

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE REGULATION

ADMINISTRATION BOARD

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ROLL CALL HEARING

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 IN THE MATTER OF: :
 :
 Busboys of Takoma, LLC :
 t/a Busboys & Poets :
 235-255 Carroll Street NW :
 License No. ABRA-092008 :
 Retailer CR - new application :
 :
 Case No. 13-PRO-00092 :
 -----X

Monday,
July 1, 2013

ABRA Meeting Room
400 South
2000 14th Street, N.W.
Washington, D.C. 20009

The above-entitled matter convened
at 10:10 a.m. before the District of Columbia

Alcoholic Beverages Regulation Administration
Board.

BEFORE:

La Verne Fletcher, Board Agent

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

2 10:10 a.m.

3 BOARD AGENT FLETCHER: Would the
4 parties in the matter of Busboys & Poets
5 please come forward. The parties in the
6 matter of Busboys & Poets.

7 This is Case No. 13-PRO-00092,
8 Busboys of Takoma LLC t/a Busboys & Poets, 235
9 through 255 Carroll Street, N.W., License No.
10 ABRA-092008. This is a retail CR new
11 application. The protest issues are adverse
12 impact on peace, order and quiet.

13 My name is LaVerne Fletcher and I
14 will be conducting the roll call hearing as
15 the Board's agent pursuant to D.C. Official
16 Code 1601.2. Introduction, beginning with
17 the applicant.

18 MR. O'BRIEN: Stephen O'Brien for
19 the applicant. I'm accompanied by Andy
20 Shallal S-h-a-l-l-a-l, who is the applicant's
21 managing member.

22 BOARD AGENT FLETCHER: Thank you,

1 Mr. O'Brien. And present for the protestants?

2 MS. JONES: Judi Jones, ANC 4B-
3 07, they're going to open in my single member
4 district.

5 BOARD AGENT FLETCHER: Ms. Jones,
6 would you please spell your name for the court
7 reporter.

8 MS. JONES: J-u-d-i first name
9 Judi and last name Jones J-o-n-e-s.

10 BOARD AGENT FLETCHER: Ms. Jones,
11 are you here on behalf of a group of 11
12 protestants?

13 MS. JONES: Yes, I am.

14 BOARD AGENT FLETCHER: All right.
15 And you also signed the protest letter?

16 MS. JONES: Yes ma'am.

17 BOARD AGENT FLETCHER: Are there
18 any other individuals present from your group
19 here today?

20 MS. JONES: No, there are not.

21 BOARD AGENT FLETCHER: Do you
22 have a letter from any individuals in your

1 group designating you as their representative
2 today?

3 MS. JONES: The letter we sent in
4 says ANC 4B-07 will represent all matters
5 pertaining -- the last line of the protest.

6 BOARD AGENT FLETCHER: Okay.
7 Thank you.

8 MR. O'BRIEN: Ms. Fletcher, I
9 don't think that's what it says.

10 BOARD AGENT FLETCHER: On the
11 letter that I have Judi Jones' name is
12 handwritten in, Mr. O'Brien. You may not have
13 this version but it says ANC 4B-07 represents
14 ANC 4B in all matters pertaining to Carroll
15 Street. It actually says it represents ANC
16 4B.

17 MR. O'BRIEN: And that's my
18 point. ANC 4B is not a protestant.

19 BOARD AGENT FLETCHER: That's
20 right. But what would this be Ms. Jones?

21 MS. JONES: Yes, but the people
22 who signed on the back read the letter and

1 understood and we discussed it at a meeting,
2 at a public meeting. And I did write it on
3 the one I submitted, as requested.

4 BOARD AGENT FLETCHER: Okay. For
5 the purpose of the Roll Call Hearing, Ms.
6 Jones, I'm going to allow your group to stand
7 but what you're going to need to do is to
8 provide a letter from each of these
9 individuals designating you as their
10 representative.

11 Your letter states that you are
12 representing ANC 4B which is not a protestant,
13 but I'm going to take your word for the fact
14 that you consulted with these individuals and
15 it was everyone's understanding that you would
16 be the designated representative but that's
17 not what your protest letter says. So you'll
18 need to put that in the record.

