

Capital Reporting Company

In the Matter of: Jose and Maria Carcamo t/a El Sauce Restaurant 07-18-2012

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DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF: :
 :
Jose A. Carcamo and Maria R. :
Carcamo :
t/a El Sauce Restaurant and :
Carry-Out :
1227 11th Street, NW :
Retailer DR : Show Cause
License No. 72654 : Hearing
ANC 2F :
Case No. 12-AUD-00009 :
Failed to File Quarterly :
Statements :
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July 18, 2012

The Alcoholic Beverage Control

Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Washington, D.C., Ruthanne Miller, Chairperson, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD BROOKS, Member

HERMAN JONES, Member

CALVIN NOPHLIN, Member

MIKE SILVERSTEIN, Member

ALSO PRESENT

LOUISE PHILLIPS, OAG

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

2 11:42 a.m.

3 CHAIRPERSON MILLER: The next case on our
4 calendar is Case No. 12-AUD-00009, El Sauce Restaurant
5 and Carryout. That's located at 1227 11th Street,
6 N.W., License No. 72654, ANC 2F. And this case also
7 involves a failure to file quarterly statements.

8 And do we have a Spanish interpreter here?

9 MR. LIZAMA: Yes.

10 CHAIRPERSON MILLER: Okay. I'm just going to
11 swear you in.

12 MR. LIZAMA: Okay.

13 CHAIRPERSON MILLER: And find my
14 instructions. Okay. Can you raise your right hand? Do
15 you solemnly affirm that you will faithfully and
16 accurately interpret the proceedings in this matter
17 from Spanish into English and from English into Spanish
18 to the best of your ability?

19 MR. LIZAMA: Yes, I do.

20 CHAIRPERSON MILLER: Okay. Thank you. All
21 right. Why don't we start with introductions?

22 MS. PHILLIPS: Good morning. Louise

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1 Phillips, assistant attorney general for the District
2 of Columbia. Excuse me, good afternoon.

3 CHAIRPERSON MILLER: Okay.

4 MR. CARCAMO: Jose Adilio Carcamo.

5 CHAIRPERSON MILLER: Okay. And what's your
6 name?

7 MR. LIZAMA: My name's Giovanni Lizama --

8 CHAIRPERSON MILLER: Okay.

9 MR. LIZAMA: -- for TCI (ph).

10 CHAIRPERSON MILLER: Okay. Thank you. All
11 right. And also, when you have a chance, sign in on
12 the piece of paper on your desk. Show cause hearing.
13 Are there any preliminary matters?

14 MS. PHILLIPS: Indeed there are, Madam Chair.

15 CHAIRPERSON MILLER: Okay.

16 MS. PHILLIPS: And the parties have discussed
17 with an interpreter an offer in compromise, which we
18 will present to the Board and we hope to accept. The
19 offer in compromise is a fine of \$1500 to be paid
20 within 60 days.

21 Oh, and the quarterly statement was filed on
22 the record during the status conference. And it was

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1 dated by ABRA May 23rd, 2012.

2 CHAIRPERSON MILLER: Okay. I just want to
3 ask Mr. Carcamo, there's been an offer in compromise
4 that's been represented to the Board for a fine of
5 \$1500 to be paid within 60 days. Is that what you are
6 agreeable to?

7 MR. LIZAMA: Yes.

8 CHAIRPERSON MILLER: Okay. And does he
9 understand that by accepting this offer in compromise,
10 he waives his right to a hearing?

11 MR. LIZAMA: Yes.

12 CHAIRPERSON MILLER: Okay. Any Board
13 questions?

14 MR. ALBERTI: Can we just take one moment? I
15 need to consult our records.

16 CHAIRPERSON MILLER: Okay.

17 MR. ALBERTI: Can you -- can you just take
18 one moment as I'm trying to consult our records? Can
19 we go off the record for just one second, please?

20 CHAIRPERSON MILLER: Oh, okay. We're going
21 to go off the record for a minute.

22 MR. ALBERTI: I just -- yeah, I just want to

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1 find out something here.

2 (WHEREUPON, at 11:44 a.m., the hearing went
3 off record until 11:44 a.m.)

