

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

IN THE MATTER OF:

Superclub Ibiza, LLC  
t/a Ibiza  
1222 First Street, NE  
Retailer CN - ANC-6C  
License No. 74456  
Case #13-251-00032,  
Case #13-251-00045,  
Case #13-251-00046 and  
Case #13-251-00047

Show  
Cause  
Hearing

(Failed to Follow Security  
Plan (four counts))

September 24, 2014

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

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

ALSO PRESENT:

FERNANDO RIVERO, OAG

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

(9:54 a.m.)

CHAIRPERSON MILLER: Okay. The next case is Cases 13-251-00032, 13-251-00045, 13-251-00046 and 13-251-00047, Ibiza located at 1222 First Street, N.E., License No. 74456, in ANC-6C.

MR. RIVERO: Good morning, Board Members. I believe this matter is scheduled for 10:00 a.m. today.

CHAIRPERSON MILLER: Oh, do you want five minutes?

MR. RIVERO: Yes. I could use it.

CHAIRPERSON MILLER: Okay. It's 9:55. You are right. And the matter is scheduled for 10:00. So yes, we can come back at 10:00.

MR. RIVERO: Right. Thank you.

MR. BIANCO: The licensee hasn't arrived yet.

CHAIRPERSON MILLER: Okay. All right.

1 (Whereupon, the above-entitled  
2 matter went off the record at 9:55 a.m. and  
3 resumed at 10:12 a.m.)

4 CHAIRPERSON MILLER: Okay. I'm  
5 going to call Case Nos. 13-251-00032, 13-251-  
6 00045, 13-251-00046 and 13-251-00047 all  
7 related to Ibiza located at 1222 First Street,  
8 N.E., License No. 74456, in ANC-6C.

9 Good morning.

10 MR. RIVERO: Good morning.  
11 Fernando Rivero for the District of Columbia.

12 MR. BIANCO: Good morning, Madam  
13 Chair, Members of the Board, Richard Bianco on  
14 behalf of the licensee.

15 MR. TRUONG: Aldo Truong, managing  
16 member of Ibiza.

17 CHAIRPERSON MILLER: Okay. I  
18 think you all need to speak up maybe just a  
19 little more. I got it, but it was kind of  
20 soft.

21 All right. This is a Show Cause  
22 Hearing. Are there any preliminary matters?

1                   MR. RIVERO: Yes. Board Members,  
2                   the parties have an Offer in Compromise to  
3                   give to the Board, at this time. A copy of  
4                   the actual document should have been provided  
5                   to you to make it easier to follow along as I  
6                   describe the Offer in Compromise and those  
7                   terms consist as follows:

8                   A fine of \$8,000 payable in 90  
9                   days. A suspension of seven days with the  
10                  license being suspended for three days and  
11                  four of those remaining days stayed for a  
12                  period of one year pending no further  
13                  violations.

14                  The dates of suspension are  
15                  November 20, 21 and 22. Those being dates  
16                  that the licensee is regularly open, actually  
17                  open for three days a week and those are the  
18                  three days.

19                  MEMBER BROOKS: What are the days  
20                  again?

21                  MR. RIVERO: November 20, 21 and  
22                  22, that is a Thursday, Friday and Saturday.

1 The establishment has performers,  
2 contractually booked every weekend. This  
3 weekend was simply selected to give those  
4 performers sufficient time to find another  
5 venue, since they just -- the contract must be  
6 canceled.

7 To continue: The licensee will  
8 also abide by the following requirements:  
9 Inspection of cameras at the start of nightly  
10 operations and at the close of nightly  
11 operations and actions shall be taken when  
12 cameras are not properly operating within one  
13 business day.

14 And finally, the immediate  
15 submission of a plan showing all camera  
16 locations and will submit recording and hard  
17 drive on which each camera recording is  
18 maintained.

19 And the actual diagram that is  
20 described in that portion is attached to the  
21 documents and you should have received it.  
22 The first page has this chart, that I'm

1 holding up right now, which shows the hard  
2 drives and the cameras. The letters H and C  
3 are the key codes there.

