

DISTRICT OF COLUMBIA
+ + + + +
ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

p-----»
IN THE MATTER OF: :
 :
Astede Corporation :
t/a Nile Market & Kitchen :
7815 Georgia Avenue, N.W. : Show
Retailer CR : Cause
License No. 60432 : Hearing
ANC 4B :
Failed to Maintain Books and :
Records :
Case No. 13-AUD-00003 :
p-----¼

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

HERMAN JONES, Member
MICHAEL SILVERSTEIN, Member

ALSO PRESENT:

CHRISSY GEPHARDT, OAG

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

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

1:39 p.m.

CHAIRPERSON MILLER: Okay. We are back on the record for this afternoon's hearings and the first case in the afternoon is Case Number 13-AUD-00003, Nile Market & Kitchen located at 7815 Georgia Avenue, N.W., License Number 60432 in ANC 4B.

Good afternoon.

MS. GEPHARDT: Good afternoon. This is Chrissy Gephardt on behalf of the Office of the Attorney General.

CHAIRPERSON MILLER: Sir.

MR. MAKONDEN: Retta Makonden from Nile Market.

CHAIRPERSON MILLER: Okay. Yes, and if you would sign in.

So, this is a show cause hearing. Are there any preliminary matters?

MS. GEPHARDT: Yes, there is a preliminary matter. The parties have agreed on an offer in compromise that we'd like to

1 present to the Board today.

2 In this case, the parties have
3 agreed to a \$1500 fine to be paid within 60
4 days.

5 CHAIRPERSON MILLER: Okay. I want
6 to ask you, sir, whether this is, in fact,
7 what you had agreed to? A \$1500 penalty to be
8 paid within 60 days.

9 MR. MAKONDEN: Yes, it is.

10 CHAIRPERSON MILLER: Okay. And
11 you understand that you waive your right to a
12 hearing. All right.

13 Any questions by Board Members?

14 MEMBER ALBERTI: I do.

15 CHAIRPERSON MILLER: Okay.

16 MEMBER ALBERTI: Sir, I mean
17 before I can consider this, I -- sir, before
18 I consider this, I'm going -- going forward
19 from this date, have you started keeping the
20 appropriate records and do you understand what
21 those are?

22 MR. MAKONDEN: Yes, I understand.

1 We -- we were trying to borrow some money and
2 update our computer system and -- and right
3 now, yes, we're trying to do just that.

4 MEMBER ALBERTI: You're trying to
5 what?

6 MR. MAKONDEN: We're trying to get
7 some money, borrow some money, upgrade the
8 software in the computer that we have so we
9 can keep track on what we're doing.

10 MEMBER ALBERTI: Okay. And what's
11 your schedule for that?

12 MR. MAKONDEN: We should be able
13 to finish everything by September unless we
14 find someone to buy the place.

15 MEMBER ALBERTI: Well, I encourage
16 you to do that with all due diligence and
17 speed. Thank you.

18 CHAIRPERSON MILLER: Mr. Jones.

19 MEMBER JONES: I'm sorry. To be
20 clear, so, as it currently stands, you do not
21 have three years of records in your
22 establishment or you do?

1 MR. MAKONDEN: I do. We have it,
2 but it's just not what the Board or the
3 inspections wanted it. I brought everything
4 I have, but they didn't see any of it. They
5 just assumed that I don't have any information
6 for them to look at. So, I turn around and
7 went back.

8 So, we -- we are a very small
9 restaurant. We don't make any money. So, we
10 can't really afford to do the accounting or
11 hire someone to do that for us. So, whatever
12 documents, the information that I have for the
13 last almost ten years, I brought it, but it
14 was not good enough for the -- them to see it.
15 So, I have the receipt. I have it retained,
16 but they -- they didn't see any of it.

17 They told me -- they just assume
18 that I don't have enough information.

19 MEMBER JONES: Okay. So, you're
20 saying today right now you have three years
21 worth of books and records in your
22 establishment?

