

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
: :
Pennsylvania Rail, Inc. :
t/a Remington's : Show
639 Pennsylvania Avenue, S.E.: Cause
Retailer CN : Hearing
License No. 9238 : (Status)
ANC 6B :
Noise Violation, No ABC :
Manager on Duty :
Case No. 13-CMP-00129 :
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July 17, 2013

The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street N.W., Washington, D.C., Chairperson

Ruthanne Miller presiding.

PRESENT:

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

MICHAEL SILVERSTEIN, Member

ALSO PRESENT:

AMY SCHMIDT, OAG

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

10:10 a.m.

CHAIRPERSON MILLER: Okay. The next case on the calendar also concerns Remington's. It is Case Number 13-CMP-00129.

Mr. O'Brien, did your client receive notice of this hearing?

MR. O'BRIEN: Yes, has reviewed it and waives a formal reading of it.

CHAIRPERSON MILLER: Okay.

MR. O'BRIEN: I'll let Counsel speak.

CHAIRPERSON MILLER: Are there preliminary matters?

MS. SCHMIDT: Yes, there's an offer in compromise to pay a total \$4,000, \$2,000 for charge 1 and \$2,000 for charge 2. They are asking for it to be paid in two installments. The first on August 15th. The second on September 15th.

MR. O'BRIEN: How much? What was it again? What was the question.

1 CHAIRPERSON MILLER: The offer in
2 compromise is a total of \$4,000 for the two
3 charges, \$2,000 per charge, but they're asking
4 to pay in installments. One on August 15th
5 and one on September 15th.

6 MS. SCHMIDT: I explained to Mr.
7 O'Brien this is not our usual procedure
8 however.

9 MR. O'BRIEN: We're taking into
10 consideration that they're paying within seven
11 days \$2,000 from the previous case. So, when
12 you amalgamate these two cases, you're talking
13 about \$6,000.

14 CHAIRPERSON MILLER: Yes, Mr.
15 Alberti.

16 MEMBER ALBERTI: Yes, I'm taking a
17 risk here because we shouldn't be talking
18 about OICs, but I will tell you that I am
19 amenable to an OIC that would have a payment
20 on September 15th.

21 MS. SCHMIDT: That's what I was
22 going to recommend and I did explain it to Mr.

1 O'Brien.

2 MEMBER ALBERTI: Well, then I'll
3 let you have the floor then, Ms. Schmidt.

4 MS. SCHMIDT: Thanks. I was
5 recommending.

6 MR. O'BRIEN: All right. A \$4,000
7 fine, 2,000 per count payable on September
8 15th and I'd ask the Board to take into
9 consideration with respect to the deferred
10 payment on the case.

11 MEMBER ALBERTI: Well, it is what
12 it is.

13 MR. O'BRIEN: It is what it is.
14 Right.

15 In the Board's considering this,
16 this is unfortunately an amalgamation of
17 secondaries which have become primary and the
18 client understands that.

19 I don't believe any of these noise
20 complaints have been heard. We're not aware
21 they have in the last several months. The
22 client has spent a considerable amount of

1 money to soundproof the premises and we're
2 very optimistic that this matter will not be
3 before the Board again.

4 CHAIRPERSON MILLER: Okay. Any
5 other questions? Okay.

6 All right. Then I would move that
7 the Board approve the offer in compromise.
8 So, it's \$4,000 total for the two charges.
9 They break down \$2,000 each and the total of
10 \$4,000 would be paid by September 15th, 2013.

11 Is that a second?

12 MEMBER BROOKS: Second.

13 CHAIRPERSON MILLER: Mr. Brooks
14 has seconded the motion. All those in favor
15 say aye.

16 (Ayes.)

17 CHAIRPERSON MILLER: All those
18 opposed? All those abstaining? Then the
19 motion passes 4-0-0.

20 MEMBER ALBERTI: Ms. Miller.

21 CHAIRPERSON MILLER: Yes.

22 MEMBER ALBERTI: I have another

1 topic I'd like for you to --

2 CHAIRPERSON MILLER: Okay.

3 MEMBER ALBERTI: Mr. O'Brien, now
4 that we've finished with this topic, I'm not
5 sure if you're aware. Mr. Bogaev, I'm sure
6 you remember you were here about six months
7 ago and we talked about your C of O. Do you
8 remember that?

9 MR. BOGAEV: C of O, yes.

10 MEMBER ALBERTI: There is an issue
11 here. I mean I just looked in your record.
12 Your C of O still reflects that your
13 restaurant has a total of 72 people, 40 on the
14 first floor and 32 on the second.

15 I think it arises from the fact
16 that part of your establishment may not be
17 correctly licensed with DCRA. I know this
18 goes way back. We've discussed this before.