4 And then following that document  
5 are two pages that show maps. One map is  
6 captioned "The First Floor." The second map  
7 is captioned "The Mezzanine Level." And the  
8 cameras are indicated there using the code of  
9 the first page I held up and their angles of  
10 recording are indicated as well.

11 I need a brief indulgence, please.

12 CHAIRPERSON MILLER: Okay.

13 MR. RIVERO: And the license does  
14 understand that payment of the fine is  
15 required for continued operations.

16 CHAIRPERSON MILLER: I'm sorry,  
17 what did you say?

18 MR. RIVERO: The licensee  
19 understands that payment of the fine is  
20 required for continued operation. And that is  
21 the Offer in Compromise. At this time, I can  
22 entertain questions.

1                   CHAIRPERSON MILLER: Mr. Bianco,  
2 do you have anything to add to that before we  
3 go into questions?

4                   MR. BIANCO: No, I believe that is  
5 an accurate presentation of the Offer in  
6 Compromise, as we understand it.

7                   CHAIRPERSON MILLER: And your  
8 client agrees to it?

9                   MR. BIANCO: He does.

10                  CHAIRPERSON MILLER: Okay.  
11 Questions from Board Members? Mr. Alberti?

12                  MEMBER ALBERTI: Yes. Mr. Rivero,  
13 just that last statement the licensee  
14 understands that payment of the fine is  
15 required for continued operation. What does  
16 that mean exactly?

17                  MR. RIVERO: It means that if  
18 after 90 days the payment is not made, that  
19 the license is suspended as has been the case  
20 with many establishments that go before this  
21 Board.

22                  MEMBER ALBERTI: Okay.

1 MR. RIVERO: Where we have you  
2 have to pay. If you don't pay --

3 MEMBER ALBERTI: Okay.

4 MR. RIVERO: -- the license will  
5 be suspended until you bring in that payment.

6 MEMBER ALBERTI: Okay. I  
7 understand. Mr. Bianco, is that your  
8 understanding?

9 MR. BIANCO: Yes. My  
10 understanding is that if we don't timely pay,  
11 it results in a suspension as opposed to we  
12 are suspended until we pay.

13 MEMBER ALBERTI: Right.

14 MR. BIANCO: That's our  
15 understanding.

16 MR. RIVERO: Correct.

17 MEMBER ALBERTI: Right, right,  
18 right.

19 MR. RIVERO: And they do have the  
20 90 days within which to make that payment.

21 MEMBER ALBERTI: Right, right,  
22 okay. So we are all on the same page on that

1 one.

2 MR. RIVERO: I believe that we  
3 are.

4 MEMBER ALBERTI: I just wanted to  
5 clarify that --

6 MR. RIVERO: Yes.

7 MEMBER ALBERTI: -- for my  
8 understanding. Okay. And the other question  
9 is, this is another vagary. Item B under --  
10 at the bottom of the page "Action shall be  
11 taken when cameras are not operating."

12 MR. RIVERO: Yes.

13 MEMBER ALBERTI: What is the  
14 action? Do you wipe the lenses?

15 MR. RIVERO: No. I'm afraid that  
16 in order to create an offer, a contractual  
17 arrangement between parties that is going to  
18 take into account every variable in the  
19 universe, we would be here for a very long  
20 time.

21 And so, for instance, if -- the  
22 end is to replace a broken part, let's say

1 because remember, if the cameras aren't  
2 operating properly, the reason for non-  
3 operation could be one of many reasons.

4 MEMBER ALBERTI: Absolutely. So I  
5 would hope --

6 MR. RIVERO: So --

7 MEMBER ALBERTI: -- that the aim  
8 would be to make operable.

9 CHAIRPERSON MILLER: Right.

10 MR. RIVERO: Correct. And so if  
11 the -- it means to make operable and there is  
12 a portion of the camera that needs to be  
13 replaced, some piece, but that piece has to be  
14 ordered, right, and the most that can be done  
15 then is to place the order within one business  
16 day.

17 In other words, the aim of this  
18 provision is so that you take action and not  
19 sit on your hands as has been the -- as may  
20 have been pattern --

21 MEMBER ALBERTI: Okay. So --

22 MR. RIVERO: -- exhibited

1       beforehand.

