

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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Case# 12-CMP-00456 :

Mama Chuy DC, Inc. :

t/a Mama Chuy : Show

2620 Georgia Avenue, NW : Cause

License #86892 : Hearing

Retailer CR :

ANC-1B :

Failed to File Quarterly :

Statements (1st Quarter 2012) :

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July 10, 2013

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

PRESENT

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD BROOKS, Member

MIKE SILVERSTEIN, Member

HERMAN JONES, Member

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

1:36 p.m.

CHAIRPERSON MILLER: Good

afternoon, everybody. I am going to call the first case on this afternoon's calendar. We have two cases on the calendar this afternoon. The first case is Case No. 12-CMP-00456, Mama Chuy, located at 2620 Georgia Avenue, N.W., License No. 86892 in ANC-1B.

If you could have a seat at the table and introduce yourselves for the record and sign in.

MR. ADAMS: Madam Chair and members of the Board, I'm Walter Adams. I represent the District of Columbia.

CHAIRPERSON MILLER: Good afternoon.

MR. OROZCO: My name is Jose Orozco, President of Mama Chuy.

CHAIRPERSON MILLER: Okay. So we are here for a show-cause hearing. Are there any preliminary matters?

1 MR. ADAMS: There is a preliminary  
2 matter, Madam Chair.

3 CHAIRPERSON MILLER: Okay.

4 MR. ADAMS: The parties would like  
5 to make an offer of compromise to the Board to  
6 solve this case and possibly settle another  
7 case.

8 In this case there is a single  
9 charge for the establishment failing to file  
10 in a timely manner a quarterly statement for  
11 the 1st quarter of 2012. What we would like  
12 to do -- sorry.

13 What we would like to do is  
14 frankly as far as this offer of compromise to  
15 resolve this matter along with a case that was  
16 done afterwards which is for the same  
17 establishment which is Case 12-CMP-00568 which  
18 is for a late quarterly statement for the  
19 second quarter of 2012. The District can  
20 provide an explanation.

21 For the resolution of the current  
22 case, which is 12-CMP-00456, the District

1 proposes a fine, since this would be a first-  
2 time violation, of \$350 to resolve that  
3 matter.

4 As part of this compromise that  
5 Orozco as agreed to, he would like to also  
6 resolve the second case also as a first-time  
7 violation for the second case for a fine of  
8 \$500. In this case it would be a total fine  
9 of \$850 to be paid within 60 days.

10 From speak with the owner we  
11 believe there is a bit of a special  
12 circumstance that would merit it being  
13 combined in this fashion as a first-time  
14 offense. This establishment did have its  
15 license. However, at the time they made the  
16 violation, the establishment had not opened  
17 for operation and, therefore, had no revenue  
18 on the books.

19 According to Mr. Orozco, who can  
20 probably explain this better than I can, he  
21 felt that he wasn't aware that he had to file  
22 a quarterly statement considering his

1 establishment was not open and operating at  
2 the time.

3 Since this all occurred at the  
4 very beginning of him having a license, we  
5 thought that there is some equity to allow it  
6 to be handled as a first-time offense. Again,  
7 our suggestion is that we combine the cases  
8 and that it's an \$850 -- sorry, \$350 fine for  
9 the first case and a \$500 fine for the second  
10 case for a total fine of \$850 to be paid  
11 within 60 days.

12 CHAIRPERSON MILLER: What is the  
13 status of the other case? Is it scheduled for  
14 a show cause hearing?

15 MR. ADAMS: The other case has  
16 been noticed. Sorry, in the other case a  
17 notice has been submitted and a status hearing  
18 has been scheduled for August 7, 2013 for a  
19 status hearing.

20 CHAIRPERSON MILLER: Okay.

21 MR. ADAMS: And for October 9,  
22 2013 for a show cause hearing.

1 CHAIRPERSON MILLER: What is the  
2 number on that one again?

3 MR. ADAMS: It's 12-CMP-00568.

4 CHAIRPERSON MILLER: 568?

5 MR. ADAMS: Yes, Madam Chair.

6 CHAIRPERSON MILLER: Okay. Well,  
7 before we ask any questions other than those  
8 preliminary ones, Mr. Orozco -- is that how  
9 you pronounce it?

10 MR. OROZCO: Yes.

11 CHAIRPERSON MILLER: Do you want  
12 to address this? Do you agree to this offer  
13 and compromise that Mr. Adams has presented?

14 MR. OROZCO: I do agree to it  
15 understanding now how the system works. I  
16 initially was under the impression after  
17 speaking to the officer that brought in the  
18 notice that we would get the opportunity to  
19 ask for a hearing so I sent it in and  
20 requested a hearing. I didn't realize that by  
21 requesting the hearing I automatically would  
22 incur a higher fine than I would have had I

1 sent the initial \$250 in.

