

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

IN THE MATTER OF:

Inner Circle 1413, LLC  
t/a Tattoo  
1413 K Street, NW  
Retailer CN - ANC-2F  
License No. 75156  
Case #15-251-00032

Show Cause  
Hearing  
(Status)

(Failed to Take Steps  
Necessary to Ascertain Legal  
Drinking Age, Sale to Minor  
Violation)

September 30, 2015

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

ALSO PRESENT:

AMY SCHMIDT, OAG

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

2 9:52 a.m.

3 CHAIRPERSON MILLER: The next case is  
4 Case No. 15-251-00032, Tattoo located at 1413 K  
5 Street, N.W., License No. 75156, in ANC-2F.

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

9 CHAIRPERSON MILLER: Good morning.

10 MR. WHELAN: Good morning. Stephen  
11 Whelan on behalf of the licensee.

12 MS. SCHMIDT: I'm going to request--

13 CHAIRPERSON MILLER: Wait a second.

14 MS. SCHMIDT: -- that we pass this  
15 case.

16 CHAIRPERSON MILLER: Oh.

17 MS. SCHMIDT: That we pass this case  
18 because I did not realize Mr. Whelan was  
19 representing the licensee and I spoke to the  
20 licensee already and I would like to just --

21 CHAIRPERSON MILLER: Okay. Let me  
22 just get the licensee's presence on the record.

1 MR. SEQUERIA: Diego Sequeria.

2 CHAIRPERSON MILLER: I'm sorry, what's  
3 your name?

4 COURT REPORTER: Sir, could you use  
5 the microphone?

6 CHAIRPERSON MILLER: Yes.

7 MR. SEQUERIA: Diego Sequeria.

8 CHAIRPERSON MILLER: Could you spell  
9 it?

10 MR. SEQUERIA: D-I-E-G-O last name S-  
11 E-Q-U-E-R-I-A.

12 CHAIRPERSON MILLER: Okay. So Ms.  
13 Schmidt has asked that we pass this case. Are  
14 you in agreement with that?

15 MR. WHELAN: That's fine, yes.

16 CHAIRPERSON MILLER: Okay. So we will  
17 come back to Tattoo after you have a chance to  
18 talk.

19 (Whereupon, the above-entitled matter  
20 went off the record at 9:53 a.m. and resumed at  
21 10:16 a.m.)

22 MS. SCHMIDT: Could you, please,

1 recall Tattoo?

2 CHAIRPERSON MILLER: Tattoo, sure.

3 Okay. Tattoo is here. Let me find it. Okay.

4 We are recalling Case No. 15-251-00032, Tattoo

5 located at 1413 K Street, N.W., License No.

6 75156, in ANC-2F.

7 MS. SCHMIDT: Good morning. Amy

8 Schmidt, Assistant Attorney General on behalf of

9 the District of Columbia.

10 MR. WHELAN: Good morning. Stephen

11 Whelan on behalf of Tattoo.

12 MR. SEQUERIA: Good morning. Diego

13 Sequeria.

14 CHAIRPERSON MILLER: Good morning.

15 Okay. Are there any preliminary matters in this

16 case?

17 MS. SCHMIDT: Yes, there is.

18 CHAIRPERSON MILLER: Okay.

19 MS. SCHMIDT: There is -- we have an

20 Offer in Compromise which consists of a \$5,000

21 fine and 10 suspension days all stayed for one

22 year.

1 Charge 1 consists of a \$3,000 fine and  
2 five days stayed for one year.

3 And then Charge 6 would consist of a  
4 \$2,000 fine and five days stayed for one year.

5 CHAIRPERSON MILLER: Ms. Schmidt,  
6 could you repeat that? Charge what 6?

7 MS. SCHMIDT: Would consist of a  
8 \$2,000 fine and five days stayed for one year,  
9 plus alcohol awareness training for all servers  
10 within three months.

11 And all the other charges would be  
12 dismissed.

13 CHAIRPERSON MILLER: I'm sorry.  
14 Alcohol service training?

15 MS. SCHMIDT: Alcohol awareness  
16 training for all servers within three months.  
17 And all of the other charges would be dismissed.  
18 And if the fine is not paid within 60 days, the  
19 license will be suspended until it is paid.

20 CHAIRPERSON MILLER: So there is an  
21 Offer in Compromise on Charges 1 and 6 and the  
22 other charges are dismissed?

1 MS. SCHMIDT: Yes.

2 CHAIRPERSON MILLER: Okay. Let me see  
3 if I can repeat this back.

4 Charge 1, a fine of \$5,000 with 10  
5 days suspension, all days stayed for one year  
6 pending no further violations.

