

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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SHOW CAUSE HEARING

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IN THE MATTER OF: :

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Beg Investments, LLC :

t/a Twelve Restaurant & Lounge :

1123 H Street NE :

License #76366 :

Retailer CT ANC 6A :

Allowed the Licensed Establishment :

to be Used for an Unlawful or :

Disorderly Purpose, Interfered :

with an Investigation, Permitted :

the Use of a Controlled Substance :

in the Establishment, Failed to :

Follow Security Plan :

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July 30, 2014

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

**PRESENT:**

**RUTHANNE MILLER, Chairperson**

**NICK ALBERTI, Member**

**DONALD BROOKS, Member**

**HECTOR RODRIGUEZ, Member**

**JAMES SHORT, Member**

**MIKE SILVERSTEIN, Member**

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

9:39 a.m.

CHAIR MILLER: Case No. 14-251-00163 and 14-251-00163(a), Twelve Restaurant and Lounge, 1123 H Street, NE. License No. 76366 in ANC 6A.

Good morning. Looks like we have both parties here in this case.

MS. SCHMIDT: Good morning. Amy Schmidt, Assistant Attorney on behalf of the District of Columbia.

MR. LaFANDE: Good morning. Matthew LaFande, a member of the District of Columbia Bar for and on behalf of Beg Investments, LLC, a limited liability company organized under the laws of the District of Columbia. The licensee and respondent in this case present with me today and to my left is Bernard Gibson, the owner of the company.

CHAIR MILLER: Good morning. Mr. LaFande, did your client receive notice of this hearing?



1 go get it. I just want to put on the record  
2 and you may have a different view on this,  
3 that our attorney told us that he did serve it  
4 by certified mail on both you and Mr. Gibson  
5 on Monday.

6 MR. LaFANDE: I didn't receive  
7 anything, but again, I'm not making any  
8 objection.

9 CHAIR MILLER: That's good. All  
10 right.

11 MR. LaFANDE: If I can get a copy  
12 of whatever it is the Attorney General would  
13 like to inflict upon us so we can proceed.

14 CHAIR MILLER: Okay. So Mr.  
15 Berman, our attorney, is copying it now, so we  
16 can give you a copy right here.

17 MR. LaFANDE: Do we sit and wait  
18 in the pews or is that coming forthwith?

19 CHAIR MILLER: Let's see. Let me  
20 tell you, the show cause hearing is scheduled  
21 for September 17th --

22 MR. LaFANDE: I think everyone

1 already --

2 MS. SCHMIDT: I had informed Ms.  
3 Jenkins beforehand that --

4 CHAIR MILLER: Oh, that's the date  
5 you want changed, is that correct?

6 MS. SCHMIDT: Yes. I informed Ms.  
7 Jenkins beforehand I was not available in  
8 September.

9 CHAIR MILLER: You're right.  
10 You're not available in September at all or  
11 just that date?

12 MS. SCHMIDT: Until the end of  
13 September.

14 CHAIR MILLER: End of September,  
15 okay.

16 MS. SCHMIDT: I can be there  
17 September 3rd, the first --

18 CHAIR MILLER: Okay, you're right.  
19 We're going to have to give you a new date  
20 when Mr. Jenkins returns and she'll be in  
21 consultation with you.

22 MR. LaFANDE: What I would like to

1 do is I would like to adjourn, our little  
2 hearing here, and let me have the opportunity  
3 to look at --

4 CHAIR MILLER: Look at the notice.

5 MR. LaFANDE: -- alleging.

6 CHAIR MILLER: Okay.

7 MR. LaFANDE: Then I would like to  
8 come back before you now.

9 CHAIR MILLER: Right.

10 MR. LaFANDE: And address that and  
11 address what an appropriate -- appropriately  
12 proceed from there.

13 CHAIR MILLER: All right, given  
14 that we are waiting for the notice and there  
15 are other cases to hear, we can come back to  
16 you all.

17 MR. LaFANDE: So I can get a  
18 chance to read whatever it is.

19 CHAIR MILLER: Exactly, exactly.  
20 Okay. Thank you. All right, we're going to  
21 come back.

22 (Whereupon, the above-entitled

1 matter went off the record at 9:43 a.m. and  
2 resumed at 9:53 a.m.)

3 CHAIR MILLER: I think the only  
4 case, if I'm not mistaken, that we haven't  
5 gone back to is 12, so I'll recall that now.  
6 Case 14-251-00163, and 14-251-00163(a).