2 If I would have known that, I  
3 would have just paid the \$250 right off the  
4 bat rather than risking knowing that coming in  
5 I'm going to lose more anyhow. It was a  
6 misunderstanding in what the officer explained  
7 to me but I accept that if these are the  
8 circumstances then, yes, I accept that.

9 I would also like to note that, as  
10 he stated, we did have our license. We didn't  
11 open initially as we expected as a lot of  
12 places do. I was initially from Chicago. I  
13 didn't realize all the things that I needed to  
14 get done to open up the establishment.

15 We opened up almost a year after  
16 we initially thought we would open. I didn't  
17 realize that we needed to file the quarterly  
18 statements. When I realize, I did send them  
19 back immediately. That pretty much states the  
20 facts.

21 CHAIRPERSON MILLER: We don't want  
22 to hear your case necessarily.

1 MR. OROZCO: Okay.

2 CHAIRPERSON MILLER: But I do want  
3 to somewhat respond to what you said, about if  
4 you knew that the fee was going to go higher.  
5 I mean, it may be the fee or the penalty that  
6 the Attorney General, or Assistant Attorney  
7 General, is asking would go higher but I just  
8 want to say that it's possible if you had a  
9 hearing and we found you were innocent or  
10 whatever that the fee could go lower.

11 I don't want you to be under a  
12 misimpression that it's definitely going to be  
13 a certain number when you haven't had a  
14 hearing.

15 MR. OROZCO: Okay. I guess,  
16 hearing that, I think I would like to request  
17 a hearing if that is still an option.

18 CHAIRPERSON MILLER: I mean, you  
19 know, the other side is --

20 MR. OROZCO: I could lose more.

21 CHAIRPERSON MILLER: Yeah, you  
22 could lose more. Right. Exactly. You could

1       lose more.

2                   MR. OROZCO:  Let me just pay it  
3       off.  We'll put it in the past.  I will accept  
4       the agreement and pay.

5                   CHAIRPERSON MILLER:  I'm sorry.  
6       Wait.

7                   MEMBER ALBERTI:  Can I confirm  
8       what he just said?

9                   CHAIRPERSON MILLER:  You just said  
10       you would accept a hearing and pay?

11                   MR. OROZCO:  I will accept the  
12       agreement.

13                   CHAIRPERSON MILLER:  Oh, the  
14       agreement.  Okay.

15                   Do other Board Members have  
16       questions?  Okay.

17                   You understand by accepting an  
18       agreement you waive your right to a hearing.  
19       Correct?

20                   MR. OROZCO:  I do.

21                   CHAIRPERSON MILLER:  What I am  
22       hearing then is that there is an offer in

1       compromise of \$850 to be paid within 60 days  
2       as penalty for two cases; 00456, \$350 and  
3       00568, \$500 totally \$850 to be paid within 60  
4       days.

5                   MR. ADAMS: With the idea that it  
6       will be considered a first offense.

7                   CHAIRPERSON MILLER: Oh, and that  
8       they treated as first.

9                   MR. ADAMS: Yes, Madam Chair.

10                  MEMBER ALBERTI: They would  
11       anyway.

12                  MEMBER JONES: Just for  
13       clarification purposes, it would be two  
14       secondary offenses as part of this licensee's  
15       record going forward, or are you saying they  
16       would be consolidated into a single secondary  
17       offense?

18                  MR. ADAMS: As part of the offer  
19       in compromise, and I apologize for that  
20       articulating it more clearly, the District is  
21       proposing or moving that the two cases be  
22       consolidated as a single case.

1 CHAIRPERSON MILLER: Okay.

2 MEMBER JONES: I would like to  
3 request a recess to consult legal regarding  
4 this matter.

5 CHAIRPERSON MILLER: Okay. That's  
6 a little different situation.

7 Okay. There's been a request that  
8 the Board go into closed session just to  
9 consider this request in that it is different  
10 in the sense that we are being asked to  
11 consolidate two cases and treat them as one.

12 And there has been a request to  
13 confer with counsel on that issue before we  
14 make a decision. I'm going to read the  
15 instructions and have the Board take a vote on  
16 going into closed session.

17 As Chairperson for the Alcoholic  
18 Beverage Control Board for the District of  
19 Columbia and in accordance with Section 405 of  
20 the Open Meetings Amendment Act of 2010, I  
21 move that the Board hold a closed meeting for  
22 the purpose of seeking legal advice from our

1 counsel on Case No. 12-CMP-00456. Is there a  
2 second?