19 MR. BOGAEV: It does. Yes, I
20 hired an architecture firm.

21 MEMBER ALBERTI: Okay.

22 MR. BOGAEV: He was trying -- they

1 were trying to get it done administratively.
2 The C of O for the old side, 637, somehow
3 vanished within the city stuff and it was
4 never added when they made an opening between
5 two buildings. So, what they're going to do
6 now is they're going to do drawings and start
7 from the get-go again to -- to have the
8 inspectors come out and work on the --

9 MEMBER ALBERTI: So, what is your
10 expected timetable on that?

11 MR. BOGAEV: He should have the
12 drawings like within a couple of days and he's
13 not sure. He said two to eight months
14 possibly to get it all done and all the people
15 coming in to inspect everything.

16 MEMBER ALBERTI: Okay.

17 MR. O'BRIEN: I do know that
18 Michael Fonseca in our office has been
19 involved with this.

20 MEMBER ALBERTI: Yes.

21 MR. O'BRIEN: Michael's on
22 vacation.

1 MEMBER ALBERTI: Okay.

2 MR. O'BRIEN: That's why I'm here.
3 I don't know the status of it, but I know that
4 there's something going on.

5 MEMBER ALBERTI: All right. All
6 right. Just it's -- I'm doing this just as a
7 reminder to tell you that it is on the Board's
8 radar. I mean -- and it's for your own best
9 interest. I don't want six months from now
10 someone -- an inspector -- an investigator
11 coming in, finding 150 people which -- or 100
12 people in your establishment and charging you
13 with a violation.

14 I just -- you know, you don't want
15 that to happen. We don't want that to happen.
16 We know that you really believe that, you
17 know, you have the use of the entire
18 premises.

19 So, it's in your best interest to
20 get this straightened out.

21 MR. BOGAEV: Trying to get it
22 straight.

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MEMBER ALBERTI: Okay.

MR. BOGAEV: Very time consuming.

MEMBER ALBERTI: Okay. Thank you.

Thanks.

CHAIRPERSON MILLER: Okay. Thank

you very much.

(Whereupon, at 10:19 a.m., the
hearing was adjourned.)

A	C	E	K	Okay
ABC 1:10	C 6:7,9,12 7:2	eight 7:13	know 6:17 7:17 8:3	6:2,21 7:16 8:1
abstaining 5:18	calendar 2:4	entire 8:17	8:3,14,16,17	9:1,3,5
added 7:4	case 1:11 2:4,5 3:11	establishment 6:16		old 7:2
adjourned 9:8	4:10	8:12	L	opening 7:4
administratively	cases 3:12	expected 7:10	License 1:9	opposed 5:18
7:1	Cause 1:8	explain 3:22	licensed 6:17	optimistic 5:2
ago 6:7	Chairperson 1:15	explained 3:6	looked 6:11	O'Brien 2:6,8,11
Alberti 1:19 3:15	1:18 2:3,10,13 3:1			2:21 3:7,9 4:1,6
3:16 4:2,11 5:20	3:14 5:4,13,17,21	F	M	4:13 6:3 7:17,21
5:22 6:3,10,21 7:9	6:2 9:5	fact 6:15	Manager 1:10	8:2
7:16,20 8:1,5 9:1	charge 2:17,17 3:3	favor 5:14	matter 1:5 5:2	P
9:3	charges 3:3 5:8	finding 8:11	matters 2:14	paid 2:18 5:10
Alcoholic 1:2,14,14	charging 8:12	fine 4:7	mean 6:11 8:8	part 6:16
amalgamate 3:12	city 7:3	finished 6:4	MEETING 1:3	passes 5:19
amalgamation 4:16	client 2:6 4:18,22	firm 6:20	Member 1:19,19	pay 2:16 3:4
amenable 3:19	CN 1:8	first 2:19 6:14	1:20 3:16 4:2,11	payable 4:7
amount 4:22	COLUMBIA 1:1	floor 4:3 6:14	5:12,20,22 6:3,10	paying 3:10
AMY 1:23	come 7:8	Fonseca 7:18	6:21 7:9,16,20 8:1	payment 3:19 4:10
ANC 1:9	coming 7:15 8:11	formal 2:9	8:5 9:1,3	Pennsylvania 1:6,8
approve 5:7	complaints 4:20		met 1:14	people 6:13 7:14
architecture 6:20	compromise 2:16	G	Michael 1:20 7:18	8:11,12
arises 6:15	3:2 5:7	get-go 7:7	Michael's 7:21	possibly 7:14
asking 2:18 3:3	concerns 2:4	goes 6:18	Miller 1:16,18 2:3	preliminary 2:14
August 2:19 3:4	considerable 4:22	going 3:22 7:5,6	2:10,13 3:1,14 5:4	premises 5:1 8:18
Avenue 1:8	consideration 3:10	8:4	5:13,17,20,21 6:2	PRESENT 1:17,22
aware 4:20 6:5	4:9		9:5	presiding 1:16
aye 5:15	considering 4:15	H	money 5:1	previous 3:11
Ayes 5:16	consuming 9:2	happen 8:15,15	months 4:21 6:6	primary 4:17
a.m 2:2 9:7	Control 1:2,14,14	heard 4:20	7:13 8:9	procedure 3:7
	correctly 6:17	hearing 1:8,15 2:7	motion 5:14,19	P-R-O-C-E-E-D-...
	Counsel 2:11	9:8	move 5:6	2:1
	count 4:7	hired 6:20		Q
B	couple 7:12		N	question 2:22
back 6:18		I	never 7:4	questions 5:5
believe 4:19 8:16	D	inspect 7:15	NICK 1:19	
best 8:8,19	days 3:11 7:12	inspector 8:10	noise 1:10 4:19	R
Beverage 1:2,14,14	DCRA 6:17	inspectors 7:8	notice 2:7	radar 8:8
Board 1:2,14 4:8	deferred 4:9	installments 2:19	Number 2:5	Rail 1:6
5:3,7	discussed 6:18	3:4	N.W 1:15	reading 2:9
Board's 4:15 8:7	DISTRICT 1:1	interest 8:9,19		really 8:16
Bogaev 6:5,9,19,22	doing 8:6	investigator 8:10	O	receive 2:7
7:11 8:21 9:2	DONALD 1:19	involved 7:19	O 6:7,9,12 7:2	recommend 3:22
break 5:9	drawings 7:6,12	issue 6:10	OAG 1:23	recommending 4:5
Brooks 1:19 5:12	Duty 1:10		offer 2:16 3:1 5:7	record 6:11
5:13	D.C 1:15	J	office 7:18	Reeves 1:15
Building 1:15		July 1:13	OIC 3:19	
buildings 7:5			OICs 3:18	