19 MS. JONES: I did sign the letter
20 that you have and this was what we discussed
21 at meeting before they signed. And so they
22 signed it knowing that I would be the

1 representative. I called most of them on
2 here, asked them to be here today if they
3 wanted to come, and most of them cannot be
4 here. And so they knew that I was
5 representing and I will get the letter from
6 them.

7 BOARD AGENT FLETCHER: That's
8 fine. It's just that we need -- as of today
9 there is no letter designating you as their
10 representative. The letter that we have
11 designates you as ANC 4B's representative and
12 the letter that I have from you also has the
13 names of these 11 individuals on the back side
14 of the letter. So they signed the letter.

15 MS. JONES: Right.

16 BOARD AGENT FLETCHER: So I'm
17 going to accept that they intended for you to
18 be their representative.

19 MS. JONES: But I'll get it. I'll
20 get that letter.

21 BOARD AGENT FLETCHER: And so
22 when do you think you can have that?

1 MS. JONES: As soon as next
2 Monday.

3 BOARD AGENT FLETCHER: Ms.
4 Fletcher, I really have to protest. This is
5 a marked departure from the Board's practice.

6 BOARD AGENT FLETCHER: Um-hmm.

7 MR. O'BRIEN: The regulation is
8 clear that either protestants, at least five
9 of them, have to be here in person or
10 designate someone in writing as their
11 representative. In writing.

12 BOARD AGENT FLETCHER: Yes.

13 MR. O'BRIEN: And that has not
14 happened.

15 BOARD AGENT FLETCHER: Um-hmm.

16 MR. O'BRIEN: As Ms. Jones said,
17 she invited those who wanted to come to come
18 and no one saw fit to come. The regulation is
19 clear, designation in writing. It hasn't been
20 done. This protest should be dismissed.

21 BOARD AGENT FLETCHER: Do you
22 have a response to that, Ms. Jones?

1 MS. JONES: Yes, I do, because we
2 went over this in my SMD meeting. I have a
3 Single Member District meeting monthly and we
4 went over this in my SMD meeting and I
5 specifically stated what was in the protest
6 letter, what we wanted out of the protest.

7 And they signed it willingly
8 knowing that the last line would represent
9 them.

10 Now I did get some phone calls
11 when the letters were sent out to all of them
12 that did sign this list. And I thought that
13 this last note and the note that I wrote on
14 the paper that you have would suffice because
15 I do represent the community in all of these
16 matters. And they had no problem with that.

17 If I had known that you needed
18 something more specific in writing I would
19 have gotten it, especially when I came down
20 here to submit the protest.

21 MR. O'BRIEN: Ms. Fletcher, the
22 regulation is clear. Designated in writing.

1 That hasn't been done.

2 BOARD AGENT FLETCHER: In light
3 of the fact that the applicant's attorney is
4 opposed to my prior decision, I'm going to
5 dismiss the protest because at least four of
6 the other individuals are not present or
7 represented.

8 But let me read this statement
9 into the record. "The protest letter received
10 by each protestant in paragraph 3 tells each
11 individual you must appear for the Roll Call
12 Hearing in person or provide a written
13 statement designating a representative who
14 much appear for the hearing on your behalf."

15 So that is a requirement that each
16 individual person that filed the protest
17 receives that letter, and because the
18 applicant is opposed I'm not going to grant
19 standing to the --

20 MS. JONES: Madam, when I brought
21 the protest down here she allowed me to write
22 on here that I was the representative for

1 that. And as ANC we are assumed to be
2 representative of the entire community. And
3 all of them called me, they didn't call each
4 other, they called me and asked me about that
5 and as I submitted the protest I stated that
6 I would be representing the community. And as
7 the ANC that's what we're supposed to do.

8 BOARD AGENT FLETCHER: The ANC in
9 this case didn't file a protest but the group
10 of 11 individuals, which includes you, did.

11 But what you'll be able to do Ms.
12 Jones, each individual who filed a protest
13 will receive an order from the ABC Board
14 dismissing the protest because they did not
15 appear today.

