

Barcode

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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD

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IN THE MATTER OF: :

Barcode Corporation,

t/a Barcode Case #16-251-00010

1101 17th Street NW

License Number 82039

Retailer CT

ANC 2B

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Wednesday, March 16, 2016

Whereupon, the above referenced matter came on for hearing at the Alcoholic Beverage Control Board, Reeves Center, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009.

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CHAIRPERSON:

DONOVAN W. ANDERSON, Presiding

OTHER PERSONS PRESENT:

NICK ALBERTI, BOARD MEMBER

RUTHANNE MILLER, BOARD MEMBER

JAMES SHORT, BOARD MEMBER

MIKE SILVERSTEIN, BOARD MEMBER

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

2 CHAIRPERSON ANDERSON: All right. The next  
3 case is Case Number 16-251-00010 Barcode, License Number  
4 82039. Will the parties please approach and identify  
5 yourself for the record please.

6 MR. RIVERO: Good morning, Board Members  
7 Fernando Rivero for the District of Columbia standing in  
8 for Amy Schmidt.

9 MS. WILLIFORD: Hi. Good morning. Kwamina  
10 Williford with Holland & Knight representing Barcode.  
11 And to my left is the manager Arman Amirshahi, and to my  
12 far left is Tony Hadi Karimi, yes, who is the security  
13 manager with Barcode.

14 CHAIRPERSON ANDERSON: Okay. All right.  
15 This is a status hearing. We had -- we had a summary  
16 suspension hearing. There was an Offer in Compromise  
17 that was issued at our last hearing, and we're here  
18 today just to get a status. And hold on one minute.  
19 There was an Offer in Compromise that was issued dated  
20 -- I'm sorry. There was a Board order -- I'm sorry.  
21 There was a board order issued -- when was the board  
22 order issued? On January 11th the board order was

1 issued that incorporated an Offer in Compromise. And if  
2 the parties have a copy of the board order in front of  
3 them and the Offer in Compromise, I would the parties to  
4 address compliance with -- with the Offer in Compromise.

5 MR. RIVERO: On the part of the government I  
6 understand that this is really the licensee's show.

7 CHAIRPERSON ANDERSON: Yes, sir.

8 MR. RIVERO: And I'm -- I am just here in  
9 case there are any concerns that need to be conveyed to  
10 Ms. Schmidt.

11 CHAIRPERSON ANDERSON: I've never thought of  
12 you as being a potted plant, and I -- that's one I --  
13 everyone should know that is one of my favorite term of  
14 -- I've never thought of you being a potted plant,  
15 Mr. Rivero. So maybe this might be the first time.

16 MR. RIVERO: Probably not.

17 CHAIRPERSON ANDERSON: Okay. Go ahead. I'm  
18 sorry.

19 MS. WILLIFORD: At Barcode we stand ready  
20 to -- to address the Offer in Compromise -- the order  
21 that was submitted that was before us. So the parties  
22 did reach a Offer in Compromise, a focus on adding

1 additional security measures within the security plan  
2 and also winding down. That was submitted The Board to  
3 review. And The Board also had additional items that  
4 were -- that it felt was needed for the security plan  
5 which were also incorporated into that. And which  
6 Barcode as accepted all of that and over the past 30  
7 days has been operating in accordance with that security  
8 plan. In particular all of its security personnel have  
9 been trained on the updated security manual as been --  
10 as was requested by The Board. And, you know, I show  
11 you here a copy of -- one of The Board's requests was,  
12 you know, designated security personnel.

13 CHAIRPERSON ANDERSON: Can you -- can you --  
14 for the record can you just --

15 MS. WILLIFORD: I can describe it.

16 CHAIRPERSON ANDERSON: Describe what is it  
17 you're showing The Board please.

18 MS. WILLIFORD: Absolutely. So I'm showing  
19 to you -- one of The Board's requests was that certain  
20 personnel be -- wear clothing that had security  
21 designated so people can actually feel comfortable and  
22 know who certain security personnel were. So within the

1 security plan it was identified that on certain nights  
2 when outside promoters were used they would have these  
3 security things. And so I'm holding up a black T-shirt  
4 showing you the shirt that would be weared by security  
5 persons which has white security on the right-hand side  
6 of the lapel, and on the back it has white security in  
7 large font so that individuals would be able to see who  
8 security -- the security identified as such. In  
9 addition to this there will be on certain nights  
10 security who are not identified with these shirts as an  
11 added measure. Because it is operating as a restaurant,  
12 they didn't want it to -- to seem as if security were  
13 everywhere. But they do want to make sure that security  
14 is there. So I just wanted to bring that to show you  
15 that -- that that specific recommendation that The Board  
16 added has been taken into consideration and is right  
17 there. So the other -- and my understanding also is  
18 that ABRA has visited the establishment over the past 30  
19 days on a number of occasions, and they have found no  
20 incidents of noncompliance in connection with the  
21 security plan. And my -- and the gentlemen to my left  
22 have been very -- have paid very close attention to it

