

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

Acott Ventures, LLC
t/a Shadow Room
2131 K Street, NW
Retailer CN - ANC-2A
License No. 75871
Case #14-PRO-00033

Protest
Hearing
(Status)

(Petition to Terminate the
Settlement Agreement)

June 11, 2014

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
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

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

(9:36 a.m.)

CHAIRPERSON MILLER: Good morning.

I would like to welcome everyone to the District of Columbia's Alcoholic Beverage Control Board. Today is June 11, 2014.

My name is Ruthanne Miller. I'm the Chairperson. To my far right is Mr. Donald Brooks. Next to Mr. Brooks is Mr. Nick Alberti. And next to Mr. Alberti is Mr. Hector Rodriguez. And on my left is Mr. Mike Silverstein. And next to Mr. Silverstein is Mr. James Short.

We have six Members of the Board in attendance this morning and three constitute a quorum.

Copies of today's hearing calendar and agenda are available at the receptionist desk. Please be aware that these proceedings are being recorded by a court reporter. Accordingly, we must ask you to refrain from any disruptive noises or actions in the

1 hearing room.

2 If you have any electronic
3 devices, pagers, cell phones or such, please,
4 make sure that they are turned off to avoid
5 any interruption of the proceedings.

6 When I call your case, please,
7 come forward and take a seat at one of these
8 tables. You will notice that there is a piece
9 of paper on each table for you to sign-in.
10 This is to ensure the correct spelling of your
11 name for the record.

12 The Open Meetings Act requires
13 that the public hearing on each case be open
14 to the public. The Board may, consistent with
15 Section 405(b) of the Open Meetings Act, enter
16 a closed meeting during or after the public
17 hearing on a case to consult with an attorney
18 to obtain legal advice, discuss settlement
19 agreements or deliberate upon a decision in an
20 adjudication proceeding.

21 Okay. That concludes my general
22 remarks and I'm going to call the first case

1 and that is a Protest Hearing (Status) case.
2 It's Case No. 14-PRO-00033, Shadow Room
3 located at 2131 K Street, N.W., License No.
4 75871, in ANC-2A.

5 And after you have signed in, we
6 will start with introductions for the record
7 starting on the Board's right. Good morning.

8 MR. ACOTT: Hello. Stephen Acott.

9 COURT REPORTER: Sir, could you
10 turn your microphone on?

11 MR. ACOTT: Is it working?
12 Stephen Acott with Acott Ventures, Shadow
13 Room.

14 CHAIRPERSON MILLER: And your
15 position with them is what?

16 MR. ACOTT: Chief Operating
17 Officer.

18 CHAIRPERSON MILLER: Okay. Thank
19 you.

20 MS. HARMON: Hi, Florence Harmon
21 with ANC-2A.

22 CHAIRPERSON MILLER: Okay. Good.

1 So this is a case involving a Petition to
2 Terminate the Settlement Agreement.

3 And are there any issues you want
4 to bring to our attention or let us know how
5 the settlement proceedings are going, efforts?

6 MS. HARMON: I had a procedural
7 issue. When I read Section 25-446 on
8 settlement agreements and process for filing
9 Petition to Terminate an ANC settlement
10 agreement, it says that "Notice of application
11 to amend or terminate a settlement agreement
12 shall be given to both parties, the agreement,
13 and to the public at the time of the
14 applicant's renewal application, according to
15 the renewal procedures required under 25-421
16 and 25-423."

17 So this was not noticed at the
18 time we had our renewal hearing and the
19 language of the -- of this seems to say shall,
20 so I'm wondering how it can be heard at this
21 point.

22 CHAIRPERSON MILLER: Okay. I'm

1 not going to give an answer right now, but I
2 will hear if the licensee has anything they
3 want to say to this. You can either then --
4 well, let me hear what you have to say.

5 MR. ACOTT: Yes. I mean, we filed
6 the application for the termination of the
7 voluntary agreement. I believe it was
8 September or it was when we renewed our
9 license. And then we started a notice to the
10 ANC. We actually appeared in front of the ANC
11 and it was brought up, our VA was being
12 terminated, and I think this was like in
13 October.

14 But when we received our placards
15 to renew our license, we -- I was under the
16 impression also we would receive our Notice to
17 Terminate our voluntary agreement at the same
18 time, but for whatever reason, ABRA never gave
19 that to us. So I actually followed up with
20 ABRA to find out where is my VA placard, so I
21 had to replacard and, you know, subsequently
22 we had to go through this whole process again.

1 proceeding to avoid additional cost to the
2 parties.

