to commit a lot of
5 funds to construction plans and the like until
6 he knows he has nailed the space down, which
7 means signing on the dotted line with respect
8 to the lease.

9 MEMBER ALBERTI: Does he have a
10 concept?

11 MR. KLINE: Yes, he has a concept.
12 He is not going to -- he wouldn't lease the
13 space if he didn't have a concept.

14 MEMBER ALBERTI: So we are at a
15 minimum of six months away. I mean, normal --
16 when you say no more than normal, normal for
17 me, from my experience, is six months to two
18 years for a build-out. It's not unheard of
19 two years, especially starting from where you
20 are starting.

21 I don't know the condition of the
22 building. What is there now?

1 MR. KLINE: A news stand.

2 MEMBER ALBERTI: A news stand.

3 All right. So we don't have a restaurant in
4 place.

5 MR. KLINE: Right.

6 MEMBER ALBERTI: And we -- all
7 right. We don't even have an architect having
8 come in and take a look at the place, from
9 what I understand.

10 MR. KLINE: No, Mr. Alberti.

11 MEMBER ALBERTI: Okay. So we are
12 starting from zero. Right? Is that correct?
13 Other than leasing negotiations, the lease,
14 we're starting from zero?

15 MR. KLINE: Well, that's the first
16 step. I mean, that's -- that would be zero.

17 MEMBER ALBERTI: All right. All
18 right. All right. Well, no. Some places
19 there is a restaurant that exists and then,
20 you know, you have an idea of what you are
21 going to need to do and that shortens the time
22 for build-out, but here we have, basically, a

1 place that needs to be gutted and built.

2 MR. KLINE: Correct.

3 MEMBER ALBERTI: All right. All
4 right. Thank you. I just wanted to make sure
5 I understand that.

6 CHAIRPERSON MILLER: Mr. Kline, is
7 the transfer of the license contingent upon
8 the location? Are they connected? I mean,
9 you said you expected to file a transfer of
10 license within two weeks.

11 MR. KLINE: Yes, we are not --
12 just to be clear, we are not transferring the
13 license for use in safekeeping. We are
14 transferring the license for use at this
15 location by this entity operator.

16 CHAIRPERSON MILLER: Okay. So if
17 this business deal fell through, the transfer
18 of the license would fall through as well?

19 MR. KLINE: Correct.

20 CHAIRPERSON MILLER: Okay. But
21 you don't expect that? This is --

22 MR. KLINE: No. I mean, the

1 parties have shook hands. I mean, you know,
2 we are not handling the business transaction,
3 but I have spoken to the attorney that is
4 handling the business transaction and, you
5 know, they expect to finalize it, the lease,
6 very quickly.

7 CHAIRPERSON MILLER: Okay. Any
8 other questions? All right. I'm not hearing
9 anything. Anything else you want to say for
10 the record?

11 MR. KLINE: I don't have anything
12 else.

13 MR. HURWITZ: No.

14 CHAIRPERSON MILLER: Okay. Then I
15 would suggest we just, you know, watch for the
16 transfer to come in and follow this
17 application. And again, I guess we could call
18 you back if, you know, six months from now
19 nothing seems to have happened or whatever.

20 MR. KLINE: Okay.

21 CHAIRPERSON MILLER: Or if the
22 Board has any other concerns in the meantime.

1 You look puzzled, Mr. Alberti.

2 MEMBER ALBERTI: Yes. I mean, you
3 know, we have a request to extend the
4 safekeeping here, so what is our position on
5 that or will we discuss that later?

6 CHAIRPERSON MILLER: We have a
7 request to extend safekeeping?

8 MEMBER ALBERTI: That's what I
9 thought this whole hearing was about.

10 CHAIRPERSON MILLER: I thought we
11 had a Fact-Finding about the safekeeping.

12 MEMBER ALBERTI: I thought we had
13 a Fact-Finding because there was a request to
14 extend the safekeeping. I thought that's how
15 this Fact-Finding came to us.

16 CHAIRPERSON MILLER: Okay.

17 MR. KLINE: I wasn't aware that
18 there was an expiration date on the
19 safekeeping. We have done our diligence on
20 the license and I'm not aware that this
21 license is about to vaporize.