1 to make sure that its been implemented. So unless there  
2 are specific questions that you have about the items, I  
3 would ask that in light of this -- in light of there  
4 being no reports over the past 30 days, that The Board  
5 actually close the summary suspension hearing and no  
6 further action be taken in connection with this matter.

7 CHAIRPERSON ANDERSON: All right. Prior to  
8 asking questions are there any other representations the  
9 owner would like to make about business and what's been  
10 happening over the 30 days just in general? You don't  
11 have to. I'm just -- it's your opportunity if you want  
12 to make any other representations.

13 MR. AMIRSHAHI: As you know this is one of  
14 our --

15 CHAIRPERSON ANDERSON: Identify yourself  
16 again for the record please.

17 MR. AMIRSHAHI: Arman Amirshahi. I'm the  
18 owner of the establishment. As you know, we have  
19 multiple locations. This one is the unfortunate  
20 circumstances that have happened in five years that  
21 we've been open, and we've taken every measure possible.  
22 There's nothing we can do but try to build the business

1 back up, and we've done in a with all types of food  
2 measures that we do. We do open at 11:30 every day in  
3 the morning and done a number of activities with Groupon  
4 and LivingSocial, UberEATS, and -- and Yelp to try to  
5 get the business back. We are at a decline of about 40  
6 percent in sales right now, but we're trying everything  
7 that we can to try to get back into where we can.

8 CHAIRPERSON ANDERSON: Is that just because  
9 the time of the year, or is that -- do you think that  
10 was tied to the incident?

11 MR. AMIRSHAHI: Well, I think that -- I  
12 don't know if it's necessarily tied to the year. We  
13 were closed for almost, you know, a few weeks which hurt  
14 our business. I have the sales in front of me just  
15 to -- to show you if you're interested in looking at it  
16 versus last year. But it's -- it's a work in progress.  
17 I think its definitely affected our -- our business on  
18 Sunday, but it's gradually picking up, the weather's  
19 breaking. So I have faith in the business long-term.  
20 Our landlord is here which is always a good sign. That  
21 encourages us to come through this. But I feel that,  
22 you know, it's a work in progress. The place is very

1 successful. Its been a very big success story every  
2 year. It's done, you know, over 5.5 million a year  
3 every year, and its -- it's been a remarkable space for  
4 us. So its been a big hit on us, and we're trying to go  
5 through this slowly. And we've taken the  
6 recommendations from The Board very seriously and we've  
7 also -- have tried to do everything that we can with  
8 making sure that our customers feel safer there. At the  
9 same time there's only -- you know, people have certain  
10 perceptions when you're doing certain things and wanding  
11 -- I know Mr. Short mentioned that last time, that he  
12 didn't feel it was offensive at times. But, you know,  
13 during sometimes when we do have promoters and we do  
14 wand people it can make people feel differently about  
15 the establishment or feel like they can go to other  
16 establishments. So hopefully in the long-term it  
17 will -- it will -- it will come back slowly.

18 CHAIRPERSON ANDERSON: Thank you for your  
19 representation. And I just want to say to you that we  
20 appreciate the representation and -- and a job of The  
21 Board is to try to balance the public safety issue. I  
22 do recognize that you are a restaurant, I know you're a

1 businessman and that you have to operate a business.  
2 And so we just have to come up with the appropriate  
3 balance to ensure that you operate your business  
4 efficiently but at the same time its operating in a safe  
5 manner that the public is safe and feel very safe in  
6 coming into your establishment. So thank you for that.  
7 Do we have any questions about -- yes, Mr. --  
8 Mr. Alberti.

9 MR. ALBERTI: Real quick question  
10 Mr. Amirshahi, I greatly appreciate your efforts and the  
11 steps that you've taken. On Page 3 you list security  
12 staff, members of the security staff. Is that the  
13 number of security staff that will be wearing those  
14 lovely T-shirts?

15 MR. AMIRSHAHI: Yes. On the -- on the days  
16 that we have promotion events we said that we're going  
17 to -- we have those people wearing those shirts, those  
18 number of people wearing those security shirts.