7 Would you introduce yourselves  
8 again, please?

9 MS. SCHMIDT: Good morning. Amy  
10 Schmidt, Assistant Attorney General on behalf  
11 of the District of Columbia.

12 MR. LaFANDE: Matthew LaFande on  
13 behalf of Twelve.

14 CHAIR MILLER: Okay, and Mr.  
15 Gibson.

16 MR. LaFANDE: With me present is  
17 Bernard Gibson.

18 CHAIR MILLER: All right, so you  
19 now have a copy of the amended charges?

20 MR. LaFANDE: Yes. We have  
21 received and accept service of the show cause  
22 notice as dated 25 June, 25th of June.

1 CHAIR MILLER: Okay, it's dated  
2 June 25th with my signature on that. Is this  
3 the amended one?

4 MS. SCHMIDT: Yes.

5 CHAIR MILLER: Okay, and could you  
6 state again, Ms. Schmidt, how it was amended?

7 MS. SCHMIDT: There's a change of  
8 one word in Charge No. 4. Instead of saying  
9 you failed to follow your security plan, it  
10 originally said you failed to file your  
11 security file. However, it's the exact same  
12 code section that's referenced and the exact  
13 same narrative. It refers back to following  
14 a security plan rather filing a security plan.

15 CHAIR MILLER: Okay, I see it.  
16 All right.

17 MR. LaFANDE: I'd like to inquire  
18 what attempts of service were made upon the  
19 attorneys who are supposed to be served since  
20 this a represented party for the last five  
21 weeks?

22 CHAIR MILLER: Mr. LaFande, could

1 you speak up?

2 MR. LaFANDE: I'm just trying to  
3 inquire as to what efforts have been made to  
4 serve the attorneys in this case since they  
5 are under the Board's rules. They're the ones  
6 who are supposed to be served since it's a  
7 represented party.

8 CHAIR MILLER: My notes indicate -  
9 - Mr. Berman, our attorney activated the  
10 service so he's going to actually tell you  
11 about it than my telling you what my records  
12 indicate.

13 MR. BERMAN: To my knowledge, John  
14 Berman, Assistant Attorney General with ABRA,  
15 the Agency attempted to do personal service at  
16 the licensee's establishment. We think we  
17 were informed that wasn't successful. Martha  
18 Jenkins, our general counsel, attempted to  
19 contact Mr. Mpras and attempted to get waiver  
20 to get email service. Our file -- she's on  
21 vacation. It did not indicate whether that  
22 was successful, so what I did on Monday, this

1 week, was send the service certified mail and  
2 I also sent it by email to counsels at I think  
3 Mr. Mpras has two addresses, one from his  
4 website and one that we have and then one to  
5 Mr. Mpras' email address and cc'd General  
6 Counsel Martha Jenkins. So that's what we  
7 did.

8 CHAIR MILLER: Thank you very  
9 much.

10 MR. LaFANDE: I will remind the  
11 Assistant General Counsel of ABRA that under  
12 the rules of the District of Columbia, rules  
13 of professional conduct, Rule 1.3, it is  
14 inappropriate for him to have any direct  
15 contact with a known represented party. It  
16 seems like we've wasted a lot of time in  
17 trying to contact a party that was represented  
18 by counsel and even under this Board's own  
19 rules should have been served directly upon  
20 them.

21 I have no knowledge whatsoever of  
22 any attempts to make service upon the

1 attorneys of record in this case and I would  
2 remind the Assistant General Counsel that he  
3 is not to contact my clients directly for any  
4 reason as required by this Board's rules and  
5 under the District of Columbia Rules of  
6 Professional Conduct. That being said, we  
7 waive any further objection to the service of  
8 it, other than its untimeliness. We move to  
9 dismiss this matter as untimely. We also  
10 again renew our motion for the Board Members  
11 to recuse themselves from this matter, both  
12 the present defendants in the civil litigation  
13 between this party and the Board Members, and  
14 also the proposed co-defendants as parties to  
15 this civil litigation.

16 MS. SCHMIDT: The District would  
17 like this matter -- if Mr. LaFande wishes to  
18 make these motions, they should be in writing  
19 so we can have an adequate chance to respond  
20 to these instead of just on the fly right now.

21 CHAIR MILLER: I absolutely agree  
22 with you.

1 MR. LaFANDE: Fair enough.

2 CHAIR MILLER: Do you need to say  
3 anything?

4 MR. BERMAN: I'm not sure what  
5 attempts we made to personally contact with  
6 the other party. I just don't understand when  
7 that occurred or what event you're saying when  
8 we contacted the other party somehow?