reflects 6:12	Thanks 4:4 9:4	13-CMP-00129		
remember 6:6,8	think 6:15	1:11 2:5		
reminder 8:7	time 9:2	14th 1:15		
Remington's 1:7	timetable 7:10	15th 2:19,20 3:4,5		
2:5	topic 6:1,4	3:20 4:8 5:10		
respect 4:9	total 2:16 3:2 5:8,9	150 8:11		
restaurant 6:13	6:13	17 1:13		
Retailer 1:8	trying 6:22 7:1			
reviewed 2:8	8:21	<hr/> 2 <hr/>		
right 4:6,14 5:6 8:5	two 2:18 3:2,12 5:8	2 2:17		
8:6	7:5,13	2,000 4:7		
risk 3:17	t/a 1:7	2000 1:15		
Room 1:15	<hr/> U <hr/>	2013 1:13 5:10		
Ruthanne 1:16,18		<hr/> 3 <hr/>		
<hr/> S <hr/>	understands 4:18	32 6:14		
Schmidt 1:23 2:15	unfortunately 4:16	<hr/> 4 <hr/>		
3:6,21 4:3,4	use 8:17	4-0-0 5:19		
second 2:20 5:11	usual 3:7	40 6:13		
5:12 6:14	<hr/> V <hr/>	<hr/> 6 <hr/>		
secondaries 4:17	vacation 7:22	6B 1:9		
seconded 5:14	vanished 7:3	637 7:2		
September 2:20	violation 1:10 8:13	639 1:8		
3:5,20 4:7 5:10	<hr/> W <hr/>	<hr/> 7 <hr/>		
seven 3:10	waives 2:9	72 6:13		
Show 1:7	want 8:9,14,15	<hr/> 9 <hr/>		
side 7:2	Washington 1:15	9238 1:9		
SILVERSTEIN	way 6:18			
1:20	we're 3:9 4:20 5:1			
six 6:6 8:9	we've 6:4,18			
soundproof 5:1	work 7:8			
speak 2:12	<hr/> P <hr/>			
spent 4:22	p 1:5,12			
start 7:6	<hr/> \$ <hr/>			
status 1:9 8:3	\$2,000 2:17,17 3:3			
straight 8:22	3:11 5:9			
straightened 8:20	\$4,000 2:16 3:2 4:6			
Street 1:15	5:8,10			
stuff 7:3	\$6,000 3:13			
sure 6:5,5 7:13	<hr/> 1 <hr/>			
S.E 1:8	1 2:17			
<hr/> T <hr/>	10:10 2:2			
take 4:8	10:19 9:7			
talked 6:7	100 8:11			
talking 3:12,17				
tell 3:18 8:7				
Thank 9:3,5				