

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

CHAIRPERSON:

DONOVAN W. ANDERSON, Presiding

BOARD MEMBERS PRESENT:

NICK ALBERTI, BOARD MEMBER

RUTHANNE MILLER, BOARD MEMBER

JAMES SHORT, BOARD MEMBER

MIKE SILVERSTEIN, BOARD MEMBER

OTHER PERSONS PRESENT

FERNANDO RIVERO, ESQ

CHARLES ZHOU

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

2 CHAIRPERSON ANDERSON: The next case on
3 our calendar is Case #15-251-00125, Garden of
4 Eden, License #83133. Would the parties please
5 approach and identify yourselves for the record?

6 MR. RIVERO: Good morning, board members.
7 Fernando Rivero for the District of Columbia.

8 MR. ZHOU: I'm Charles Zhou, owner of the
9 Eden 1716 IUC.

10 CHAIRPERSON ANDERSON: Can you also write
11 your name on the sheet there?

12 MR. ZHOU: Sure.

13 CHAIRPERSON ANDERSON: Mr. Rivero, are
14 there any preliminary matters?

15 MR. RIVERO: Yes, the parties have an
16 offer in compromise to present to the board at
17 this time.

18 CHAIRPERSON ANDERSON: And what's that
19 sir?

20 MR. RIVERO: The offer consists of a fine
21 of \$4000 payable in 45 days or the license will
22 be suspended until payment is made if not made

1 within 45 days. Additionally, I did want to make
2 sure that the camera system is operational and
3 verify that it is operational and I understand
4 that some upgrades will happen in the future as
5 well.

6 CHAIRPERSON ANDERSON: But that's not
7 part of the offer in compromise?

8 MR. RIVERO: No, it's just information
9 for the board.

10 MR. ALBERTI: What was that last part of
11 that? Something will -- in the future?

12 MR. RIVERO: The camera system will
13 receive an upgrade is what I was saying.

14 MR. ALBERTI: So, may I ask a question?

15 CHAIRPERSON ANDERSON: Sure, it doesn't
16 hurt to ask a question.

17 MR. ALBERTI: Since we're on that topic.
18 Just --

19 CHAIRPERSON ANDERSON: Well, let me just
20 close and then --

21 MR. ALBERTI: All right. Okay, I'm
22 sorry.

1 CHAIRPERSON ANDERSON: All right. So,
2 there -- Mr. -- it is my understanding that there
3 is an offer in compromise of \$4000 payable in 45
4 days and if it is not paid within 45 days the
5 license will be suspended. Is this your
6 understanding of the offer in compromise?

7 MR. ZHOU: That's correct. Yes, I
8 understand.

9 CHAIRPERSON ANDERSON: And are you aware
10 that by accepting this offer in compromise you
11 are waiving your right to a hearing?

12 MR. ZHOU: Yes.

13 CHAIRPERSON ANDERSON: And that you're
14 also waiving your right to an appeal?

15 MR. ZHOU: All right. Prior to asking
16 for -- normally I would ask for a second and
17 first but in this particular case I'm going to
18 ask are there any board members who have any
19 questions regarding this offer in compromise.
20 Mr. Alberti?

21 MR. ALBERTI: I had a question for Mr.
22 Rivero.

1 MR. RIVERO: Yes?

2 MR. ALBERTI: So, Mr. Rivero, I know you
3 were given assurances that the camera system was
4 working. Have you had any independent
5 confirmation?

6 MR. RIVERO: No, no independent
7 confirmation.

8 MR. ALBERTI: Okay. And I ask because
9 this is not the first time that we've encountered
10 this establishment without -- with a
11 nonfunctioning or inability to provide video.

12 MR. RIVERO: Right, that is correct.

13 MR. ALBERTI: So, I -- that's the reason
14 I ask.

15 MR. RIVERO: That is correct. My intent
16 was actually to consult with the agency to ensure
17 that once an upgrade is made that the system is
18 operational.

19 MR. ALBERTI: Thank you.

20 MR. RIVERO: But I am advised [inaudible
21 26:56]. I understand how these things work.

22 MR. ZHOU: Yes, I think that's for the

1 other location. We have multiple locations.
2 This one is not -- this location has always been
3 operational so.

4 MR. ALBERTI: And if I have that wrong,
5 I'll apologize. But you are the owner of those
6 other establishments and responsible for the
7 video in those other establishments, correct?