19 MR. ALBERTI: Okay. Just wanted to make  
20 sure I understood exactly what was being conveyed.  
21 Thank you. Thank you for that.

22 CHAIRPERSON ANDERSON: Any other questions

1 by any of the board members? Yes, Ms. Miller.

2 MS. MILLER: Just following up on that, it's  
3 probably under in here. But do you have security on  
4 non-promotion days in general?

5 MR. AMIRSHAHI: On non-promotional days, no.  
6 We do have -- you know, again, it opens as a lunch, then  
7 turns into happy hour. And if we don't have an event  
8 sometimes we'll have somebody at the front door if we  
9 know it's going to be -- like when the weather breaks  
10 we'll have somebody outside as an extra precaution to  
11 check IDs just so we don't have people who are walking  
12 by or tourists or whatever. But no, if we don't have an  
13 event, we don't have --

14 MS. MILLER: That's on just regular days  
15 when you're just like a restaurant. Yeah. Okay. Good.

16 MR. AMIRSHAHI: We have about 30 to 40  
17 personnel working there.

18 MS. MILLER: Okay. Thank you.

19 MR. ALBERTI: Just -- just so there's no  
20 confusion what defines a promotional day?

21 MS. WILLIFORD: It's in the security manual  
22 if I can point your attention to that.

1 MR. ALBERTI: Okay. Thank you. Because I  
2 have a tough time reading it all.

3 MS. WILLIFORD: So on Page -- on Page 5,  
4 Point Number 2 it defines a promoter as basically an  
5 outside person or company other than Barcode who provide  
6 entertainment and music. And it doesn't include  
7 promotion for private office parties. You may remember  
8 that there was a lot of discussion about the different  
9 types of things that Barcode does. So in this situation  
10 basically if it's an outside entity that's bringing in  
11 their entertainment and their music, like what's being  
12 done on Sunday, that that's -- that that's basically  
13 captured with it.

14 MR. ALBERTI: Great. Thank you. I  
15 appreciate that. I just wanted to make sure that we're  
16 all on the same page and there's no confusion six months  
17 from now.

18 MS. WILLIFORD: Of course. Yes.

19 MR. ALBERTI: Thank you.

20 MR. SHORT: Mr. Chairman.

21 CHAIRPERSON ANDERSON: Yes, Mr. Short.

22 MR. SHORT: Good morning. I'm glad you did

1 get this plan and I'm glad your business is back open.  
2 And in no way did we ever intend to cause Barcode's  
3 business any -- any malcontent. But in this day and  
4 time with the issues that are going on and in light of  
5 the issue that's caused your closure I think people get  
6 used to it and I think that because of your fine menu  
7 and your business practice over the years your business  
8 will come back alive. And we just thank you for your  
9 compliance. Thank you.

10 MR. AMIRSHAHI: I appreciate that. If I  
11 could make a --

12 CHAIRPERSON ANDERSON: Of course you're  
13 always -- you can always -- Mr. Short made an -- well --  
14 well, you can always say stuff you think is helpful.  
15 And I assume that if you're going to say something your  
16 attorney should -- will kick you. Okay.

17 MR. AMIRSHAHI: [Inaudible 43:49] certain  
18 establishments, and I think it's better to at least be  
19 up front than not. I -- you know, every business is  
20 different and everyone -- as we said, we appreciate The  
21 Board's comments especially Mr. Short's comments last  
22 time. All I'm saying is that, you know, sometimes you

1 blanket it on one -- you know, a generic rule of -- of  
2 doing certain things and it does have an affect whether  
3 we want it to or not because it -- Barcode is a unique  
4 situation, and I'm sure everybody has -- says the same  
5 thing. But we do have a lunch, we do have a happy hour,  
6 we do have a late night. It's a very -- it's our only  
7 business that runs like that. And we employ, you know,  
8 over 80 employees at that location. And it's -- you  
9 know, we do appreciate that you understand that we run  
10 quality businesses, we're not like most places and we  
11 have a great track record. But in general, you know,  
12 the -- to try to get the business back up and the stuff  
13 that we've been doing has been, you know, multi-fold and  
14 different tasks of trying to get people to come back  
15 there. And it just takes a lot of time and effort  
16 hopefully to get people to come back on a -- on a  
17 regular basis. But, you know, just you know on the  
18 incident on what happened there which was an isolated  
19 situation it could happen anywhere. But just so you  
20 know two people have been arrested. We've cooperated 24  
21 hours almost nonstop even to today coming here about the  
22 incidents that -- that happened there. We cooperated

