

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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AG Corporation :

t/a Fairmont Liquor & :

Grocery :

2633 Sherman Ave NW : Protest (Status)

: Hearing

Retailer A :

License No. 80900 :

ANC 1B :

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JULY 29, 2015

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

PRESENT:

- RUTHANNE MILLER, Chairperson
- DONALD BROOKS, Member
- NICK ALBERTI, Member
- HECTOR RODRIGUEZ, Member
- MIKE SILVERSTEIN, Member
- JAMES SHORT, Member

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

2 9:39 a.m.

3 CHAIRPERSON MILLER: Okay, all right.

4 Let's call the next one, which is Fairmont Liquor
5 & Grocery.

6 Anybody here from Fairmont Liquor &
7 Grocery?

8 (No audible response.)

9 CHAIRPERSON MILLER: Okay, it looks
10 like -- well, I'll let you introduce yourself for
11 the record, but it's Case No. 15-PRO-00055,
12 located at 2633 Sherman Avenue, Northwest,
13 License No. 80900 in ANC 1B.

14 MR. FONSECA: Good morning, members of
15 the Board. Michael Fonseca, on behalf of the
16 licensee. With me is its principal.

17 MR. GIZACHEW: My name is Abel
18 Gizachew, A-B-E-L, last name is G-I-Z-A-C-H-E-W.

19 CHAIRPERSON MILLER: Good morning.

20 MR. FONSECA: That's G-I-Z-A-C-H-E-W,
21 for the reporter.

22 CHAIRPERSON MILLER: Have you been in

1 touch with Protestants today or yesterday, about
2 coming to this hearing?

3 MR. FONSECA: Frankly, after the roll
4 call, my client, who I represented before,
5 contacted me. We had a mediation on this status,
6 and unless that's the ANC Commissioner, on the
7 day of the meeting --

8 CHAIRPERSON MILLER: That's the ANC --
9 did you say that's the ANC Commissioner?

10 MR. FONSECA: I was wondering.

11 CHAIRPERSON MILLER: Okay, I don't
12 want to get --

13 MR. FONSECA: I sent emails out to the
14 --

15 CHAIRPERSON MILLER: Okay.

16 MR. FONSECA: -- Commissioner that was
17 the roll call. He plugged me into the ABC
18 Committee Chair, and then on the day of the
19 mediation -- the day of the mediation, the
20 Commissioner that was going to be here, requested
21 a postponement as an emergency.

22 I follow up again with emails, and no

1 one has contacted me, and I'm quite -- I'm
2 somewhat dismayed. I've dealt with this ANC
3 before, but if they're not here, I would move to
4 dismiss.

5 CHAIRPERSON MILLER: Okay, so, did you
6 say someone at -- they requested a postponement
7 of this status?

8 MR. FONSECA: Yes, it was --

9 CHAIRPERSON MILLER: Did they file it
10 with the Board?

11 MR. FONSECA: They called Ms.
12 Fletcher, the morning of, and then she reached
13 out to me. I was on my way here --

14 CHAIRPERSON MILLER: Okay.

15 MR. FONSECA: -- and you know, under
16 the circumstances, whatever it is, emergency is
17 an emergency. I didn't object. It is what it
18 is.

19 But that individual is Allyson
20 Carpenter. I believe she is Single Member
21 District 10, which is not the Single Member
22 District Commissioner.

1 I've emailed him, which is Cedric
2 Muhammad, being in his District, and I know
3 Cedric, and I just -- I don't know what to say.

4 CHAIRPERSON MILLER: Okay.

5 MR. FONSECA: I mean, there's just
6 been no reply, other than the one Commissioner
7 who was that the roll call, which was -- I'm
8 trying to recall if I see his name here.

9 CHAIRPERSON MILLER: Mr. Fonseca?

10 MR. FONSECA: It's John Green. John
11 Green was helpful, plugging me back in, but
12 again, the ABC Committee Chair is apparently a
13 civilian -- I mean, civilian. You know what I
14 mean?

15 CHAIRPERSON MILLER: Okay.

16 MR. FONSECA: Some of these committees
17 are headed by -- or participants are residents,
18 as opposed to Commissioners.

19 CHAIRPERSON MILLER: That's what you
20 mean?

21 MR. FONSECA: That's what I'm talking
22 about.

1 CHAIRPERSON MILLER: I thought you
2 meant maybe not --

3 MR. FONSECA: I've been trying to call
4 out to the Commissioner.

5 CHAIRPERSON MILLER: Okay.

6 MR. FONSECA: So, I have no way to
7 really do anything, other than, you know, use
8 email, which normally, I'm trying to -- because
9 for mediation, my position is, let's talk before,
10 so that when we're focused on the one or two
11 issues --

12 CHAIRPERSON MILLER: Okay.

13 MR. FONSECA: -- that we know are
14 difficult.

15 CHAIRPERSON MILLER: I just want to
16 get this straight. He asked you for -- did he
17 file something with the Board and copy or did he
18 ask you if you would agree to a continuance of
19 this?

