

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
 :
Adams Morgan Spaghetti, Inc. :
t/a Spaghetti Garden Brass : Show Cause

Monkey Peyote Roxanne : Hearing
2317 18th Street, NW : (Status)
Retailer CR, ANC 1C :
License No. 10284 :
Case No. 13-CMP-0076 :
 :
Violation of Settlement :
Agreement, Substantial Change :
without Board's Approval :
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Wednesday,
November 20, 2013

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, 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

ALSO PRESENT:

FERNANDO RIVERO, Assistant Attorney General,
OAG

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P R O C E E D I N G S

10:00 a.m.

CHAIRPERSON MILLER: Next case is another Show Cause Status Hearing, Case No. 12-CMP-00676, Spaghetti Garden Brass Monkey Peyote Roxanne, located at 2317 18th Street, N.W., License No. 10284 in ANC 1C.

MR. RIVERO: Good morning, Board members, Fernando Rivero standing in for Christine Gephart for the District of Columbia.

CHAIRPERSON MILLER: Good morning.

MR. ASKARINAM: Iraj Askarinam, the owner of Spaghetti Garden Peyote Roxanne and Brass Monkey.

CHAIRPERSON MILLER: Okay. What's your last name?

MR. ASKARINAM: Iraj Askarinam.

CHAIRPERSON MILLER: Askarinam. Okay. Did you receive notice of this hearing?

1 MR. ASKARINAM: Yes, ma'am.

2 CHAIRPERSON MILLER: And did you
3 read it and understand it?

4
5 MR. ASKARINAM: Yes.

6 CHAIRPERSON MILLER: Okay, that's
7 going to become part of the record if you have
8 no objection.

9 MR. ASKARINAM: Yes.

10 CHAIRPERSON MILLER: Okay, are
11 there any preliminary issues?

12 MR. RIVERO: Yes, the parties have
13 an offer and compromise to present to the
14 Board at this time.

15 CHAIRPERSON MILLER: Okay.

16 MR. RIVERO: The offer and
17 compromise is as follows: a fine of \$1,000
18 for Charge 1, payment in 7 days; and the
19 dismissal of Charge 2.

20 CHAIRPERSON MILLER: Okay. Mr.
21 Askarinam, do you agree to this offer and
22 compromise of a fine of \$1,000 payable within

1 7 days and dismissal of Charge 2?

2 MR. ASKARINAM: I do.

3 CHAIRPERSON MILLER: Are there
4 Board questions on this?

5 MEMBER ALBERTI: What is the
6 charge that's being dismissed just for the
7 record?

8 MR. RIVERO: Sure, the charge
9 that's being dismissed is the charge
10 concerning the substantial change, that's
11 Charge 2. That charge is largely duplicative.

12 MEMBER ALBERTI: And so he's being
13 charged with violating the voluntary
14 agreement?

15 MR. RIVERO: Correct.

16 MEMBER ALBERTI: And not -- so we
17 have duplicate charges and he's being charged
18 with violating the voluntary agreement and not
19 charged with violating the D.C. statute, is
20 that correct?

21 MR. RIVERO: Correct.

22 MEMBER ALBERTI: All right.

1 CHAIRPERSON MILLER: Other
2 questions?

3 MEMBER ALBERTI: No, I have a
4 comment. I'm going to not agree to this offer
5 and compromise. I'm okay with the fine and I
6 understand the duplicative charges, but what
7 concerns me is that we're charging for
8 violation of voluntary agreement and not
9 charging for the D.C. statute. I think that
10 the D.C. statute should trump a violation of
11 a voluntary agreement. I mean it is the law.
12 And the voluntary agreement in a sense is
13 repeating what the law says. And so I
14 completely don't understand the rationale for
15 this decision and I cannot agree with it.

16 MR. RIVERO: I would be glad to
17 explain that since I have now understood that
18 one does not understand, so I'm happy to
19 explain the rationale for that. The charge
20 concerns a substantial change in the
21 operations of the establishment. So you're
22 talking about someone permanently expanding

1 the hours of operation. The evidence in this
2 case consists of one instance of someone
3 operating outside of the hours of operation
4 listed in the license. The Government has
5 some concern that the evidence proffered at a
6 Show Cause Hearing would fall short of what is
7 necessary to prove that this establishment on
8 the basis of one visit has permanently
9 expanded its hours of operation. That's
10 really what Charge 2 is about.

11 MEMBER ALBERTI: I have a
12 completely different interpretation of the
13 law. And I will stand by my statement that I
14 believe that the statute should, in this case,
15 trump the voluntary agreement.

16 I believe that one observation of
17 an expansion of hours may be an indication of
18 other expansions, but I think even in one
19 instance an expansion of -- I don't believe
20 the law was written to say you expanded it on
21 a permanent basis and we have to consider what
22 is permanent. I believe when you observe an

1 establishment is operating after hours,
2 extended their hours, if you read the law,
3 clearly it says -- it doesn't say multiple
4 times, it says extended the hours. So I would
5 interpret that differently than you do.

6 MR. RIVERO: Okay, I just provided
7 the Government's rationale for the OIC that's
8 presented today.

9 MEMBER ALBERTI: I understand.
10 Just so you understand my objection.

11 MR. RIVERO: I understand the
12 objection.

13 CHAIRPERSON MILLER: And I'd like
14 to comment that we haven't seen the evidence
15 in this case. We haven't seen the settlement
16 agreement at issue, but it's my assumption
17 based on what Mr. Rivero was telling us if you
18 looked at the settlement agreement it would
19 probably be very specific and the evidence
20 would be much stronger for the agreement which
21 is basically what Mr. Rivero said, so I can
22 understand the offer and compromise based on

1 that evaluation by the Assistant Attorney
2 General.

3 Are there any other comments?

4 Okay, I need to ask you, you understand that
5 if you -- by entering this offer and
6 compromise you waive your right to a hearing?

7 MR. ASKARINAM: I understand that.

8 CHAIRPERSON MILLER: Okay, all
9 right. Then at this point I would move
10 approval of the offer and compromise that
11 being \$1,000 payable within 7 days and
12 dismissal of Charge 2.

13 Do I have a second?

14 MEMBER SILVERSTEIN: Second.

15 CHAIRPERSON MILLER: Mr.
16 Silverstein seconded the motion. All those in
17 favor say aye?

18 (Ayes.)

19 All those opposed?

20 MEMBER ALBERTI: Opposed.

21 CHAIRPERSON MILLER: Then the
22 motion passes, I believe, by a vote of 3 to 1.

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Thank you. Thank you very much.

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MR. RIVERO: Thank you.

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(Whereupon, at 10:07 p.m., the

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Show Causing Hearing (Status) was concluded.)

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