1 MR. MAKONDEN: Well, not the way
2 they wanted it. Some of the receipt I don't
3 have, but the -- all the invoices that we
4 purchased, the liquors and the food and all
5 that stuff, we have it. Yes. It's just not
6 documented the way -- the way ABRA wants it to
7 be documented. We don't have a good computer
8 system keeping track, but we -- we're going to
9 change that.

10 MEMBER JONES: Okay.

11 CHAIRPERSON MILLER: Mr. Brooks.

12 MEMBER BROOKS: Yes, just a
13 question.

14 How do you know you have three
15 years of records?

16 MR. MAKONDEN: How do I know I
17 have?

18 MEMBER BROOKS: Yes.

19 MR. MAKONDEN: Well, I -- I kept
20 them. That's how I know.

21 MEMBER BROOKS: Okay. So, you
22 have them divided in year one, year two, year

1 three?

2 MR. MAKONDEN: Yes, we filed and
3 then everything -- we filed the -- the -- with
4 D.C. Government the written quality report.
5 They don't list that we have it. Yes.

6 MEMBER BROOKS: Okay.

7 MR. MAKONDEN: We just don't have
8 detailed receipt like a customer's receipt or,
9 you know, that sort of thing in a computer
10 printout. We don't have a good decent
11 computer to do that.

12 MEMBER BROOKS: Okay.

13 MR. MAKONDEN: But, normally, what
14 I could do is -- is -- I -- I did what I could
15 and I -- I have everything. I submit
16 everything. I try to bring in everything, but
17 it's just not the way it was documented
18 professionally is what I'm saying.

19 MEMBER BROOKS: Okay.

20 MR. MAKONDEN: And we're -- we're
21 trying to change that now with the new
22 computer and software.

1 MEMBER BROOKS: I see. Thank you,
2 Madam Chair.

3 CHAIRPERSON MILLER: Okay. All
4 right. If there are no more questions, then
5 I would move that the Board approve the offer
6 in compromise of \$1500 to be paid within 60
7 days.

8 Do I have a second?

9 MEMBER SILVERSTEIN: Second.

10 CHAIRPERSON MILLER: Mr.
11 Silverstein seconded the motion. All those in
12 favor say aye.

13 (Ayes.)

14 CHAIRPERSON MILLER: All those
15 opposed?

16 MEMBER JONES: Opposed.

17 CHAIRPERSON MILLER: All those
18 abstaining? Then the vote is 4-1-0 to approve
19 the offer in compromise.

20 MEMBER ALBERTI: Mr. Makonden,
21 we --

22 CHAIRPERSON MILLER: Thank you.

1 MEMBER ALBERTI: -- periodically
2 do audits. So, it would be in your best
3 interest to move as quickly as possible to
4 updating your systems so that you're able to
5 be confident that you can be in compliance.

6 MR. MAKONDEN: Yes, sir.

7 MEMBER ALBERTI: Thank you.

8 CHAIRPERSON MILLER: Okay. Thank
9 you very much.

10 MR. MAKONDEN: Thank you.

11 CHAIRPERSON MILLER: The next
12 case --

13 MEMBER ALBERTI: Is not until
14 2:30.

15 CHAIRPERSON MILLER: No, actually,
16 I think --

17 MEMBER ALBERTI: Oh, we have one.

18 CHAIRPERSON MILLER: It was
19 originally scheduled for 2:30 and I heard that
20 the parties were informed that maybe we could
21 take them earlier.

22 Ms. Gephardt, this is for my

1 Brother's Place.

2 So, if they come earlier before
3 2:30, we will --

4 MS. GEPHARDT: Sure.

5 CHAIRPERSON MILLER: -- hear your
6 case.

7 MS. GEPHARDT: That sounds good.

8 CHAIRPERSON MILLER: So, if we
9 don't notice, if somebody doesn't notice, you
10 can look for Ms. Jenkins or something.

11 MS. GEPHARDT: Okay.

12 CHAIRPERSON MILLER: Okay. Thank
13 you.

14 MS. GEPHARDT: All right. Thank
15 you.

16 CHAIRPERSON MILLER: All right.

17 (Whereupon, at 1:46 p.m., the
18 hearing was adjourned.)

