

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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 IN THE MATTER OF: :
 :
 Café Europa, Inc. :
 t/a Panache :
 1725 Desales Street NW : Show Cause
 : Hearing
 Retailer CR :
 License No. 60754 :
 ANC 2B :
 -----:

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 10:48 a.m.

3 CHAIRPERSON MILLER: Okay, so, next
4 case on our calendar is a Show Cause Hearing, and
5 that is Case No. 15-AUD-00015, Panache, located
6 at 1725 Desales Street, Northwest, License No.
7 60754.

8 MR. WHELAN: Good morning. Stephen
9 Whelan on behalf of the licensee.

10 MR. TROUT: Good morning. Matthew
11 Trout, on behalf of the District of Columbia.

12 MR. ADAMS: Good morning, Madam Chair
13 and Members of the Board. Walter Adams on behalf
14 of District.

15 CHAIRPERSON MILLER: Okay, sorry,
16 could you -- I know Mr. Adams. I have your name.
17 Could you repeat your name again?

18 MR. TROUT: Matthew Trout, T-R-O-U-T.

19 CHAIRPERSON MILLER: Trout, okay. Are
20 you co-counsel?

21 MR. TROUT: Yes.

22 CHAIRPERSON MILLER: Okay, and

1 Stephen, what is your last name?

2 MR. WHELAN: Whelan.

3 CHAIRPERSON MILLER: Whelan, right.

4 MR. WHELAN: W-H-E-L-A-N.

5 CHAIRPERSON MILLER: Okay, all right.

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

8 MR. TROUT: Yes, Madam Chair. The
9 parties have consulted and have reached agreement
10 on a proposed offer in compromise.

11 CHAIRPERSON MILLER: Okay.

12 MR. TROUT: This case was for a single
13 charge for failure to file quarterly statement,
14 the third quarter of 2014. We have received that
15 quarterly statement, it's been filed today, and
16 so, we've agreed on a \$2,000 fine to be paid
17 within 30 days.

18 CHAIRPERSON MILLER: Okay.

19 MR. TROUT: And if they fail to pay
20 within those 30 days, the license would be
21 suspended.

22 CHAIRPERSON MILLER: Okay, Mr. Whelan,

1 are you agreeable to that?

2 MR. WHELAN: Yes, we are. I would
3 just note that the quarterly statement was filed
4 today and stamped here this morning.

5 CHAIRPERSON MILLER: Okay.

6 MR. WHELAN: The licensee was under
7 the impression that he had filed it properly, at
8 the time he filed it online. He thought it was
9 submitted properly, but whether there was a
10 glitch on his end or something here, it just was
11 not actually filed. So, that was rectified this
12 morning.

13 CHAIRPERSON MILLER: Okay, okay, and
14 I am sure you're aware that by entering into this
15 offer in compromise, you waive your right to --
16 or your client's right to a hearing or appeal?

17 MR. WHELAN: Yes.

18 CHAIRPERSON MILLER: All right, any
19 questions?

20 MEMBER ALBERTI: What is the offer in
21 compromise?

22 CHAIRPERSON MILLER: Two-thousand

1 dollars to be paid within 30 days, quarterly
2 statement. Okay, not hearing questions, I'm
3 going to move that we approve this offer in
4 compromise of \$2,000 to be paid within 30 days,
5 if not paid within 30 days, then the license will
6 be suspended until it is paid. Do I have a
7 second?

8 MEMBER SILVERSTEIN: Second.

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

12 (Chorus of ayes.)

13 CHAIRPERSON MILLER: All those
14 opposed?

15 MEMBER ALBERTI: Opposed.

16 CHAIRPERSON MILLER: All those
17 abstaining?

18 (No audible response.)

19 CHAIRPERSON MILLER: Then I believe
20 passes by a vote of 4-1-0, with Mr. Alberti
21 opposed, okay. So, you can sign off, okay.

22 MR. WHELAN: I would just ask that the

1 Applicant or the Licensee be given until the end
2 of the day to sign the offer in compromise. He
3 was not able to be here this morning from Great
4 Falls, or I can sign on his behalf.

5 CHAIRPERSON MILLER: All right, aren't
6 you're his authorized agent?

7 MR. WHELAN: Yes.

8 CHAIRPERSON MILLER: Okay, I think
9 that's sufficient.

10 MR. WHELAN: Okay.

11 CHAIRPERSON MILLER: I'll double-check
12 with Counsel. What did you say though, why he
13 isn't here?

14 MR. WHELAN: Why is he unavailable
15 this morning?

16 CHAIRPERSON MILLER: Yes.

17 MR. WHELAN: I just received word
18 early -- or late last night, that he was not
19 going to make it this morning. I'm not sure of
20 the exact rationale.

21 CHAIRPERSON MILLER: Okay, any
22 objection?

1 MEMBER ALBERTI: Just if I --

2 CHAIRPERSON MILLER: And I initially
3 phased it differently.

4 MEMBER ALBERTI: May I ask just a
5 quick question, as to why? I mean, since you seem
6 to be confused, I have to ask this question.
7 Have you registered a letter of represent -- have
8 you given us a letter of representation on behalf
9 of this client?

10 MR. WHELAN: I am not sure if I have.
11 Mr. Kline was handling this from my firm up until
12 last night, and then he had a conflict.

13 MEMBER ALBERTI: So, we don't know
14 that we have a letter of representation from the
15 -- Mr. Whelan's firm in this case?

16 Mr. Adams, do you want to speak for
17 this?

18 MR. ADAMS: Yes, Mr. Alberti. I
19 believe, and I'm only going based upon my
20 knowledge, when we did have a status hearing in
21 May, I believe that Mr. Kline did file a letter
22 of representation, but I can't tell you for

1 certain that was done, but I believe that he did
2 state that he did file something.