9 MR. LaFANDE: I just heard in your  
10 recitals just a few moments describing your  
11 attempts to directly contact the represented  
12 parties. I'm asking you not to --

13 MR. BERMAN: By mail?

14 MR. LaFANDE: Yes, that is a  
15 violation of the District of Columbia Rules of  
16 Professional conduct.

17 MR. BERMAN: I don't think so.  
18 The service says that we can contact the party  
19 or the --

20 MR. LaFANDE: No.

21 MR. BERMAN: -- counsel. Excuse  
22 me, sir. I'm talking. Can I finish my

1 statement before you continue? You're welcome  
2 to file anything you want.

3 MR. LaFANDE: We'll take this up  
4 with Bar counsel.

5 MR. BERMAN: Okay, that's fine. I  
6 will report myself if that's how you feel  
7 about it. In fact, I will. I will do that  
8 right now. But anyway, the Agency attempted  
9 to do service. I in no way ordered the Agency  
10 to do personal service, but we did order the  
11 mailing. I believe that's in accordance with  
12 our rules and I'm very happy to talk to Bar  
13 counsel about that and my supervisors. So  
14 thank you.

15 CHAIR MILLER: Thank you. Mr.  
16 LaFande is not arguing lack of service or  
17 deficient service of the amended notice. So  
18 he has raised --

19 MR. LaFANDE: I would ask that the  
20 document be corrected to show the date of the  
21 amendment. I mean as I understand from the  
22 Attorney General's representations a few

1 minutes ago that this was just amended a day  
2 or so ago or today and I'd like the document  
3 to reflect the date of that amendment. I'm a  
4 little confused as to how it is that your  
5 signature appears on the document, but you  
6 don't seem to know when the document was  
7 created. So if we could at least clear the  
8 air as to when this document was created and  
9 when it was amended. I think I'm entitled to  
10 at least that much notice.

11 CHAIR MILLER: Okay. So it  
12 appears a page was probably replaced with the  
13 corrections. However, I don't have a problem  
14 with resigning if you want to wait here.

15 MR. LaFANDE: Is it my  
16 understanding that this was amended yesterday,  
17 today, I just don't have anything that's been  
18 explained to me clearly enough that I get it  
19 in that regard.

20 MS. SCHMIDT: It was amended  
21 today. It was amended today.

22 MR. LaFANDE: So just a page got

1 changed and your signature from before --

2 CHAIR MILLER: I ordered the  
3 change

4 --

5 MR. LaFANDE: -- incorporated part  
6 of that and you now adopt whatever that says.  
7 Is that what --

8 CHAIR MILLER: The change, as I  
9 understood, and I adopt it, it was changed  
10 from "file" to "follow" and that page was  
11 substituted. But if there's going to be an  
12 issue here about --

13 MR. LaFANDE: I just wanted a  
14 clarification.

15 CHAIR MILLER: You just wanted  
16 that on the record?

17 MR. LaFANDE: That's fair.

18 CHAIR MILLER: Is that all right?

19 MR. LaFANDE: Yes.

20 CHAIR MILLER: Okay.

21 MR. LaFANDE: How what about --

22 CHAIR MILLER: Okay, so you have

1 made two oral motions, one to dismiss the case  
2 as untimely and one for the Board members to  
3 recuse themselves and I concur with the  
4 Assistant Attorney General that if you would  
5 like to make those motions, please make them  
6 in writing and then the Assistant Attorney  
7 General will have an opportunity to respond  
8 and then the Board will rule on it.

9 MR. LaFANDE: Thank you.

10 CHAIR MILLER: Okay, so I think  
11 the last thing to do here is set the case for  
12 hearing. The hearing date is September 17,  
13 2014 at 10 a.m.

14 MS. SCHMIDT: Which we said will  
15 be changed.

16 CHAIR MILLER: You changed it?

17 MS. SCHMIDT: No.

18 CHAIR MILLER: I'm sorry. Ms.  
19 Schmidt is not available in September. I'm  
20 sorry. Ms. Jenkins is going to have to follow  
21 up with counsel on the date. She's not here  
22 today. That's as far as we can go on that.

1 Anything else?

2 MS. SCHMIDT: Nothing from the  
3 Government.

4 MR. LaFANDE: Nothing, thank you.  
5 May I be excused.

6 CHAIR MILLER: Yes. Thank you  
7 very much.

8 (Whereupon, the above-entitled  
9 matter went off the record at 10:03 a.m.)

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