19

20

21

22

<p style="text-align: center;">A</p> <p>able 4:12 9:4 ABRA 6:6 abstaining 8:18 accounting 5:10 adjourned 10:18 afford 5:10 afternoon 2:5,9,10 afternoon's 2:4 agreed 2:21 3:3,7 ALBERTI 1:19 3:14,16 4:4,10,15 8:20 9:1,7,13,17 Alcoholic 1:2,14,14 ANC 1:9 2:8 appropriate 3:20 approve 8:5,18 assume 5:17 assumed 5:5 Astede 1:6 Attorney 2:12 audits 9:2 Avenue 1:8 2:7 aye 8:12 Ayes 8:13</p>	<p>cause 1:8 2:18 Chair 8:2 Chairperson 1:15 1:18 2:3,13,16 3:5 3:10,15 4:18 6:11 8:3,10,14,17,22 9:8,11,15,18 10:5 10:8,12,16 change 6:9 7:21 Chrissy 1:23 2:11 clear 4:20 COLUMBIA 1:1 come 10:2 compliance 9:5 compromise 2:22 8:6,19 computer 4:2,8 6:7 7:9,11,22 confident 9:5 consider 3:17,18 Control 1:2,14,14 Corporation 1:6 CR 1:8 currently 4:20 customer's 7:8</p>	<p style="text-align: center;">F</p> <p>fact 3:6 Failed 1:10 favor 8:12 filed 7:2,3 find 4:14 fine 3:3 finish 4:13 first 2:5 food 6:4 forward 3:18</p> <p style="text-align: center;">G</p> <p>General 2:12 Georgia 1:8 2:7 Gephardt 1:23 2:10,11,20 9:22 10:4,7,11,14 going 3:18,18 6:8 good 2:9,10 5:14 6:7 7:10 10:7 Government 7:4</p> <p style="text-align: center;">H</p> <p>hear 10:5 heard 9:19 hearing 1:9,15 2:18 3:12 10:18 hearings 2:5 HERMAN 1:20 hire 5:11</p>	<p>keeping 3:19 6:8 kept 6:19 Kitchen 1:7 2:7 know 6:14,16,20 7:9</p> <p style="text-align: center;">L</p> <p>License 1:9 2:8 liquors 6:4 list 7:5 located 2:7 look 5:6 10:10</p> <p style="text-align: center;">M</p> <p>Madam 8:2 Maintain 1:10 Makonden 2:14,14 3:9,22 4:6,12 5:1 6:1,16,19 7:2,7,13 7:20 8:20 9:6,10 Market 1:7 2:6,15 matter 1:5 2:21 matters 2:19 mean 3:16 MEETING 1:3 Member 1:19,19 1:20,21 3:14,16 4:4,10,15,19 5:19 6:10,12,18,21 7:6 7:12,19 8:1,9,16 8:20 9:1,7,13,17 Members 3:13 met 1:14 MICHAEL 1:21 Miller 1:16,18 2:3 2:13,16 3:5,10,15 4:18 6:11 8:3,10 8:14,17,22 9:8,11 9:15,18 10:5,8,12 10:16 money 4:1,7,7 5:9 motion 8:11 move 8:5 9:3</p>	<p>normally 7:13 notice 10:9,9 Number 2:6,8 N.W 1:8,15 2:7</p> <p style="text-align: center;">O</p> <p>OAG 1:23 offer 2:22 8:5,19 Office 2:12 Oh 9:17 Okay 2:3,16 3:5,10 3:15 4:10 5:19 6:10,21 7:6,12,19 8:3 9:8 10:11,12 opposed 8:15,16 originally 9:19</p> <p style="text-align: center;">P</p> <p>paid 3:3,8 8:6 parties 2:21 3:2 9:20 penalty 3:7 periodically 9:1 place 4:14 10:1 possible 9:3 preliminary 2:19 2:21 present 1:17,22 3:1 presiding 1:16 printout 7:10 professionally 7:18 purchased 6:4 P-R-O-C-E-E-D-... 2:1 p.m 2:2 10:17</p>
<p style="text-align: center;">B</p> <p>back 2:4 5:7 behalf 2:11 best 9:2 Beverage 1:2,14,14 Board 1:2,14 3:1 3:13 5:2 8:5 books 1:10 5:21 borrow 4:1,7 bring 7:16 Brooks 1:19 6:11 6:12,18,21 7:6,12 7:19 8:1 Brother's 10:1 brought 5:3,13 Building 1:15 buy 4:14</p>	<p style="text-align: center;">D</p> <p>date 3:19 days 3:4,8 8:7 decent 7:10 detailed 7:8 diligence 4:16 DISTRICT 1:1 divided 6:22 documented 6:6,7 7:17 documents 5:12 doing 4:9 DONALD 1:19 due 4:16 D.C 1:15 7:4</p> <p style="text-align: center;">E</p> <p>earlier 9:21 10:2 encourage 4:15 establishment 4:22 5:22</p>	<p style="text-align: center;">I</p> <p>information 5:5,12 5:18 informed 9:20 inspections 5:3 interest 9:3 invoices 6:3</p> <p style="text-align: center;">J</p> <p>Jenkins 10:10 Jones 1:20 4:18,19 5:19 6:10 8:16 July 1:13</p>	<p style="text-align: center;">N</p> <p>new 7:21 NICK 1:19 Nile 1:7 2:6,15</p>	<p style="text-align: center;">Q</p> <p>quality 7:4 question 6:13 questions 3:13 8:4 quickly 9:3</p> <p style="text-align: center;">R</p> <p>really 5:10 receipt 5:15 6:2 7:8 7:8 record 2:4 records 1:10 3:20</p>
<p style="text-align: center;">C</p> <p>case 1:11 2:5,6 3:2 9:12 10:6</p>		<p style="text-align: center;">K</p> <p>keep 4:9</p>		