7 MEMBER ALBERTI: No, no.

8 CHAIRPERSON MILLER: No?

9 MEMBER ALBERTI: Charge 1, I believe,  
10 is a \$2,000 fine. Am I correct?

11 MS. SCHMIDT: No. Charge 1 is a  
12 \$5,000 -- a \$3,000 fine.

13 CHAIRPERSON MILLER: Oh.

14 MEMBER ALBERTI: \$3,000.

15 CHAIRPERSON MILLER: \$5,000 is the  
16 total fine.

17 MS. SCHMIDT: Yes, correct.

18 MEMBER RODRIGUEZ: Okay.

19 CHAIRPERSON MILLER: Okay. Thank you.  
20 Okay. So Charge 1 a \$3,000 fine, five days  
21 suspended.

22 MS. SCHMIDT: Stayed.

1                   CHAIRPERSON MILLER: Stayed for one  
2 year. Is that correct?

3                   MS. SCHMIDT: Yes.

4                   CHAIRPERSON MILLER: Okay. Then  
5 Charge 6 a \$2,000 fine, five days suspension,  
6 suspended for one year pending no further  
7 violations. All servers are to take an alcohol  
8 awareness training within three months. The fine  
9 must be paid within 60 days or the license will  
10 be suspended until paid. And all other charges  
11 are dismissed.

12                   Do you agree to that Offer in  
13 Compromise?

14                   MR. WHELAN: We do. I just want to  
15 make sure it's clear that the 10 days are all  
16 suspended as long as there are no further  
17 violations.

18                   MS. SCHMIDT: Yes.

19                   MR. WHELAN: Correct. Yes, then --

20                   CHAIRPERSON MILLER: And five days  
21 broken down for each violation.

22                   MR. WHELAN: Correct.

1 CHAIRPERSON MILLER: Okay.

2 MR. WHELAN: We are in agreement.

3 CHAIRPERSON MILLER: And do you --

4 MEMBER ALBERTI: May I ask a --

5 CHAIRPERSON MILLER: Just a minute.

6 MEMBER ALBERTI: Okay.

7 CHAIRPERSON MILLER: Do you know that  
8 you waive your right to a hearing if you accept  
9 this Offer in Compromise?

10 MR. SEQUERIA: Yes.

11 CHAIRPERSON MILLER: And that you  
12 waive your right to appeal?

13 MR. SEQUERIA: Yes.

14 CHAIRPERSON MILLER: Okay. Yes, Mr.  
15 Alberti?

16 MEMBER ALBERTI: Okay. So Charge 1 is  
17 what charge? What's the violation?

18 MS. SCHMIDT: Charge -- I believe the  
19 way it was charged is that there are multiple  
20 violations of the same charge.

21 MEMBER ALBERTI: I understand. Charge  
22 1?

1 MS. SCHMIDT: So it's --

2 MEMBER ALBERTI: The one that we are  
3 fining for. What is Charge 1?

4 MS. SCHMIDT: Oh, it's a -- failure to  
5 take steps -- reasonable steps necessary to  
6 ascertain whether any person to whom the licensee  
7 sells, delivers or whoever serves an alcoholic  
8 beverage is of legal drinking age in violation of  
9 D.C. Official Code Section 25- --

10 MEMBER ALBERTI: Okay. And Charge 2  
11 is a sale to minor, 25-781?

12 MS. SCHMIDT: Yes.

13 MEMBER ALBERTI: Is that correct?

14 MS. SCHMIDT: Yes.

15 MEMBER ALBERTI: I'm confused at what  
16 the fine range is here. These are both first  
17 violations for fining purposes and -- for fining  
18 purposes, they are both firsts. And so I'm  
19 confused about the fine ranges here.

20 I suspect that you have the fine  
21 ranges backwards. I believe that the fine range  
22 for Charge 1 should be the maximum is \$2,000.

1 And the fine range for Charge 6, the maximum, is  
2 \$3,000. So it's kind of the reverse of what you  
3 presented. But I just want to clear that up.

4 I mean, the total remains the same,  
5 but I just need to clear that up for the record.

6 MR. WHELAN: I see what you are  
7 saying.

8 MS. SCHMIDT: I see it. Yes, okay.  
9 So this --

10 MEMBER ALBERTI: So do you want to go  
11 through that again?

12 MS. SCHMIDT: I will be glad to.

13 MEMBER ALBERTI: Real quick?

14 MS. SCHMIDT: I will be glad to change  
15 the OIC. Charge 1 consists of a \$2,000 fine and  
16 five days stayed for one year. And Charge 6  
17 would be a \$3,000 fine with five days stayed for  
18 one year.

19 MEMBER ALBERTI: Okay. I also have  
20 another question. I believe that an Offer in  
21 Compromise was entered into on January 28, 2015  
22 for a sale to minor. And there were five days

1 stayed with regards to that, which if I'm doing  
2 my math right, would trigger for this violation.