2                       MEMBER ALBERTI:  -- the  
3       understanding, Mr. Bianco, is that when you  
4       say action shall be taken, action shall be  
5       taken to make the cameras operable?

6                       MR. RIVERO:  That's correct.

7                       MEMBER ALBERTI:  And there is no  
8       time frame here, but the intent is to make  
9       them operable?

10                      MR. BIANCO:  Correct.  I think it  
11       is.

12                      MEMBER ALBERTI:  Okay.  Great.  
13       Just so we understand each other.

14                      MR. BIANCO:  I think this is  
15       purposefully broad to require immediate  
16       action, although to not require Aldo himself  
17       to be on the ladder with a wrench trying to  
18       fix a camera right away.  He has got to call  
19       the guy.

20                      MEMBER ALBERTI:  Oh, absolutely,  
21       absolutely.  You know, but I'm one of those  
22       people that's a stickler for the words and

1 action could mean unplugging it.

2 MR. RIVERO: Well, yes.

3 MEMBER ALBERTI: So --

4 MR. RIVERO: If you unplug it,  
5 it's actually not calculated to make the  
6 camera operate.

7 MEMBER ALBERTI: Well, I  
8 understand. That's why --

9 MR. RIVERO: But this goes to the  
10 ignition where ordering a key part --

11 MEMBER ALBERTI: All right. I  
12 gotcha.

13 MR. RIVERO: -- is the kind of  
14 action that is contemplated by the provision.

15 MEMBER ALBERTI: So we are on the  
16 record and I understand. Great. Thank you.

17 MR. RIVERO: Just again, the aim  
18 is to avoid doing nothing. That's the --

19 MEMBER ALBERTI: Absolutely.

20 MR. RIVERO: -- provision.

21 MEMBER ALBERTI: All right. Thank  
22 you.

1 MR. RIVERO: You cannot do  
2 nothing, that's what this action is.

3 MEMBER RODRIGUEZ: So can you put  
4 the word corrective action?

5 MR. RIVERO: I think this is  
6 actually fine.

7 MEMBER RODRIGUEZ: It's fine?

8 MR. RIVERO: The way that it is,  
9 yes.

10 CHAIRPERSON MILLER: We can --

11 MEMBER ALBERTI: We have the  
12 transcript in --

13 CHAIRPERSON MILLER: Correct.

14 MR. RIVERO: Correct.

15 MEMBER ALBERTI: -- here, so I'm  
16 satisfied.

17 MR. RIVERO: Yes.

18 CHAIRPERSON MILLER: Okay. Is  
19 that your understanding, Mr. Bianco, as well  
20 that that's what it means, corrective action?

21 MR. BIANCO: Corrective action,  
22 yes, that's our understanding --

1 CHAIRPERSON MILLER: Okay.

2 MR. BIANCO: -- of what we are  
3 agreeing to. It's my understanding.

4 CHAIRPERSON MILLER: Okay. Other  
5 questions? That was really my question too  
6 when I saw action. I could have a tantrum and  
7 that's action. Okay. So we interpret that to  
8 mean corrective action.

9 MR. RIVERO: Yes.

10 CHAIRPERSON MILLER: And are there  
11 new camera locations or new cameras now than  
12 what was there at the time of these incidents?

13 MR. RIVERO: That is correct.

14 CHAIRPERSON MILLER: Okay.

15 MR. RIVERO: And those locations  
16 and cameras --

17 CHAIRPERSON MILLER: Are all  
18 identified?

19 MR. RIVERO: -- are identified in  
20 the attached document that I showed you, that  
21 I help up. The maps that are attached.

22 CHAIRPERSON MILLER: Okay. I just

1 wanted to have an understanding that, in fact,  
2 this kind of corrective action was taken since  
3 these incidents.