1 with everybody there. It has taken a tremendous amount  
2 of toll on the business not only money-wise, working  
3 with detectives, nonstop video, giving them videos of --  
4 and showing up to appearances, the head of security  
5 dealing with stuff. They've -- they were able to get  
6 the one person. They arrested a second person I think  
7 two weeks ago. And straight from the detective's mouth  
8 was that there's nothing this bar could have done, that  
9 this was a hit on this gentleman to come in there five  
10 minutes and five minutes out. I mean I don't know what  
11 else the business could have done. I'm not saying we  
12 shouldn't be at this hearing or we shouldn't be -- and I  
13 appreciate you looking at all the facts and reaching  
14 this point. But we were dealing with a situation that  
15 really was nothing that we could have done to prevent it  
16 which makes me happier as an owner. But I just wanted  
17 you guys to be aware of the update on that situation.

18 CHAIRPERSON ANDERSON: And I appreciate your  
19 representation. And I think that-- that when licensees  
20 come here I mean we look at -- at least it's what I look  
21 at -- your response to it. There are certain incidents  
22 of course you cannot prevent. But how did you respond?

1 And so -- and I think that's what The Board looks at.  
2 And so of course the police chief is going to make  
3 certain -- certain decisions because it's in her  
4 prerogative to make certain decisions. But when it  
5 comes The Board we are going to look at your history.  
6 We're going to look to see how you respond to it. And I  
7 think that The Board in making -- in deciding to accept  
8 this Offer in Compromise look at your presentation and  
9 how you respond to the -- and your -- the way you  
10 respond to when an incident occurs. And I assure you as  
11 a board member we will always keep that in  
12 consideration. It's not going to be cookie cutter  
13 matter that we're going to just -- we're going to look  
14 at your history how you responded to when an incident  
15 occurs. Whenever investigators come to your  
16 establishment are you open, is it an open door policy or  
17 are you saying I don't want you to come in? And so I do  
18 appreciate the representation that was made today. And  
19 it will always be a part of any decision that I make  
20 when -- if you -- unfortunately and I guess we live in  
21 the District of Columbia -- you might appear here again.  
22 But it's not going to be like okay, well, you know, he's

1 a bad actor at least in my -- my view, this one vote.

2 Okay. Yes, Mr. Silverstein.

3 MR. SILVERSTEIN: I would like to associate  
4 myself with the fine words of my colleague, The Chair.  
5 I want to thank you Mr. Amirshahi and counsel for the  
6 way you have responded to this tragic and unfortunate  
7 situation. And the -- Mr. Rivero wanted to be sure that  
8 we not treat him as a potted plant. And I want to ask  
9 him if there are any concerns that he has or any  
10 thoughts regarding what has -- what has occurred here.  
11 Are you good with it?

12 MR. RIVERO: The government takes no  
13 position. Thank you.

14 MR. SILVERSTEIN: Thank you very much.

15 CHAIRPERSON ANDERSON: Go ahead.

16 MS. MILLER: Okay. I just want to follow  
17 up. Obviously I think that this Board does recognize  
18 that you are a very responsible owner and -- and that's  
19 why we came to the decision not to keep the  
20 establishment closed. But I just want to ask you, you  
21 know, there was this 30-day period I think it was or  
22 whatever where you were going to see how it goes and see

1 if you're in compliance, et cetera. And based on what  
2 you were saying, you know, my question is I'm under the  
3 impression that the changes to the security plan et  
4 cetera are changes that are really good practices and  
5 shouldn't be unduly burdensome in any way. But I would  
6 just like to ask you in these 30 days or whatever you've  
7 had which -- you know, there have been extenuating  
8 circumstances dealing with the police et cetera and the  
9 videos -- but in general has this been working out as --  
10 as a good plan?

11 MR. AMIRSHAHI: I think that it -- any  
12 measure -- you know, again, I keep referring to to  
13 Mr. Short. But, you know, he had mentioned that, you  
14 know, the incident happened in your place so obviously  
15 there's -- something could have -- maybe could have  
16 happened to -- to prevent it, that one percent chance.  
17 So we take all the recommendations you guys have, we  
18 always have. Just like we tell the ABC people who come  
19 in there a hundred times -- maybe because we're popular.  
20 You know, but -- and, you know, when we get three or  
21 four compliance checks within a year when we used to get  
22 once a year I don't look at that as a negative thing. I

1 look at that that the place is popular, they're doing  
2 their jobs, they're coming to see what's going on,  
3 there's more activity at these things. And I tell them  
4 what does it take for you guys not to come back? Tell  
5 me what the problems are so you don't come here and tell  
6 me that this is happening. Same we do with the Fire  
7 Marshalls when they come in there and say this what is  
8 it would take for you not to come back, what would make  
9 it safe, what is it that you recommend? And that's how  
10 our attitude has been with all the clubs. Tell us what  
11 it is that we can do so we don't have to see you again.