3 So I mean that doesn't need to be a  
4 part of the Offer in Compromise. As my  
5 understanding, it is an automatic triggering of  
6 those days. But I'm asking. I have asked our  
7 OAG to check that out for us, but I think we  
8 should deal with that here, so everybody has that  
9 understanding.

10 MS. SCHMIDT: So I'm trying to see the  
11 notes from this.

12 CHAIRPERSON MILLER: So if we are  
13 going to get into the investigative history,  
14 then, which we don't always in an Offer in  
15 Compromise, but did this respondent ever get a  
16 warning for a sale to minor offense?

17 MR. WHELAN: I'm not clear on that.  
18 In just speaking with my client, we weren't  
19 retained for that matter, so I'm not.

20 CHAIRPERSON MILLER: Right. Okay.

21 MEMBER ALBERTI: That's not an issue.

22 I'm not sure --

1 CHAIRPERSON MILLER: Well, it would be  
2 for me if you are talking about suspending the  
3 license.

4 MEMBER ALBERTI: Well, I -- all right.  
5 I'm just -- I know what the law says on that, so  
6 I'm not going to debate that, at this point.

7 CHAIRPERSON MILLER: Okay. Mr.  
8 Whelan, for the record, are you okay with the  
9 Offer in Compromise characterizing Charge 1 as  
10 having a fine of \$2,000 and Charge 6 having a  
11 fine of \$3,000?

12 MS. SCHMIDT: Okay. Mr. Alberti,  
13 these offenses occurred on December 13, 2014,  
14 which is before the five day stayed from January.

15 MEMBER ALBERTI: Right. But the OIC  
16 and the warning on those days, the stayed days  
17 began at the time we accepted the OIC, which was  
18 January 28, 2015.

19 MS. SCHMIDT: Okay. But however,  
20 according to the Smith & Wollensky decision --

21 MEMBER ALBERTI: Oh, oh, this one --  
22 excuse me, my mistake.

1 MS. SCHMIDT: Okay.

2 MEMBER ALBERTI: I take back  
3 everything I said.

4 MS. SCHMIDT: Okay.

5 MEMBER ALBERTI: My math was wrong and  
6 I apologize for any --

7 MS. SCHMIDT: Yes.

8 MEMBER ALBERTI: -- confusion I have  
9 caused. So we are back to the straight Offer in  
10 Compromise. There are no days to be triggered.  
11 I apologize.

12 MS. SCHMIDT: Thank you.

13 MEMBER ALBERTI: Thank you for  
14 correcting me, Ms. Schmidt. That was helpful.  
15 Thank you.

16 MR. WHELAN: With that said, then we  
17 are agreeable to the moderation or the  
18 modification to note that the \$2,000 fine applies  
19 to Charge 1 and the \$3,000 applies to Charge 6.

20 CHAIRPERSON MILLER: Okay. All right.  
21 Any other questions on that, on this Offer in  
22 Compromise? Okay. Not hearing any then, I would

1 move for approval of this Offer in Compromise  
2 consisting of a \$2,000 fine and five days  
3 suspended with all days stayed for one year  
4 pending no violation, no further violation, for  
5 Charge 1.

6 And for Charge 6 a \$3,000 fine and  
7 five days suspended stayed for one year pending  
8 no further violation. The fines have to be paid  
9 within 60 days or the license will be suspended  
10 until they are paid.

11 The alcohol -- the servers must attend  
12 an alcohol awareness training within three months  
13 of this Offer in Compromise. And all other  
14 charges are dismissed.

15 MEMBER RODRIGUEZ: Second it.

16 CHAIRPERSON MILLER: Okay. Mr.  
17 Rodriguez seconded the motion. Any further  
18 comments?

19 Not hearing any, all those in favor  
20 say aye.

21 ALL: Aye.

22 CHAIRPERSON MILLER: All those

1       opposed? All those abstaining? The motion  
2       passes. Mr. Alberti, did you vote?

3                   MEMBER ALBERTI: I did. I am in  
4       favor.

5                   CHAIRPERSON MILLER: Okay.

6                   MEMBER ALBERTI: I apologize.

7                   CHAIRPERSON MILLER: So the vote is 6-  
8       0-0 in favor of the Offer in Compromise.

9                   Okay. We will have a paper for you  
10      momentarily.

11                  MR. WHELAN: Thank you.

12                  MS. SCHMIDT: I'm sorry, I thought you  
13      were going to do an order.

14                  CHAIRPERSON MILLER: Oh, we're going  
15      to do an order?

16                  MS. SCHMIDT: Yes.

17                  CHAIRPERSON MILLER: Oh.

18                  MS. SCHMIDT: When you have time to  
19      jot it down.

20                  CHAIRPERSON MILLER: Okay. We're  
21      going to follow-up with a Board Order on this  
22      one.

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(Whereupon, the Show Cause (Status)  
Hearing in the above-entitled matter was  
concluded at 10:27 a.m.)

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