3 MEMBER ALBERTI: And we have a letter
4 of representation on behalf of his client?

5 MR. WHELAN: That was my
6 understanding, as well. I just was not aware --

7 MEMBER ALBERTI: Okay.

8 MR. WHELAN: -- that we had signed an
9 offer in compromise. I thought it had to be --

10 MEMBER ALBERTI: Okay, I'm sorry for
11 the confusion.

12 MR. WHELAN: That's fine.

13 MEMBER ALBERTI: I've been
14 straightened out by our experts back here. Thank
15 you, Mr. Whelan.

16 MR. WHELAN: Thank you.

17 CHAIRPERSON MILLER: Okay, are we set?

18 MR. WHELAN: I think so. Thank you.

19 CHAIRPERSON MILLER: Okay, thank you
20 very much.

21 (Whereupon, the above-entitled matter
22 went off the record at 10:55 a.m.)

<p style="text-align: center;">A</p> <p>a.m 2:2 8:22 able 6:3 above-entitled 8:21 abstaining 5:17 Adams 2:12,13,16 7:16,18 agent 6:6 agreeable 4:1 agreed 3:16 agreement 3:9 Alberti 1:19 4:20 5:15,20 7:1,4,13 7:18 8:3,7,10,13 Alcoholic 1:3,14,14 ANC 1:11 appeal 4:16 Applicant 6:1 approve 5:3 audible 5:18 authorized 6:6 aware 4:14 8:6 aye 5:11 eyes 5:12</p>	<p>4:13,18,22 5:9,13 5:16,19 6:5,8,11 6:16,21 7:2 8:17 8:19 charge 3:13 Chorus 5:12 client 7:9 8:4 client's 4:16 co-counsel 2:20 Columbia 1:1 2:11 compromise 3:10 4:15,21 5:4 6:2 8:9 conflict 7:12 confused 7:6 confusion 8:11 consulted 3:9 Control 1:3,14,14 Counsel 6:12 CR 1:10</p>	<p>firm 7:11,15</p> <p style="text-align: center;">G</p> <p>given 6:1 7:8 glitch 4:10 going 5:3 6:19 7:19 Good 2:8,10,12 Great 6:3</p>	<p>met 1:14 MIKE 1:20 Miller 1:15,18 2:3 2:15,19,22 3:3,5 3:11,18,22 4:5,13 4:18,22 5:9,13,16 5:19 6:5,8,11,16 6:21 7:2 8:17,19 morning 2:8,10,12 4:4,12 6:3,15,19 motion 5:10 move 5:3</p>
<p style="text-align: center;">B</p> <p>back 8:14 based 7:19 behalf 2:9,11,13 6:4 7:8 8:4 believe 5:19 7:19 7:21 8:1 Beverage 1:3,14,14 Board 1:3,14 2:13 BROOKS 1:19 Building 1:15</p>	<p style="text-align: center;">D</p> <p>D.C 1:15 day 6:2 days 3:17,20 5:1,4 5:5 Desales 1:9 2:6 differently 7:3 District 1:1 2:11,14 dollars 5:1 DONALD 1:19 double-check 6:11</p>	<p style="text-align: center;">H</p> <p>handling 7:11 hearing 1:9,14 2:4 3:6 4:16 5:2 7:20 HECTOR 1:20</p> <p style="text-align: center;">I</p> <p>impression 4:7 initially 7:2</p> <p style="text-align: center;">J</p> <p>JAMES 1:21 JULY 1:13</p>	<p style="text-align: center;">N</p> <p>N.W 1:15 name 2:16,17 3:1 NICK 1:19 night 6:18 7:12 Northwest 2:6 note 4:3 NW 1:9</p>
<p style="text-align: center;">C</p> <p>Café 1:8 calendar 2:4 case 2:4,5 3:12 7:15 cause 1:9 2:4 3:6 certain 8:1 Chair 2:12 3:8 Chairperson 1:15 1:18 2:3,15,19,22 3:3,5,11,18,22 4:5</p>	<p style="text-align: center;">E</p> <p>early 6:18 entering 4:14 Europa 1:8 exact 6:20 experts 8:14</p> <p style="text-align: center;">F</p> <p>fail 3:19 failure 3:13 Falls 6:4 favor 5:10 file 3:13 7:21 8:2 filed 3:15 4:3,7,8,11 fine 3:16 8:12</p>	<p style="text-align: center;">K</p> <p>Kline 7:11,21 know 2:16 7:13 knowledge 7:20</p> <p style="text-align: center;">L</p> <p>late 6:18 letter 7:7,8,14,21 8:3 license 1:10 2:6 3:20 5:5 licensee 2:9 4:6 6:1 located 2:5</p> <p style="text-align: center;">M</p> <p>Madam 2:12 3:8 matter 1:7 8:21 matters 3:7 Matthew 2:10,18 mean 7:5 MEETING 1:5 Member 1:19,19,20 1:20,21 4:20 5:8 5:15 7:1,4,13 8:3 8:7,10,13 Members 2:13</p>	<p style="text-align: center;">O</p> <p>objection 6:22 offer 3:10 4:15,20 5:3 6:2 8:9 okay 2:3,15,19,22 3:5,11,18,22 4:5 4:13,13 5:2,21,21 6:8,10,21 8:7,10 8:17,19 online 4:8 opposed 5:14,15 5:21</p>
			<p style="text-align: center;">P</p> <p>P-R-O-C-E-E-D-I-... 2:1 paid 3:16 5:1,4,5,6 Panache 1:8 2:5 parties 3:9 passes 5:20 pay 3:19 phased 7:3 preliminary 3:7 PRESENT 1:17 presiding 1:16 properly 4:7,9</p>

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