

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

MPAC, LLC
t/a The Scene
2221 Adams Place, NE
Retailer CX - ANC-5C
License No. 78642
Case #14-251-00133

Show Cause
Hearing
(Status)

(Failed to Follow Settlement
Agreement, Security Plan or
Board Order, Allowed the
Establishment to be Used for
an Unlawful/Disorderly Purpose)

October 22, 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:

WALTER ADAMS, OAG

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

(10:14 a.m.)

CHAIRPERSON MILLER: Case No. 14-
251-00133, The Scene located at 2221 Adams
Place, N.E., License No. 78642, in ANC-5C.

MR. ADAMS: Good morning, Madam
Chairman, Walter Adams representing the
District of Columbia.

CHAIRPERSON MILLER: Good morning.

MR. MPRAS: Good morning. I'm
Emanuel Mpras representing the licensee.

CHAIRPERSON MILLER: Good morning.

MR. BLAKENEY: Willie Blakeney,
owner of The Scene.

CHAIRPERSON MILLER: Good morning.
Okay. Mr. Mpras, did your client get notice
of this hearing?

MR. MPRAS: Yes, ma'am, he did.
He has read the notice, he understands it and
waives reading thereof.

CHAIRPERSON MILLER: Okay. Thank
you.

1 Are there any preliminary issues
2 to bring to our attention?

3 MR. ADAMS: Yes. This matter was
4 scheduled -- we request that this be scheduled
5 to the Board because we have previously had a
6 Status Hearing. The -- we would like to make
7 a proposal for an Offer in Compromise in this
8 case. The Board may remember I ran copies
9 because of the details for the Board for
10 review.

11 CHAIRPERSON MILLER: Okay.

12 MR. ADAMS: And I can read it once
13 you have it.

14 CHAIRPERSON MILLER: That would be
15 great. Thank you.

16 MR. ADAMS: All right. And, Madam
17 Chairman, I would like to at least proffer
18 that this license has been suspended since, I
19 believe, May 20th by the Board. We had a
20 Summary Suspension Hearing and prior to
21 Memorial Day and it was continued in early
22 June in which the Board voted to sustain the--

1 affirm the summary suspension that was done at
2 that time.

3 Pardon me. So the establishment
4 has been -- has again not had a license for a
5 period of months and there is a Show Cause
6 Hearing coming up in two weeks. What we would
7 like to do is to -- we believe that we have
8 negotiated terms that the Board would find
9 acceptable.

10 Reading through to put on the
11 record, No. 1, that this establishment pays a
12 \$3,000 fine to be paid within 120 days of
13 which \$1,500 would be for Charge 1 and \$1,500
14 fine for Charge 2. If the licensee fails to
15 pay the fine within 120 days, then the license
16 would be suspended at that time.

17 No. 2, that this establishment --
18 before the establishment does -- the
19 suspension is lifted by the Board, that the
20 establishment agrees to pay or otherwise
21 resolve the outstanding MPD detail fees. In
22 that case, the outstanding amount is

1 \$7,689.36.

2 No. 3, that the establishment
3 enters into a new enforceable agreement or
4 memorandum with the Metropolitan Police
5 Department regarding the provision of the
6 detail or the acknowledgement of the
7 establishment -- by the establishment that the
8 current agreement that was signed by Willie
9 Blakeney, III, is effective.

10 No. 4, the acknowledgement that
11 the establishment must use reimbursable
12 detail, I apologize, from whenever it has live
13 entertainment to exclusion of the use of a
14 disc jockey or jazz band.

15 No. 5, that the establishment
16 completes a formal training class for all the
17 security personnel within 30 days.

18 And No. 6, that the establishment
19 agrees that security personnel shall be
20 required to be familiar with and review the
21 establishment's current security plan.

22 Those are the terms that we are

1 offering to the Board for the potential
2 resolution of the matter.

3 MEMBER SHORT: Madam Chair?

4 CHAIRPERSON MILLER: Yes, Board
5 questions? Yes, Mr. Short?

6 MEMBER SHORT: Under No. 4, to
7 exclude a DJ or jazz band when it comes to
8 reimbursable details?

9 MR. ADAMS: Yes, that's the
10 request in terms of the requirement. Part of
11 the reason, and I can -- actually, I'll allow
12 the establishment to explain that portion and
13 I'll respond.

14 MR. MPRAS: Mr. Rodriguez would
15 like to assist in answering your question.
16 The violent incidents that have occurred at
17 that location not only occurred at the time
18 where there was live musical entertainment in
19 the form of vocal performances, not any other
20 type of performances. And this measure is to
21 ensure that incidents do not repeat
22 themselves.