3 CHAIRPERSON MILLER: Right.

4 MS. HARMON: And time by the
5 Board, so it can all be considered at the same
6 time. And, you know, we will maintain our
7 procedural objection, but I was wondering if
8 there is any way that the Board or the General
9 Counsel could think of maybe to consolidating
10 the proceedings, so we didn't have to have
11 duplicative proceedings?

12 But anyway, I'll --

13 CHAIRPERSON MILLER: Okay.

14 MS. HARMON: -- just leave that
15 out there.

16 CHAIRPERSON MILLER: Okay. Yeah,
17 I don't want to say too much with respect to
18 it, but it's supposed to work that way. It's
19 more efficient for everyone and why it didn't
20 happen in this case, I don't know. Though,
21 sometimes people can like move that a record
22 be, you know, placed in the new case, so you

1 don't have to -- if you stipulate, so you
2 don't have to do everything again.

3 But that's kind of down the road
4 for you all to work out. But again, we have
5 a very helpful General Counsel, Martha
6 Jenkins, so if you want to bring those issues
7 to her, if it comes to that, I would encourage
8 you to do that.

9 And in the meantime, I don't know
10 where you are in settlement, whether there is
11 anything to report on that? If there isn't,
12 there isn't.

13 MR. ACOTT: Well, I mean, there
14 was an offer that was made that --

15 CHAIRPERSON MILLER: But you can't
16 go into the substance for us, okay, just to
17 warn you.

18 MR. ACOTT: Yes.

19 CHAIRPERSON MILLER: Yes.

20 MR. ACOTT: Yes.

21 CHAIRPERSON MILLER: So it's still
22 on the table? You're still -- I just want to

1 know if you are still trying to settle? Okay.
2 That's all right. All right. So let me, at
3 this point then, leave it at that and give you
4 your Protest Hearing date, in the event that
5 it does go to another hearing, go to a
6 hearing, and that is September 10, 2014 at
7 1:30 p.m.

8 And just with respect to that
9 hearing, I want to put on the record and bring
10 to your attention that you should be receiving
11 a few weeks before that hearing a Protest
12 Information Form and that has to be filled
13 out. In that, you would be identifying your
14 issues and your witnesses and your exhibits.

15 And your witnesses need to be
16 identified specifically by name. We don't
17 want like categories like neighbors are going
18 to testify or something like that. We want
19 the specifics.

20 And the Exhibit Form also has to
21 have accompanying the exhibits. And these
22 have to be served on the opposing party seven

1 days before the date of the hearing and on the
2 Board at the same time.

3 And if it's not filed, it's
4 possible that the petition or the protest
5 could be dismissed. And if we don't receive
6 the exhibits or the opposing party doesn't
7 receive them, they may be excluded from the
8 record upon a finding that the opposing party
9 has been prejudiced or no good cause for
10 failure to submit has been shown.

11 Likewise, with witnesses, they are
12 also subject to exclusion, but not a party,
13 for the same reasons. And these are very
14 important. This information helps the Board
15 narrow the issues and focus the hearing and it
16 also gives each side notice and ability to
17 prepare better for the hearing.

18 So okay, that's that. If you
19 don't have any other questions, then that
20 concludes the status on your case.

21 MR. ACOTT: Thank you.

22 MS. HARMON: Thank you.

1 CHAIRPERSON MILLER: All right.

2 Good luck.

3 MEMBER SHORT: Hearing date?

4 CHAIRPERSON MILLER: Did you have
5 a question?

6 MEMBER SHORT: The hearing date.

7 CHAIRPERSON MILLER: Oh, the
8 hearing date, I gave them September 10th,
9 1:30, yeah, okay. Thank you very much.

10 (Whereupon, the Protest (Status)
11 Hearing in the above-entitled matter was
12 concluded at 9:46 a.m.)