22 MEMBER ALBERTI: I suggest that we

1 look into that.

2 CHAIRPERSON MILLER: Okay.

3 MEMBER ALBERTI: As a Board.

4 CHAIRPERSON MILLER: Okay. If
5 there is a letter out there requesting an
6 extension, we can look into it.

7 MEMBER ALBERTI: There is
8 absolutely -- it's your impression there is
9 absolutely no end date to the safekeeping?

10 MR. KLINE: Well, that's up to the
11 Board. I mean, I'm not here to say that the
12 Board is required to keep licenses in
13 safekeeping indefinitely, but I'm not aware
14 that the Board has set a date. I mean, you
15 know, I'm being shown a letter that says that
16 the purpose is to request -- a request for
17 safekeeping extension, but I'm not aware of
18 any specific request.

19 I'm not aware -- I guess what I'm
20 saying is that I'm not aware that the Board
21 has said that the safekeeping expires by such
22 and such a date and there isn't any limitation

1 in the regulations or the statute that says
2 that the safekeeping expires.

3 So procedurally --

4 MEMBER ALBERTI: Yes, technically,
5 you are right, Mr. Kline, technically, but the
6 Board --

7 MR. KLINE: At least I got that.

8 MEMBER ALBERTI: But the law says
9 that we should. The law directs us to review
10 these every six months.

11 MR. KLINE: Sure, okay.

12 MEMBER ALBERTI: So that is what
13 has brought us here today.

14 MR. KLINE: Okay.

15 MEMBER ALBERTI: And in that
16 review, part of that review is to whether we
17 should continue the safekeeping or not.

18 MR. KLINE: Fair enough.

19 MEMBER ALBERTI: And that's the
20 purpose of the review.

21 MR. KLINE: Fair enough.

22 MEMBER ALBERTI: It's there. The

1 purpose of the review is to say should this
2 continue or not. And so that's really why we
3 are here. And maybe I misspoke.

4 MR. KLINE: All right. Well, I
5 mean, from the prospective transferee's
6 perspective, I mean, our -- we, obviously,
7 would be very concerned going into a business
8 deal if the Board has inclination to transfer
9 this license which we are going to -- or
10 cancel this license which we seek to have
11 transferred to this new owner.

12 So I mean, it obviously causes us
13 a great deal of concern, so if the Board's
14 position is that this license can't be --
15 can't remain in safekeeping, while this
16 transferee files its application and readies
17 its premises for opening, that's obviously
18 something we are concerned about and want to
19 know about.

20 MEMBER ALBERTI: Okay.
21 Absolutely, Mr. Kline. And my concern is to
22 have some assurance. I mean, I know my

1 questions may have seemed pointed, but my goal
2 here is to have some assurance that this
3 license will be put to use in a reasonable
4 time frame.

5 MR. KLINE: Understood.

6 MEMBER ALBERTI: All right?

7 MR. KLINE: Understood.

8 MEMBER ALBERTI: I don't want just
9 promises that oh, we're going to use it and
10 then three years down the road we find out
11 well, there has been this and this happened
12 and we quickly used it and so we still have a
13 license that is still out there in limbo and
14 not being used.

15 And I need -- we are going to have
16 a transfer. I, as a Board Member, want some
17 assurance that there is a realistic
18 possibility that this is going to be used in
19 a reasonable time frame.

20 MR. KLINE: All right. Well, I
21 mean --

22 MEMBER ALBERTI: Just so you

1 understand where I'm coming from.

2 MR. KLINE: I understand. And
3 what I would offer in response to that is you
4 have two of us who were down here today being
5 paid by respective parties. My party is the
6 prospective transferee. I have represented to
7 you that we will be filing a transfer
8 application within the next two weeks.

9 If we don't file it, then, yes, I
10 think that your concern might be justified.
11 I have also represented to you that it is my
12 belief that the parties will be finalizing a
13 lease agreement. And if that doesn't happen,
14 then again, your concerns might be justified.