1 MR. ADAMS: And if I may, part of
2 this requirement is that there has been --
3 although the Board has discussed this, there
4 has been some inconsistency in terms of what
5 has been discussed and there has been a lack
6 of clarity in terms of the requirement for a
7 detail for the establishment.

8 So what this is to do from the
9 District's perspective, Mr. Mpras is correct,
10 the only time when we -- thus far, the only
11 time that we have had these incidents has been
12 when there has been a band performing.

13 So in terms of there being a
14 negotiation here, it was expressed to me that
15 the times this establishment has jazz, because
16 I assume -- I'm not sure if it's at night, but
17 they have jazz bands performing and at times
18 they may have disc jockeys.

19 To my knowledge, we have not had
20 any problems in those instances, but what we
21 wanted to do was at least have some
22 clarification regarding what the requirement

1 is to resolve any inconsistencies that might
2 have been in the Board's records in times
3 prior.

4 MR. MPRAS: And this would cover
5 all bands with the exception of a jazz
6 ensemble.

7 CHAIRPERSON MILLER: I have a
8 quick question. My recollection of this case
9 is that there wasn't reimbursable detail on a
10 certain night where incidents took place. And
11 the reason there wasn't was because the
12 payments had lapsed. There was a payment
13 disagreement.

14 MR. MPRAS: It was a financial
15 issue, yes, ma'am.

16 CHAIRPERSON MILLER: So what in
17 this agreement addresses that? I mean, what
18 in this agreement goes to the establishment
19 not paying again for reimbursable detail and
20 having it lapse?

21 MR. MPRAS: Well, that would be
22 No. 2 in the agreement. This would define

1 when they had to have the reimbursable detail
2 and then the memorandum agreement with MPD
3 states how they are to be paid and when.

4 CHAIRPERSON MILLER: And if they
5 don't pay, they don't get reimbursable detail?

6 MR. MPRAS: And thus in violation
7 of the Board Order or a potential Board Order.

8 MR. ADAMS: And if I may, it's
9 already part of the security plan that the
10 establishment is required to have a
11 reimbursable detail. So as far as I'm
12 concerned, it's already covered by the prior
13 security plan that they entered into, I
14 believe, in years prior. So we -- and that
15 the Board can still -- ABRA can still charge
16 it and we will then go forward with the
17 violation.

18 CHAIRPERSON MILLER: Other
19 questions? Mr. Alberti?

20 MEMBER ALBERTI: Just a point of
21 clarification in response to something that
22 Mr. Mpras said. The way I read this, maybe

1 I'm reading it too quickly, but it doesn't say
2 that, this order or this agreement doesn't say
3 that, you will have reimbursable detail. It
4 just says that you are entering into an
5 agreement with MPD.

6 Now, I may be splitting hairs, but
7 the way I -- so the way I read this, let me
8 finish. The way I read this if you don't have
9 MPD reimbursable detail, you are not in
10 violation of the order. Although as Mr.
11 Walters has pointed out, you would be in
12 violation of your security plan.

13 So I just want to put that out
14 there so we are all clear, we are all
15 understanding what is here on this paper. I
16 have other questions, but go ahead and respond
17 to that, if you would like.

18 MR. MPRAS: Mr. Alberti, No. 4
19 seems to cover that. It says must use a
20 reimbursable detail when it has the --

21 MEMBER ALBERTI: Oh, okay, you're
22 right. You're right. Absolutely. Okay. All

1 right. Since we are on that topic, what's a
2 jazz band? I mean, we don't have a
3 definition. ABRA doesn't have a definition.
4 And unless I have a definition, you know, let
5 me finish. I'm no legal scholar, but I would
6 imagine that it gets a little cloudy here and
7 it's up to judgment call and I'm not sure how
8 the Court of Appeals would even deal with
9 this, because we don't have a definition.

10 MR. ADAMS: You are correct. I
11 think I could at least, off the record, it is
12 the assumption is that it is the classical
13 American music in which -- that is based upon
14 interpretations or different impromptu rifts
15 by musicians. However, if I may add, is there
16 -- I can ask for -- to the establishment, is
17 there a sort of time when jazz bands are
18 normally performing?

19 MR. BLAKENEY: No special time.
20 It's all within the operating hours.

21 MR. ADAMS: Okay.

22 MEMBER ALBERTI: Well, I'm just

1 going to leave that out there for a moment.
2 How many reimbursable details and for how long
3 would they be there? What will that agreement
4 with MPD look like in terms of number of
5 reimbursable details and length of time?