20 MR. FONSECA: No, not of this.

21 CHAIRPERSON MILLER: Not of this?

22 MR. FONSECA: I've heard nothing.

1 CHAIRPERSON MILLER: Okay.

2 MR. FONSECA: And as far as I knew,
3 Ms. Carpenter was suppose to attend this --

4 CHAIRPERSON MILLER: Okay.

5 MR. FONSECA: -- this meeting.

6 CHAIRPERSON MILLER: Okay, I think
7 what I'd like to do is what we did with the
8 previous case. Since there are several cases
9 called for 9:30 a.m., it's now 9:43 a.m.

10 MR. FONSECA: Okay.

11 CHAIRPERSON MILLER: You have a motion
12 on the table?

13 MR. FONSECA: Well, I put forward --
14 I mean, under the circumstances, I think we've
15 had -- you know, yes, I asked that it be
16 dismissed for failure to appear.

17 CHAIRPERSON MILLER: Okay, I mean, we
18 can vote on it, but I would like to hold off too,
19 because we're just -- like I said, we held off
20 for the previous case, and that's been our
21 policy.

22 MR. FONSECA: I would just ask, you

1 know, that at some reasonable period of time, we
2 come forward and let the Board act on that
3 motion.

4 CHAIRPERSON MILLER: Okay, yes, so,
5 what I'd like to do is call you back in watch for
6 the -- see if they come in.

7 MR. FONSECA: Thank you.

8 CHAIRPERSON MILLER: Thank you. Yes,
9 so, hang on, okay.

10 (Whereupon, the above-entitled matter
11 went off the record at 9:43 a.m. and resumed at
12 10:28 a.m.)

13 CHAIRPERSON MILLER: Okay, the next
14 case we passed was Case No. 15-PRO-00055,
15 Fairmont Liquor & Grocery, 2633 Sherman Avenue,
16 Northwest. Good morning.

17 MR. FONSECA: Good morning, Members of
18 the Board again. Michael Fonseca.

19 CHAIRPERSON MILLER: Okay.

20 MR. FONSECA: If I may?

21 CHAIRPERSON MILLER: Okay, so, the
22 Applicant is here, as the Applicant was at 9:30

1 a.m., and we're not seeing any Protestants
2 appearing.

3 MR. FONSECA: Before the Board takes
4 any action --

5 CHAIRPERSON MILLER: Okay.

6 MR. FONSECA: -- I would love to make
7 a short argument, that might help also, if there
8 later, a motion for reinstatement.

9 But as opposing party has not arrived
10 --

11 CHAIRPERSON MILLER: Right.

12 MR. FONSECA: -- it's now an hour and
13 a half after -- or an hour after they were
14 suppose to be here. Two, to my knowledge, there
15 is no problems with the metro system. Three,
16 this ANC is based on the 14th Street corridor.
17 This is their mailing address. This is where the
18 median is up.

19 Every Commissioner lives within
20 walking distance and there is no inclement
21 weather. So, I ask that it be dismissed.

22 CHAIRPERSON MILLER: Okay, all right.

1 So, this one is very different from the other
2 case, and there is -- there are no Protestants
3 here after we've -- it's almost an hour later,
4 and the Board has not been contacted, with
5 respect to any reason for delay.

6 So, the Applicant has moved the Board
7 to dismiss the Protestant and I think that's
8 appropriate.

9 So, I'm going to move that we grant
10 the motion to dismiss the Protestant, and that
11 would be pursuant to 1603.3 of our regs, failure
12 to appear in person or through a designated
13 representative may result in denial of the
14 license application or dismissal of a protest,
15 unless in the discretion of the Board, good cause
16 is shown for the failure to appear, and I don't
17 see any good cause at this point.

18 As Mr. Fonseca states, the rule also
19 requires that a request for reinstatement with
20 the Board must be filed within 10 days of the
21 dismissal or denial date.

22 Okay, so, anyway, I move to grant the

1 motion. Is there a second?

2 MEMBER RODRIGUEZ: Second.

3 CHAIRPERSON MILLER: Mr. Rodriguez has
4 seconded the motion. All those in favor, say
5 aye.

6 (Chorus of ayes.)

7 CHAIRPERSON MILLER: All those
8 opposed?

9 (No audible response.)

10 CHAIRPERSON MILLER: All those
11 abstaining?

12 (No audible response.)

13 CHAIRPERSON MILLER: The motion passes
14 5-0-0. Okay, thank you.

15 MR. FONSECA: Thank you.

16 (Whereupon, the above-entitled matter
17 went off the record at 10:30 a.m.)

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