

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA  
 2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
 3 ALCOHOLIC BEVERAGE CONTROL BOARD  
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6 IN THE MATTER OF: :

7 SRF, LLC: Case # 16-CMP-00448

8 t/a Boss Burger :

9 1931 14th Street NW :

10 License #98831 :

11 Retailer CR :

12 ANC 1B :

13 No ABC Manager on Duty :

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15 Wednesday, November 30, 2016

16

17 Whereupon, the above-referenced matter

18 came on for hearing at the Alcoholic Beverage

19 Control Board, Reeves Center, 2000 14th Street,

20 N.W., Suite 400S, Washington, D.C. 20009.

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22

1 BOARD MEMBERS PRESENT

2 DONOVAN ANDERSON, CHAIRMAN

3 NICK ALBERTI, BOARD MEMBER

4 JAMES SHORT, BOARD MEMBER

5 MIKE SILVERSTEIN, BOARD MEMBER

6 JAKE PERRY, BOARD MEMBER

7

8 ALSO PRESENT:

9 AMY SCHMIDT

10 ANDREW KLINE

11 MARCUS FATOORECLUS

12

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

2 SHOW CAUSE HEARING

3 CHAIRPERSON ANDERSON: Our next case on  
4 our calendar is Case # 16-CMP-00448, Boss Burger,  
5 license #98831. Will the parties please approach  
6 and identify themselves for the record, please?

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

10 MR. KLINE: Good morning, Andrew Kline on  
11 behalf of the licensee. Mr. Chairman, my client  
12 has been stuck in traffic all morning and is  
13 parking and should be here momentarily so I would  
14 ask that you pass it.

15 CHAIRPERSON ANDERSON: All right, the board  
16 will be in recess until your client arrives.

17 MR. KLINE: Thank you.

18 CHAIRPERSON ANDERSON: All right, thanks.

19 We're back on the record. I now call is Case  
20 # 16-CMP-00448, Boss Burger, license #98831 and  
21 we also have -- I'll deal with that case first.

22 MS. SCHMIDT: Maybe we could call both cases

1 at once because we're going to settle on both  
2 cases.

3 CHAIRPERSON ANDERSON: All right. Then we  
4 call Case #16-CPM-00449, Boss Burger, license  
5 #98831. Will the parties please approach and  
6 identify themselves for the record, please?

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

10 CHAIRPERSON ANDERSON: Good morning, Ms.  
11 Schmidt.

12 MR. KLINE: Good morning, Andrew Kline on  
13 behalf of the licensee.

14 MR. FATOORECLUS: Good morning, Marcus  
15 Fatooreclus. I'm the owner of Boss Burger.

16 CHAIRPERSON ANDERSON: Good morning everyone.  
17 In the first case, #16-CMP-00448 Are there any  
18 preliminary matters?

19 MS. SCHMIDT: Yes, there is. There is an  
20 offer in compromise where the licensee will pay  
21 \$800 within 30 days and if the payment is not  
22 made within 30 days the license will be suspended

1 until payment is made.

2 CHAIRPERSON ANDERSON: Mr. Kline, on behalf  
3 of your client it is my understanding that an  
4 offer in compromise of a fine of \$800 payable in  
5 30 days. If the fine is not payable in 30 days  
6 the license will be suspended until the fine has  
7 been paid. Is this your understanding of the  
8 offer in compromise?

9 MR. KLINE: It is my understanding and we  
10 would like to be heard in mitigation at the  
11 appropriate time.

12 MR. ALBERTI: Can I ask a question?

13 CHAIRPERSON ANDERSON: Go ahead, Mr. Alberti.  
14 Mr. Alberti has a question and then I'm going to  
15 have you speak.

16 MR. ALBERTI: How does this break down with  
17 two charges? On two separate occasions? How  
18 does this break down, Ms. --

19 MS. SCHMIDT: There are two separate cases.

20 MR. ALBERTI: There are two separate cases?

21 MS. SCHMIDT: Yes.

22 MR. KLINE: It's \$800 each, Mr. Alberti.

1 CHAIRPERSON ANDERSON: I'm only dealing with  
2 case #16-CMP-00048.

3 MR. ALBERTI: Oh, I misunderstood Ms. Schmidt  
4 when she said she wanted to hear them both  
5 together.

6 CHAIRPERSON ANDERSON: No, she said call them  
7 together.

8 MS. SCHMIDT: Yes.

9 MR. ALBERTI: I'd like to do all of them  
10 together if we could.

11 CHAIRPERSON ANDERSON: I called them together  
12 but we're dealing them as two separate cases.

13 MR. ALBERTI: Oh, we're dealing with the fine  
14 only for one of them.

15 MS. SCHMIDT: Yes.

16 CHAIRPERSON ANDERSON: So, there --

17 MR. ALBERTI: I take it back, then. My  
18 misunderstanding, I apologize.

19 CHAIRPERSON ANDERSON: Therefore, I called  
20 case #16-CMP-00448 and this is what we're dealing  
21 with in the moment.