4 MR. RIVERO: Yes, that is correct.

5 MR. BIANCO: My client advises  
6 that he installed a brand new system.

7 CHAIRPERSON MILLER: A brand new  
8 system. I think I remember. Okay. All  
9 right.

10 MEMBER SHORT: I did have one  
11 question.

12 CHAIRPERSON MILLER: Okay. Mr.  
13 Short?

14 MEMBER SHORT: I didn't see in the  
15 1C, but, and I hope I'm not going too far off  
16 track, Madam Chair, security people use pepper  
17 spray. So have your security people been  
18 properly trained, so that doesn't happen any  
19 more?

20 MR. RIVERO: Right. There is a  
21 reason why that wasn't included in this  
22 document. And that is that that's actually

1 included in the security plan. And if you  
2 will recall, the actual charge underlying  
3 three of our four cases, well, actually all  
4 four cases, is violation of the security plan.

5 So the security plan itself  
6 already forms a basis for action. And as  
7 such, no further language is required in the  
8 current document before you. We are actually  
9 here because that security plan is doing its  
10 job. It's allowing me to come here before  
11 you.

12 So I believe that the security  
13 plan is sufficient to move forward. The fact  
14 that someone violated it means that we are  
15 here for appropriate penalty.

16 MEMBER SHORT: All right. Thank  
17 you. Thank you, Madam Chair.

18 CHAIRPERSON MILLER: Okay. All  
19 right. Any other questions? So we have  
20 before us a written document that was signed  
21 by the parties. And I just want to ask, Mr.  
22 Bianco, does your client understand that by

1 entering into this Offer in Compromise he  
2 waives his right to a hearing?

3 MR. BIANCO: Yes, he does.

4 CHAIRPERSON MILLER: Okay. All  
5 right. If there are no further questions,  
6 then I would like to move approval of this  
7 Offer in Compromise as written, but also with  
8 a couple of understandings that we have  
9 addressed today.

10 One is the proposed fine will be  
11 \$8,000 payable in 90 days and the parties have  
12 represented that they understand that if the  
13 penalty is not paid within 90 days, then the  
14 license is suspended until payment of the  
15 fine.

16 Okay. And there is a suspension  
17 also with this penalty of seven days, three  
18 days served, four days stayed for one year  
19 pending no further violations in the year.  
20 And the days that the license will be  
21 suspended will be November 20, 21 and 22.

22 And then they are submitting or

1 they will submit a revised security plan with  
2 changes indicated on this written Offer in  
3 Compromise.

4 (1) Immediate submission to the  
5 Board of a statement to be incorporated into  
6 the licensee's security plan by this agreement  
7 requiring:

8 (A) Inspection of cameras at the  
9 start of nightly operations.

10 (B) Action shall be taken when  
11 cameras are not operating properly within one  
12 business day. And the parties have agreed  
13 that this means corrective action.

14 (C) Inspection of cameras at the  
15 close of nightly operations.

16 (D) Immediate submission of a plan  
17 showing all camera locations, angle of  
18 recording and hard drive in which each camera  
19 recording is maintained.

20 And (2) for purposes of escalating  
21 fines, the matter shall be considered one  
22 primary tier violation.

1                   So I move that we approve this  
2 Offer in Compromise. Do I have a second?

3                   MEMBER SILVERSTEIN: Second.

4                   CHAIRPERSON MILLER: Mr.  
5 Silverstein has seconded the motion.

6                   All those in favor say aye.

7                   ALL: Aye.

8                   CHAIRPERSON MILLER: All those  
9 opposed? All those abstaining? The motion  
10 passes 6-0-0 to approve the Offer in  
11 Compromise.

12                   Okay. Thank you.

13                   MR. RIVERO: Thank you.

14                   MR. BIANCO: Thank you.

15                   CHAIRPERSON MILLER: So we will  
16 just sign that. Okay. All right.

17                   Okay. So we have signed the Offer  
18 in Compromise and there is nothing for us to  
19 sign right now.

20                   We have a hearing at 11:00 and  
21 it's 10:27, so unless all the parties are  
22 here, at this point. Are they?

1                   MR. STERN: We can call the name  
2 of the establishment, I don't know if they are  
3 here.

4                   CHAIRPERSON MILLER: Okay.

5                   (Whereupon, the Show Cause Hearing  
6 in the above-entitled matter was concluded at  
7 10:26 a.m.)

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