6 MR. MPRAS: We would like to
7 proffer a minimum of six and for four hours
8 staying 30 minutes past closing.

9 MR. ADAMS: Actually, Mr. Alberti,
10 if I may and not to step on Mr. Mpras' toes,
11 within the security plan there is -- you know,
12 let me see if I can find the security plan
13 here for reference.

14 There is a provision that talks
15 about the minimum amount of security officers
16 that are supposed to be there. If the
17 establishment is to change the amount of
18 detail officers, they have to negotiate that
19 directly and get approval of that with the
20 District.

21 And I can -- if --

22 MEMBER ALBERTI: So what was the

1 number? Did you give me a number, Mr.

2 Walters? Mr. Adams? I'm sorry, Mr. Walters.

3 I'm sorry. Mr. Adams, I apologize for that.

4 MR. ADAMS: No apologizes.

5 MEMBER ALBERTI: Mr. Adams, is

6 there a number there?

7 MR. ADAMS: Let me make sure I
8 have this. According to the third page of it,

9 it states that The Scene has to have a
10 reimbursable detail and the numbers of

11 officers and for some scheduled events they
12 will consult with the commander on a regular
13 basis.

14 Let me see if there is anything
15 else that talks about the number.

16 MEMBER ALBERTI: Yes, so there is
17 probably no number.

18 MR. ADAMS: I apologize.

19 MR. MPRAS: We would like to
20 specify a minimum of six.

21 MEMBER ALBERTI: Okay.

22 MEMBER SHORT: I have a question.

1 CHAIRPERSON MILLER: Yes, Mr.

2 Short?

3 MEMBER SHORT: I would just like
4 to ask if I could just for clarification, are
5 there any hip hop groups that play jazz? I
6 mean --

7 MR. MPRAS: I would have to defer
8 to my client.

9 MEMBER SHORT: -- just to get
10 clarification.

11 MR. BLAKENEY: Hip hop is hip hop
12 and jazz is jazz.

13 MEMBER SHORT: All right.

14 MR. BLAKENEY: That would be no.

15 MEMBER SHORT: I'm just -- okay,
16 okay, good. Thank you. I just wanted to get
17 that on the record.

18 MR. BLAKENEY: Thank you.

19 CHAIRPERSON MILLER: Other
20 questions?

21 MR. ADAMS: All right.

22 CHAIRPERSON MILLER: Okay. Mr.

1 Rodriguez?

2 MEMBER RODRIGUEZ: On the training
3 classes, do you have a firm that is going to
4 conduct the training classes?

5 MR. MPRAS: Sir, unfortunately
6 there is not one that is specified, but we
7 will find a firm that is licensed by the
8 Department of Criminal Justice Services to get
9 the best training possible.

10 MEMBER RODRIGUEZ: Okay.

11 MR. MPRAS: Unless there is one
12 the Board would like to recommend.

13 CHAIRPERSON MILLER: So does
14 training for security personnel, are there new
15 security personnel or they are the same ones
16 that were there when the suspension went into
17 effect?

18 MR. MPRAS: Well, ma'am, I would
19 say there would be some of the same people and
20 there are always new people coming in.

21 CHAIRPERSON MILLER: There is a
22 mix?

1 MR. MPRAS: Yes.

2 CHAIRPERSON MILLER: Okay.

3 MEMBER ALBERTI: I guess that
4 leads to the question of what happens with
5 future hirees?

6 MR. MPRAS: The same provision
7 within 30 days of hire.

8 MEMBER ALBERTI: Great. Thank
9 you.

10 CHAIRPERSON MILLER: Mr. Adams?

11 MR. ADAMS: Yes?

12 CHAIRPERSON MILLER: I just want
13 to ask you, it's not that frequent, this may
14 be the first that I recall that a request for
15 a lifting of a suspension has come to us in a
16 Status Hearing. So I want to ask you, what is
17 prompting this now?

18 MR. ADAMS: Well, this is the
19 second Status Hearing. This is the first time
20 -- you are right. This is the first time we
21 did this. This is a -- well, I think what
22 this is is that it's a major case, obviously,

1 from the import.

2 The Show Cause Hearing, you know,
3 potentially the District will be, if we go
4 forward, asking for revocation. In this
5 instance it has been -- it was expressed to
6 me, you know, after, frankly, we were able to
7 establish that there could be potential
8 grounds for resolving this matter, we reached
9 out to the establishment and there was, for
10 them, an economic issue, especially since the
11 licensee had -- the license hasn't been pulled
12 for a while.

13 So more or less, the establishment
14 asked for this hearing to be done, you know,
15 as soon as possible once we at least had an
16 agreement in principle. And so that's the
17 reason we asked for it today.