3 MEMBER BROOKS: Second.

4 CHAIRPERSON MILLER: Mr. Brooks  
5 has seconded the motion. All those in favor  
6 say aye.

7 BOARD MEMBERS: Aye.

8 CHAIRPERSON MILLER: All those  
9 opposed? Those abstaining? The motion passes  
10 5-0-0. I hereby give notice that the ABC  
11 Board will hold a closed meeting in the ABC  
12 Board conference room now just to confer with  
13 counsel on this issue and we will return very  
14 shortly and proceed then.

15 (Whereupon, at 1:48 p.m. off the  
16 record until 1:57 p.m.)

17 CHAIRPERSON MILLER: Okay. We're  
18 back on the record. The Board has returned  
19 from conferring with counsel with respect to  
20 the offer in compromise that was presented to  
21 the Board for consideration.

22 I am going to move that -- well,

1 I'm going to move that we deny this offer in  
2 compromise which was for consolidating two  
3 cases dealing with failure to file quarterly  
4 statements with a penalty of \$850 due within  
5 60 days.

6 Do I have a second?

7 MEMBER JONES: Second.

8 CHAIRPERSON MILLER: Any comments  
9 on this? All those in favor say aye.

10 BOARD MEMBERS: Aye.

11 CHAIRPERSON MILLER: All those  
12 opposed? All those abstaining? The vote is  
13 5-0-0.

14 MR. ADAMS: Madam Chair, we would  
15 like to amend the offer in compromise. As  
16 stated, we would like to -- essentially we  
17 would like to offer for consideration the same  
18 terms as the offer in compromise with the only  
19 exception that the cases will not be  
20 consolidated, that they remain separate.

21 It will be a first secondary tier  
22 offense and a second secondary tier offense.

1 Again, it would be for the first case a \$350  
2 fine and in the second case a \$500 fine with  
3 a combined fine of \$850 to be paid within 60  
4 days as separate cases.

5 CHAIRPERSON MILLER: Okay. Before  
6 the Board considers that, I want to ask the  
7 licensee whether that is something that the  
8 licensee agrees to. Does anybody have a  
9 motion on this?

10 MEMBER ALBERTI: I don't think we  
11 have a choice.

12 CHAIRPERSON MILLER: We have a  
13 choice.

14 MEMBER SILVERSTEIN: Madam Chair,  
15 I move that we accept the offer in compromise  
16 as stated.

17 MEMBER JONES: I'll second it.

18 CHAIRPERSON MILLER: Are there any  
19 comments on that?

20 MEMBER ALBERTI: I will just --

21 Mr. Orozco, I guess my hesitancy  
22 here is driven by your honesty. Okay? I'm

1 impressed that you are so willing to admit to  
2 your mistake and accept the consequences.

3 MR. OROZCO: It was my mistake.

4 MEMBER ALBERTI: Pardon?

5 MR. OROZCO: It was my mistake.

6 MEMBER ALBERTI: I'll just leave  
7 it at that. I am impressed by that.

8 MR. OROZCO: Thank you, sir.

9 MEMBER ALBERTI: It makes it hard  
10 for me to give you a fine but it is what it is  
11 and I will accept the offer in compromise.  
12 Thank you. I trust that you are going to be  
13 a great business person.

14 MR. OROZCO: Thank you. I  
15 appreciate it.

16 CHAIRPERSON MILLER: We're in the  
17 middle of a vote still. Are there other  
18 comments?

19 Yes, Mr. Silverstein.

20 MEMBER SILVERSTEIN: I would like  
21 to associate myself with my colleague and  
22 friend Mr. Alberti's remarks. I think this is

1 harsh. I think it's unfortunate because  
2 you're an honest man who simply did not  
3 understand that you are required to do this  
4 even though you were not in business at the  
5 time. I certainly would be willing to accept  
6 less and I wish you well.

7 MR. OROZCO: I appreciate it very  
8 much.

9 CHAIRPERSON MILLER: We haven't  
10 voted on this yet. Do we think it's too high?

11 MEMBER SILVERSTEIN: Let's get it  
12 over with.

13 CHAIRPERSON MILLER: All right.  
14 So there is a motion to accept the offer in  
15 compromise of \$350 for Case No. 00456 and \$500  
16 for Case No. 00568 totally \$850 to be paid  
17 within 60 days.

18 All those in favor say aye.

19 BOARD MEMBERS: Aye.

20 CHAIRPERSON MILLER: All those  
21 opposed? All those abstaining? Then the vote  
22 is 4-1-0. The offer in compromise is

1       accepted. We'll sign that order and that  
2       takes care of those two cases.

3                       MEMBER ALBERTI: Thank you for  
4       coming.

5                       MR. OROZCO: Thank you.

6                       (Whereupon, at 2:02 p.m. the  
7       hearing was adjourned.)

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