15 But in terms of being at ground
16 zero, yes, as part of starting a business
17 transaction, you first have to have a deal and
18 then move forward in terms of filing a
19 transfer application, getting schematics for
20 a building permit. I mean, that would be the
21 normal process.

22 Though we are where we are, and I

1 think that the only thing I can do is try to
2 satisfy you that our transferee is bona fide
3 that -- and that we are going to move forward
4 and that you see we move forward. I mean,
5 that's --

6 MEMBER ALBERTI: And that's all --

7 MR. KLINE: -- the only thing I
8 can do.

9 MEMBER ALBERTI: -- I am asking is
10 that I have some assurance that there really
11 is going to be progress forward.

12 MR. KLINE: Understood.

13 CHAIRPERSON MILLER: I just want
14 to clarify before we adjourn this hearing
15 though that the Board would have everything it
16 needs to evaluate extending safekeeping for
17 six months if that is what the Board thinks it
18 needs to do, at this point.

19 I understand that we are going to
20 get a transfer application. Is there anything
21 else the Board wants, such as the lease
22 agreement or anything like that?

1 MEMBER ALBERTI: Well, that would
2 be part of the lease.

3 CHAIRPERSON MILLER: That's part
4 of the transfer --

5 MEMBER ALBERTI: I believe it's
6 part of the transfer --

7 CHAIRPERSON MILLER: -- agreement?

8 MEMBER ALBERTI: -- application.

9 CHAIRPERSON MILLER: Okay.

10 MR. HURWITZ: Yes, we will have
11 it.

12 CHAIRPERSON MILLER: Okay.

13 MR. HURWITZ: The lease
14 accompanying it.

15 MEMBER ALBERTI: Right.

16 CHAIRPERSON MILLER: Okay.

17 MEMBER ALBERTI: Well, right, for
18 the 18th Street property.

19 MR. HURWITZ: Right.

20 MEMBER ALBERTI: Yes.

21 CHAIRPERSON MILLER: Okay.

22 Anything else?

1 MEMBER ALBERTI: Well --

2 CHAIRPERSON MILLER: Yes?

3 MEMBER ALBERTI: -- I will just
4 tell you that I may want to talk to the owner
5 before we -- about this transfer before we
6 proceed to make a decision. I would like to
7 hear -- because Mr. Kline doesn't really know
8 what -- you don't really have a whole lot of
9 information that you are telling me about what
10 the owner's plans are.

11 MR. KLINE: No, I don't --

12 MEMBER ALBERTI: And I would --

13 MR. KLINE: -- run these places.

14 MEMBER ALBERTI: Pardon?

15 MR. KLINE: I said I don't run
16 these places.

17 MEMBER ALBERTI: Exactly. So
18 that's why I think we might want to have -- at
19 least amongst ourselves discuss whether we
20 need to have a hearing to talk to the owner on
21 this transfer, so that we understand what
22 their goals are.

1 MR. KLINE: I mean, if the Board
2 would prefer some sort of written explanation,
3 I mean, we can certainly provide that if the
4 Board wants to see a report. I mean, whatever
5 is most efficient.

6 MEMBER ALBERTI: You know, I
7 wouldn't -- I don't think -- I think that if
8 had a Fact-Finding it would be very short on
9 the transfer. But that's just my opinion.

10 CHAIRPERSON MILLER: Okay. So we
11 will look at that. So what we will expect is
12 the transfer application and then we will let
13 you know if there is anything else we need.

14 MR. HURWITZ: If there's anything
15 further, we would be happy to submit some --

16 CHAIRPERSON MILLER: Okay.

17 MR. HURWITZ: -- more information.

18 CHAIRPERSON MILLER: All right.

19 Thank you.

20 MR. HURWITZ: Thank you very much.

21 MR. KLINE: Thank you.

22 CHAIRPERSON MILLER: Okay. Okay.

1 Okay. We have already dealt with Case No. 12-
2 AUD-00010, voted on the Motion to Dismiss.

3 So our next case is at 11:00, Baja
4 Fresh. So the Board will recess until 11:00.

5 (Whereupon, the Fact-Finding
6 Hearing in the above-entitled matter was
7 concluded at 10:05 a.m.)

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