16 MS. JONES: That's not fair to
17 them because they would have appeared if I had
18 asked them to.

19 BOARD AGENT FLETCHER: Their
20 protest letter tells them that they must
21 appear.

22 MS. JONES: But they called me in

1 good faith and --

2 BOARD AGENT FLETCHER: I
3 understand.

4 MS. JONES: -- I accepted this
5 responsibility when I brought this down here.

6 BOARD AGENT FLETCHER: I
7 understand.

8 MS. JONES: It doesn't dismiss
9 the issues as well.

10 BOARD AGENT FLETCHER: Okay. But
11 what will happen is each individual will
12 receive an order dismissing the protest and
13 they will have 10 days to seek standing as
14 protestants just explaining to the ABC Board
15 why they weren't present today.

16 The ABC Board has the ability to
17 grant them standing, each of them standing as
18 protestants, so they still have another option
19 beyond today. But because the applicant is
20 opposed to the ruling that you be granted
21 standing, then I'm not going to be able to do
22 it.

1 MS. JONES: And how long will
2 they have to respond to that letter?

3 BOARD AGENT FLETCHER: They have
4 10 days from receipt of the notice to seek
5 standing as protestants from the ABC Board,
6 but the order that they receive will tell them
7 that.

8 MS. JONES: All right. Can they
9 designate someone to represent them in the
10 matter as well?

11 BOARD AGENT FLETCHER: And just
12 FYI, Ms. Jones, the Board meets every
13 Wednesday. They won't be here this Wednesday
14 so they won't be here until July the 10th
15 because of the holiday. So the next
16 Wednesday that the Board will have an
17 opportunity to vote, assuming that each person
18 seeks reinstatement, will be July 10th.

19 If the individuals from your group
20 submit a letter to the ABC Board --

21 MS. JONES: Within that time?

22 BOARD AGENT FLETCHER: Within

1 that time, it will be placed on their July 10
2 agenda.

3 MS. JONES: Very good.

4 BOARD AGENT FLETCHER: And then
5 they can make that submission and the Board
6 will respond to each individual person.

7 MS. JONES: Okay. How can we
8 submit that?

9 BOARD AGENT FLETCHER: In writing
10 and when the order goes out it will indicate
11 on the second page how you go about seeking
12 standing. You'll have 10 days to do it but
13 basically it's just a letter to the ABC Board
14 with each person explaining why they weren't
15 present today. And you've already explained
16 it on the record but they just need to put it
17 in writing.

18 MS. JONES: Each person has to
19 explain why they didn't appear?

20 BOARD AGENT FLETCHER: Yes. Each
21 person will need to seek standing as
22 protestants. Now what you can do, there's a

1 requirement that at least five individuals
2 file a protest in order to be granted
3 standing. If your group would prefer, five
4 of them can seek standing as protestants.

5 MS. JONES: That means they would
6 have to show?

7 BOARD AGENT FLETCHER: No, they
8 need to send in that letter first asking the
9 Board for standing. You're going to get an
10 order dismissing the protest, they'll get an
11 order dismissing the protest because they were
12 not here today. And from the point that they
13 receive that order they'll have 10 days to ask
14 the Board for standing as protestants.

15 MS. JONES: Okay. All right.

16 BOARD AGENT FLETCHER: And then
17 the Board will make a ruling and each person
18 will be informed of the Board's decision.

19 MS. JONES: All right.

20 BOARD AGENT FLETCHER: Ms. Jones,
21 is your contact information on that sheet?
22 There's a sign-in sheet over there.

1 MS. JONES: Yes.

2 BOARD AGENT FLETCHER: Okay.

3 Thank you very much.

4 MR. O'BRIEN: Would the agent
5 remind Ms. Jones that anything submitted has
6 to be copied to me.

7 BOARD AGENT FLETCHER: Yes. Each
8 protestant will need to provide a copy of its
9 request for standing to Mr. O'Brien because
10 the applicant has an opportunity to respond if
11 there's a question for standing.

12 MS. JONES: And with all due
13 respect he has a copy of this. And he has
14 refused to acknowledge it, but he has a copy
15 of this.

16 BOARD AGENT FLETCHER: He'll need
17 a copy of the request that they submit seeking
18 standing. He'll need a copy of the request
19 that they submit seeking standing.

20 MS. JONES: All right. Thank
21 you.

22 BOARD AGENT FLETCHER: Okay.

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MR. O'BRIEN: Thank you.

BOARD AGENT FLETCHER: Thank you
very much. The Roll Call Hearing is
concluded.

(Whereupon, the hearing in the
above-entitled matter having been concluded,
went off the record at 10:20 a.m.)

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