4:21 5:21 6:15 Reeves 1:15 report 7:4 restaurant 5:9 Retailer 1:8 retained 5:15 Retta 2:14 right 3:11,12 4:2 5:20 8:4 10:14,16 Room 1:15 Ruthanne 1:16,18	think 9:16 three 4:21 5:20 6:14 7:1 today 3:1 5:20 told 5:17 track 4:9 6:8 try 7:16 trying 4:1,3,4,6 7:21 turn 5:6 two 6:22 t/a 1:7	1:39 2:2 1:46 10:17 13-AUD-00003 1:11 2:6 14th 1:15 17 1:13		
<hr/> S <hr/>	<hr/> U <hr/>	<hr/> 2 <hr/>		
saying 5:20 7:18 schedule 4:11 scheduled 9:19 second 8:8,9 seconded 8:11 see 5:4,14,16 8:1 September 4:13 show 1:8 2:18 sign 2:17 Silverstein 1:21 8:9 8:11 sir 2:13 3:6,16,17 9:6 small 5:8 software 4:8 7:22 somebody 10:9 sorry 4:19 sort 7:9 sounds 10:7 speed 4:17 stands 4:20 started 3:19 Street 1:15 stuff 6:5 submit 7:15 Sure 10:4 system 4:2 6:8 systems 9:4	understand 3:11 3:20,22 update 4:2 updating 9:4 upgrade 4:7	2:30 9:14,19 10:3 2000 1:15 2013 1:13		
<hr/> V <hr/>	<hr/> W <hr/>	<hr/> 4 <hr/>		
vote 8:18	waive 3:11 want 3:5 wanted 5:3 6:2 wants 6:6 Washington 1:15 way 6:1,6,6 7:17 went 5:7 we're 4:3,6,9 6:8 7:20,20 worth 5:21 written 7:4	4B 1:9 2:8 4-1-0 8:18		
<hr/> Y <hr/>	<hr/> P <hr/>	<hr/> 6 <hr/>		
year 6:22,22,22 years 4:21 5:13,20 6:15	p 1:5,12	60 3:3,8 8:6 60432 1:9 2:8		
<hr/> T <hr/>	<hr/> \$ <hr/>	<hr/> 7 <hr/>		
take 9:21 ten 5:13 Thank 4:17 8:1,22 9:7,8,10 10:12,14 thing 7:9	\$1500 3:3,7 8:6	7815 1:8 2:7		
<hr/> 1 <hr/>				