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<p style="text-align: center;">A</p> <p>a.m 2:2 12:12 ability 11:16 above-entitled 12:11 ABRA 6:18,20 accompanying 10:21 Acott 1:5 4:8,8,11 4:12,12,16 6:5 7:18 9:13,18,20 11:21 Act 3:12,15 actions 2:22 additional 7:2 8:1 adjudication 3:20 advice 3:18 agenda 2:18 agreement 1:9 5:2 5:10,11,12 6:7,17 7:17 agreements 3:19 5:8 Alberti 1:17 2:10 2:10 Alcoholic 1:2,12,12 2:5 amend 5:11 ANC 5:9 6:10,10 ANC-2A 1:7 4:4,21 answer 6:1 anyway 8:12 appeared 6:10 applicant's 5:14 application 5:10,14 6:6 attendance 2:15 attention 5:4 10:10 attorney 3:17 available 2:18 avoid 3:4 8:1 aware 2:19</p> <hr/> <p style="text-align: center;">B</p> <p>believe 6:7 better 11:17 Beverage 1:2,12,12</p>	<p>2:5 Board 1:2,12 2:6 2:14 3:14 7:7 8:5 8:8 11:2,14 Board's 4:7 bring 5:4 9:6 10:9 Brooks 1:17 2:9,9 brought 6:11 Building 1:13 burden 7:2</p> <hr/> <p style="text-align: center;">C</p> <p>calendar 2:17 call 3:6,22 case 1:8 3:6,13,17 3:22 4:1,2 5:1 8:20,22 11:20 categories 10:17 cause 11:9 cell 3:3 Chairperson 1:14 1:16 2:3,8 4:14,18 4:22 5:22 7:4,19 8:3,13,16 9:15,19 9:21 12:1,4,7 Chief 4:16 closed 3:16 CN 1:7 COLUMBIA 1:1 Columbia's 2:5 come 3:7 comes 9:7 concluded 12:12 concludes 3:21 11:20 considered 8:5 consistent 3:14 consolidating 8:9 constitute 2:16 consult 3:17 Control 1:2,12,12 2:6 Copies 2:17 correct 3:10 cost 8:1 Counsel 7:11 8:9 9:5 court 2:20 4:9</p>	<p style="text-align: center;">D</p> <p>D.C 1:13 date 10:4 11:1 12:3 12:6,8 days 11:1 decision 3:19 deliberate 3:19 desk 2:19 devices 3:3 discuss 3:18 dismissed 11:5 disruptive 2:22 District 1:1 2:5 Donald 1:17 2:9 duplicative 8:11</p> <hr/> <p style="text-align: center;">E</p> <p>efficient 8:19 efforts 5:5 either 6:3 electronic 3:2 encourage 9:7 ensure 3:10 enter 3:15 event 10:4 excluded 11:7 exclusion 11:12 Exhibit 10:20 exhibits 10:14,21 11:6</p> <hr/> <p style="text-align: center;">F</p> <p>facts 7:8 failure 11:10 far 2:8 file 7:13 filed 6:5 11:3 filing 5:8 filled 10:12 find 6:20 finding 11:8 first 3:22 Florence 4:20 focus 11:15 follow-up 7:11 followed 6:19 Form 10:12,20</p>	<p>forward 3:7 front 6:10</p> <hr/> <p style="text-align: center;">G</p> <p>general 3:21 7:11 8:8 9:5 give 6:1 10:3 given 5:12 gives 11:16 go 6:22 9:16 10:5,5 going 3:22 5:5 6:1 7:14 10:17 good 2:3 4:7,22 11:9 12:2</p> <hr/> <p style="text-align: center;">H</p> <p>happen 7:9 8:20 happened 7:20 Harmon 4:20,20 5:6 7:16,20 8:4,14 11:22 hear 6:2,4 7:6 heard 5:20 hearing 1:6,13 2:17 3:1,13,17 4:1 5:18 7:7 10:4,5,6,9,11 11:1,15,17 12:3,6 12:8,11 Hector 1:18 2:11 Hello 4:8 helpful 9:5 helps 11:14 Hi 4:20</p> <hr/> <p style="text-align: center;">I</p> <p>identified 10:16 identifying 10:13 important 11:14 impression 6:16 information 10:12 11:14 interruption 3:5 introductions 4:6 involving 5:1 issue 5:7 7:6 issues 5:3 9:6 10:14 11:15</p>	<p style="text-align: center;">J</p> <p>James 1:19 2:13 Jenkins 9:6 June 1:11 2:6</p> <hr/> <p style="text-align: center;">K</p> <p>K 1:6 4:3 kind 9:3 know 5:4 6:21 7:1 7:6,12,15 8:6,20 8:22 9:9 10:1</p> <hr/> <p style="text-align: center;">L</p> <p>language 5:19 leave 8:14 10:3 left 2:11 legal 3:18 license 1:7 4:3 6:9 6:15 licensee 6:2 Likewise 11:11 LLC 1:5 located 4:3 luck 12:2</p> <hr/> <p style="text-align: center;">M</p> <p>maintain 8:6 Martha 9:5 matter 1:4 12:11 mean 6:5 7:5,17 9:13 meeting 1:3 3:16 Meetings 3:12,15 Member 1:17,17 1:18,18,19 12:3,6 Members 2:14 met 1:12 microphone 4:10 Mike 1:18 2:11 Miller 1:14,16 2:3 2:7 4:14,18,22 5:22 7:4,19 8:3,13 8:16 9:15,19,21 12:1,4,7 morning 2:3,15 4:7 motion 7:13 move 8:21</p>
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