18 And obviously, if we know where
19 the Board is, it would, obviously, help us
20 know where we are going on November 5th when
21 the Show Cause is scheduled as well.

22 CHAIRPERSON MILLER: Mr. Mpras,

1 did you want to say something?

2 MR. MPRAS: Yes, Madam Chair. We
3 did have a meaningful dialogue with the
4 Government and as has been the case in the
5 past, you know, we would not have reached an
6 agreement if both parties didn't feel that
7 this Offer in Compromise covered the existing
8 deficiencies and it was safe for the cliental
9 and general public to reopen the
10 establishment.

11 CHAIRPERSON MILLER: Right. That
12 was going to be my next question to you, Mr.
13 Adams, that by bringing this forward, is it
14 your view that it would be safe for this
15 establishment to open?

16 MR. ADAMS: It is the District's
17 representation that we believe that if all
18 conditions are met, that we believe that it
19 would resolve the matter, it would resolve
20 what was brought before the Board back in May
21 and June.

22 And just to let you know, there

1 was a peer review to make sure that other
2 parties were on board or somewhat on board
3 with this. And so we believe that we can
4 represent this as resolving this. Obviously,
5 there is no guarantee of safety, but that at
6 least resolves what was placed before the
7 Board earlier this year.

8 CHAIRPERSON MILLER: So other
9 parties, I don't know if you want to be more
10 specific, but do you mean like the community
11 or do you mean other --

12 MR. ADAMS: I don't believe I
13 could really --

14 CHAIRPERSON MILLER: You can't go
15 into that? Okay. Okay. Other questions?
16 Okay. This is an important request and the
17 Board would like to recess and think about
18 before we do a decision. So I'm going to take
19 a vote on our recessing for a short closed
20 meeting on this Offer in Compromise proposal.

21 Okay. As Chairperson of the
22 Alcoholic Beverage Control Board for the

1 District of Columbia and in accordance with
2 Section 405 of the Open Meetings Amendment Act
3 of 2010, I move that the ABC Board hold a
4 closed meeting for the purpose of seeking
5 legal advice from our counsel on Case No. 14-
6 251-00133, The Scene, per Section 405(b)(4) of
7 the Open Meetings Amendment Act of 2010, and
8 deliberating upon that question for the
9 reasons cited in Section 405(b)(13) of the
10 Open Meetings Amendment Act of 2010.

11 Is there a second?

12 MEMBER SHORT: Second.

13 CHAIRPERSON MILLER: Mr. Short has
14 seconded the motion. I'll now call a roll
15 call vote now that the motion has been
16 seconded.

17 Mr. Brooks?

18 MEMBER BROOKS: I agree.

19 CHAIRPERSON MILLER: Mr. Alberti?

20 MEMBER ALBERTI: I agree.

21 CHAIRPERSON MILLER: Mr.

22 Rodriguez?

1 MEMBER RODRIGUEZ: I agree.

2 CHAIRPERSON MILLER: Ms. Miller
3 agrees.

4 Mr. Silverstein?

5 MEMBER SILVERSTEIN: I agree.

6 CHAIRPERSON MILLER: Mr. Short?

7 MEMBER SHORT: I agree.

8 CHAIRPERSON MILLER: It appears
9 the motion has passed by a 6-0-0 vote.

10 I hereby give notice that the ABC
11 Board will recess briefly to hold this closed
12 meeting in the ABC Board conference room
13 pursuant to the Open Meetings Amendment Act of
14 2010 and we will return shortly. Okay.

15 (Whereupon, the above-entitled
16 matter went off the record at 10:33 a.m. and
17 resumed at 10:47 a.m.)

18 CHAIRPERSON MILLER: Okay. We are
19 back on the record after the Board had an
20 opportunity to look at the Offer in Compromise
21 which was given to us in writing.

22 We had a chance to go over it a

1 little bit more and think about it. And
2 basically, I'm going to move that we
3 disapprove the Offer in Compromise because
4 though it has, you know, some very good things
5 in it, it just doesn't, to me, totally address
6 all concerns sufficiently with respect to
7 lifting the suspension.

8 So I don't know if I have a second
9 on this?

10 MEMBER BROOKS: Second.

11 CHAIRPERSON MILLER: Mr. Brooks
12 has seconded the motion. Are there any other
13 comments? All right. Not hearing any, then
14 I'll take a vote on the motion.

15 All those in favor of disapproval
16 as presented say aye.

17 ALL: Aye.

18 CHAIRPERSON MILLER: All those
19 opposed? All those abstaining? The motion
20 passes 6-0-0.

21 Okay. I guess that concludes this
22 Status Hearing then.

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