12 MS. MILLER: Okay.

13 MR. AMIRSHAHI: And regarding your comments  
14 I mean, you know, do I feel it distracts people when you  
15 have a promoter doing an event and they're wanding  
16 people and, you know, this is a place that's very  
17 popular and has never had that. Yet people from  
18 Washington Post, National Geographic, [inaudible 50:23]  
19 coming there, and all the sudden now they're getting  
20 wanded. I don't care what people might say, government  
21 buildings are different. It does have an effect on  
22 people's perception of the place. And, you know, if

1 they're doing it everywhere it's fine. Just like the  
2 example I gave the Fire Marshall with sparklers, you  
3 know, if you -- if you're going to do it, do it  
4 everywhere. Don't tell me, you know, we're going to  
5 come crack down on -- on Barcode. I agree with you,  
6 it's not safe. But, you know, make sure that the city  
7 knows that if it happens there's going to be a \$10,000  
8 fine, it will never happen again, you know. So those  
9 are things that we feel that if it's blanketed and it's  
10 done all across the board, it's great. The wandling and  
11 stuff like that, if it's done at one place because they  
12 had a situation that was not controllable and they get  
13 penalized, you know, in the sense of their perception,  
14 there's only so much I can ask of The Board [inaudible  
15 51:16].

16 MS. MILLER: I hear you. I remember -- you  
17 were talking about about the National Geographic before,  
18 and I wasn't sure that that was actually going to be  
19 covered by the wandling. But I know you've made a  
20 distinction for like private office parties.

21 MR. AMIRSHAHI: Right.

22 MS. MILLER: So -- and I'm just one board

1 member. So all I'd say is, you know, in a period of  
2 time if you find something like that to be really  
3 affecting your business or whatever and not warranted,  
4 there is an opportunity to ask to modify it.

5 MR. AMIRSHAHI: Well, we've asked to  
6 cooperate. I think it can't hurt during the situation  
7 that happened for people to know that Barcode has zero  
8 tolerance for anything that could happen whether it was  
9 something we could have controlled or not. So I think  
10 it's a good thing. So we're sort of going with it. I  
11 plan to come see you on my own to ask for certain things  
12 to remove later, but another time.

13 MS. MILLER: Okay. But you've had the  
14 wandering for some of those situations and its been all  
15 right or its hurt your business?

16 MR. AMIRSHAHI: It's been -- it's, you know,  
17 you get people say why is it -- why are we -- a lot of  
18 people don't come there other than, you know, Sunday.  
19 So that is six days like what is going on, why are you  
20 guys doing this? They're like -- you know, some people  
21 don't even watch the news.

22 MS. MILLER: Right.

1 MR. AMIRSHAHI: And the landlord -- we just  
2 signed the new -- that you guys approved, thank you, for  
3 our new space that's opening in a few weeks -- that have  
4 never heard of it. I mean they don't even watch TV  
5 so -- or local news. So it's just -- you know, people  
6 just they see something different, they wonder why.  
7 They come there and they have the same habits, same  
8 track record. They love the place for a reason.  
9 Hopefully we can -- we'll get back when the weather  
10 breaks and we'll come see you later in a few months and  
11 ask for some -- some changes.

12 MS. MILLER: Okay. And sometimes, you know,  
13 some thing is different at first and then people don't  
14 care after a while. You know, so you'll see how it  
15 goes. Okay.

16 MR. AMIRSHAHI: We pretty much your time.

17 MS. MILLER: Thank you.

18 CHAIRPERSON ANDERSON: Any other questions  
19 by any other board members? All right. Hearing none,  
20 thank you very much for your presentation, and the  
21 matter is closed here. There's really no further action  
22 for The Board to take. But thank you very much for your

Barcode

1 presentation, and we do appreciate you being here this  
2 morning. Thank you.

3 MR. AMIRSHAHI: Thank you.

4 MR. SHORT: Thank you for your cooperation.

5 MR. AMIRSHAHI: Thank you for your time.

6 (Whereupon the above-entitled matter was  
7 concluded.)

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