22 MR. ALBERTI: I'm sorry, I apologize.

1 CHAIRPERSON ANDERSON: Okay. Mr. Kline, do  
2 you have any -- you said you have a statement?

3 MR. KLINE: Yes, thank you Mr. Chairman. Mr.  
4 Fatooreclus is a business person. This is not  
5 his main business. He was an investor in this  
6 business and because of circumstances outside of  
7 his control in terms of those that he invested  
8 in, he ended up owning this business. He  
9 recognizes that he has an obligation to comply  
10 with the law no matter what his experience is and  
11 how he came into this business and in fact he had  
12 a policy in place which will always be followed  
13 that if there's no licensed manager on the  
14 premises that the beverages had to be locked up,  
15 we thought we were going to a hearing on that but  
16 we've learned that that's based on our  
17 conversations with the government that we would  
18 be unlikely to prove that and prevail upon that.  
19 That was, however, his policy. He recognizes  
20 that a violation of that policy is a violation of  
21 the regulations which is why he's prepared to  
22 admit the charges but we ask that you take that

1 into consideration in terms of accepting the  
2 offer in compromise on these two cases and I  
3 think because he's not here we'll call this when  
4 we called the other case.

5 MR. ALBERTI: Can I ask a follow-up question?

6 CHAIRPERSON ANDERSON: Yes, Mr. Alberti.

7 MR. ALBERTI: So, and this is a question to  
8 try to be helpful here, so Mr Fatooreclus do you  
9 have standard hours of which alcohol service is  
10 available or does it vary -- fluctuate?

11 MR. FATOORECLUS: The hours that are allowed  
12 for alcohol to be served in the District of  
13 Columbia, I'm a resident of Virginia.

14 MR. ALBERTI: No, no, no, so actually, let me  
15 clarify my question. So, Mr. Kline is  
16 representing that you have a policy of when  
17 alcohol service is not being provided, that you  
18 lock away the alcohol, you secure it, okay? So,  
19 is there a standard schedule for that, for when  
20 alcohol service is available to the customers?

21 MR. FATOORECLUS: I have two pages of  
22 policies and procedures, with the help of counsel

1 who has prepared, I believe in 2015, put on  
2 record, employees were made aware of it and  
3 basically, but what Mr. Kline represented I'm  
4 just going to follow his counsel.

5 MR. ALBERTI: Okay, okay.

6 MR. KLINE: To clarify --

7 MR. ALBERTI: I'm just going to offer this as  
8 a suggestion so you could ignore it if you want.  
9 If there are periods of the day where you're not  
10 going to be offering alcohol service, you could  
11 basically -- you could change your license to say  
12 'I'm only going to serve,' you know, if you're  
13 not going to start serving alcohol until like  
14 4:00 in the afternoon and the earlier parts of  
15 the day in which you're not serving alcohol, you  
16 could have your hours on your license be from  
17 4:00 p.m. 'til whenever, 'til the close, and then  
18 you wouldn't have to have a manager, an  
19 ABC manager, earlier in the day. I'm just  
20 putting that out there because you didn't think  
21 about that option and we don't need to discuss  
22 it, it's just something you can think about.

1 MR. KLINE: Thank you, Mr. Alberti.

2 MR. ALBERTI: You're welcome.

3 CHAIRPERSON ANDERSON: Do we have any other  
4 questions by any other board members? Hearing  
5 none, I make a motion. Let me go back. So, Mr.  
6 Kline, it's my understanding that there's an  
7 offer in compromise on case #16-CMP-00448, that  
8 there is an \$800 fine payable in 30 days. Is  
9 your client aware that by accepting an offer in  
10 compromise that he's giving up his right to a  
11 hearing?

12 MR. KLINE: Yes, sir.

13 CHAIRPERSON ANDERSON: And does he also know  
14 that he's also giving up his right to appeal this  
15 matter?

16 MR. KLINE: Yes, sir.

17 CHAIRPERSON ANDERSON: Alor, with that said I  
18 then make a motion that the offer in compromise  
19 of a fine of \$800 payable in 30 days be accepted.  
20 Is there a second?

21 MR. ALBERTI: Second.

22 CHAIRPERSON ANDERSON: Mr. Alberti has

1 seconded the motion. All those in favor say aye.  
2 (Chorus of ayes.) Those opposed? (No audible  
3 response.) The matter passed 5-zero-zero. Thank  
4 you, we're going to have you sign some papers.

5 The second case I'm calling is case #16-CMP-  
6 00449. Are there any preliminary matters in this  
7 case?

8 MS. SCHMIDT: Yes, there is an offer in  
9 compromise that the licensee will pay \$800 within  
10 30 days. If it's not paid within 30 days the  
11 license will be suspended until payment is made.

12 CHAIRPERSON ANDERSON: Thank you. And Mr.  
13 Kline, it's my understanding that there's an  
14 offer in compromise of a fine of \$800 payable in  
15 30 days. Is this your understanding, sir?

16 MR. KLINE: Yes.

17 CHAIRPERSON ANDERSON: And your client is  
18 also aware that by accepting the offer in  
19 compromise he's giving up his right to a hearing?

20 MR. KLINE: Yes.

21 CHAIRPERSON ANDERSON: Is your client also  
22 aware that he's giving up his right to appeal

1 this matter?

2 MR. KLINE: Yes.

3 CHAIRPERSON ANDERSON: With that said, I make  
4 a motion that the offer in compromise of a fine  
5 of \$800 payable in 30 days be accepted. If it's  
6 not payable in 30 days the license will be  
7 suspended. Is there a second?

8 MR. SHORT: Second.

9 CHAIRPERSON ANDERSON: Mr. Short has seconded  
10 the motion. All those in favor say aye. (Chorus  
11 of ayes.) Those opposed? (No audible response.)  
12 The matter passed 5-zero-zero. Thank you very  
13 much.

14 The board will be in recess until our 1:30  
15 hearing. Thank you.

16  
17 (Whereupon, the above-entitled matter was  
18 concluded.)

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