8 MR. ZHOU: The other locations has
9 operational, so it was just not clear enough
10 before and the video was not good quality so we
11 upgraded it and this location we were the first
12 ones in the business to have the camera installed
13 in this industry so we were open since 2001, so
14 the camera system was installed in 2002 and the
15 cameras, we were one of the first establishments
16 to install so the cameras are ten years old so we
17 never really had any issues with the -- this
18 issue happened because the rooftop had a
19 tremendous flood so it kind of flooded the system
20 and burned out the hard drive and then when the
21 person installed the hard drive he installed a
22 size under an assumption thinking that the drive

1 could hold 45 footage, but the -- footage was
2 only able to hold three to four days, so we
3 upgraded the drive and I also indicated to the
4 government basically after this incident we will
5 also upgrade the system by optimal current
6 version to make it a little bit easier to
7 operate, so that was the compromise we were also
8 ready to put on the table.

9 MR. ALBERTI: I don't hold any further
10 questions since this is only an offer in
11 compromise and not a hearing.

12 CHAIRPERSON ANDERSON: Yes, Ms. Miller?

13 MS. MILLER: Mr. Rivero, I want to ask
14 you first, some different questions of evidence
15 and the compromise. Can you articulate why this
16 offer in compromise would be in the public
17 interest?

18 MR. RIVERO: Certainly. Because it is
19 statutorily appropriate. The range begins at
20 \$4000 for this particular offense, so given that
21 the range is statutorily appropriate the
22 government prefers that its proper to make that

1 offer since the law allows for it.

2 MS. MILLER: Thank you. Thank you, Mr.
3 Chairman.

4 CHAIRPERSON ANDERSON: Any other
5 questions? All right. I make a motion --
6 hearing no further questions, I make a motion
7 that the offer in compromise of \$4000 be
8 accepted, payable in 45 days. Is there a second?

9 MS. MILLER: Second.

10 CHAIRPERSON ANDERSON: Ms. Miller has
11 seconded the motion. Those in favor say aye.

12 MS. MILLER: Aye.

13 CHAIRPERSON ANDERSON: Ms. Miller. Let
14 me do a roll call vote. Ms. Miller?

15 MS. MILLER: Aye.

16 CHAIRPERSON ANDERSON: Mr. Alberti?

17 MR. ALBERTI: Oppose.

18 CHAIRPERSON ANDERSON: Mr. Short?

19 MR. SHORT: Oppose.

20 CHAIRPERSON ANDERSON: Mr. Silverstein?

21 MR. SILVERSTEIN: Opposed.

22 CHAIRPERSON ANDERSON: The offer in

1 compromise has not been accepted by the board.

2 MR. RIVERO: I did not hear the chair's
3 vote.

4 CHAIRPERSON ANDERSON: I'm going to --
5 I'm going to -- the offer in compromise has not
6 been accepted by the board and the vote is 3 to
7 2. This matter -- I know this matter was
8 scheduled for a show cause hearing this afternoon
9 at 3:30. Ms. Jenkins will have to find another
10 date to request it and I think that maybe if the
11 negotiation regarding the fine range -- maybe
12 that will convince some of the board members.

13 MR. RIVERO: Unlikely to happen, and I
14 believe that we'll probably move forward to a
15 hearing.

16 CHAIRPERSON ANDERSON: But --

17 MR. RIVERO: So, we will work with
18 counsel for the board to get a new date.

19 CHAIRPERSON ANDERSON: But the vote is --
20 I would have voted -- I voted to accept the --

21 MR. RIVERO: Right.

22 CHAIRPERSON ANDERSON: -- accept the

1 matter, so it's 3 to 2.

2 MR. RIVERO: Thank you.

3 CHAIRPERSON ANDERSON: Mr. Zhou and Mr.
4 Rivero? I don't know why I'm bad with your name.
5 The hearing is going to be April 27 at 3:30.

6 MR. RIVERO: Pardon me?

7 CHAIRPERSON ANDERSON: April 27 at 3:30.

8 MR. RIVERO: Okay.

9 CHAIRPERSON ANDERSON: And if there's a
10 problem, just let Ms. Jenkins know and we'll
11 accommodate you. Okay?

12 MR. RIVERO: At 3:30?

13 CHAIRPERSON ANDERSON: Yes.

14
15 (Whereupon, the above-entitled matter was
16 concluded.)

17