4 CHAIRPERSON MILLER: Are there any -- are you
5 aware of any other quarterly statements that haven't
6 been filed?

7 MS. PHILLIPS: I am aware of the ones in the
8 past that have been cleared because of their age. And
9 anything in the future is not before the Board.

10 CHAIRPERSON MILLER: Right. This touches the
11 past.

12 MS. PHILLIPS: Right.

13 CHAIRPERSON MILLER: Okay. So

14 MS. PHILLIPS: In the past there were some
15 old ones that I understand, which we discussed with the
16 auditor today. One was the (inaudible) 2009, the ABRA
17 Administration accepted a fine on one of them and --
18 without accepting the quarterly statement.

19 CHAIRPERSON MILLER: Right.

20 MS. PHILLIPS: It is my considered opinion
21 that it is too late to bring a notice on that case.
22 Also the other 2009 case -- and apparently there was no

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1 notice sent over; nothing was done. And I am also of
2 the opinion that it is too late to file notice on those
3 charges. So I ask that those be cleared for purposes
4 of future discussions of retroactive behavior.

5 CHAIRPERSON MILLER: Are you referring to
6 2009?

7 MS. PHILLIPS: I am inferring to 2009.

8 CHAIRPERSON MILLER: Okay. Are you aware of
9 any quarterly statements that haven't been filed for
10 2011?

11 MS. PHILLIPS: I am aware of the one that is
12 present before the Board today.

13 CHAIRPERSON MILLER: Right.

14 MS. PHILLIPS: Anything else is not before
15 the Board.

16 MR. ALBERTI: May I ask how much it is?

17 MS. PHILLIPS: When I -- and I -- a minute.
18 See, I object to discussing things in the future and
19 not before the Board --

20 CHAIRPERSON MILLER: Right.

21 MS. PHILLIPS: -- but I haven't seen in my
22 office and there's no notice before the Board.

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1 CHAIRPERSON MILLER: Okay. That's not what
2 I'm asking. I think there's an issue or a concern that
3 if there are other outstanding quarterly statements,
4 even if there was a fine paid, within the last year or
5 so, that that's a concern that we -- that should be
6 addressed -- to make sure they get filed. Not just --
7 like you said, not just that a citation be paid
8 recently.

9 We're talking about the past. So we're not
10 talking about any future action. So --

11 MS. PHILLIPS: My problem with what you're
12 discussing is I did not look -- there is one -- let's
13 see. Just a second. I am not aware of any in the past
14 after the date here, where a fine has been paid --
15 after the date that we're dealing with now -- the
16 quarterly statement we're doing now, where the --
17 there's been a fine paid and no quarterly statement has
18 been filed.

19 That was one of the things I asked outside,
20 when I had an interpreter and I had an auditor, and I
21 couldn't, like, get everybody together.

22 CHAIRPERSON MILLER: Okay.

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1 MS. PHILLIPS: And I was told about the 2009,
2 which I asked to have cleared because, one, a fine was
3 accepted -- and at the time the time was accepted,
4 which was issued, I guess, through the agency as
5 opposed through an OIC, they are supposed to collect a
6 quarterly statement before they accept the fine.

7 CHAIRPERSON MILLER: Right, okay.

8 MS. PHILLIPS: And so since those were both in
9 2009 and it's --

10 CHAIRPERSON MILLER: Okay.

11 MS. PHILLIPS: -- a long time since --

12 MR. ALBERTI: May I ask a question?

13 MS. PHILLIPS: -- I did -- I -- you know, I
14 asked to have those cleared from the past.

15 CHAIRPERSON MILLER: Right, okay. All right.
16 I do want to follow up on 2011 because --

17 MR. ALBERTI: No. I want to ask a question
18 about something --

19 CHAIRPERSON MILLER: Okay.

20 MR. ALBERTI: -- Ms. Phillips just said.

21 CHAIRPERSON MILLER: Okay.

22 MR. ALBERTI: Ms. Phillips?

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1 MS. PHILLIPS: Yes?

2 MR. ALBERTI: And I -- and I hate to belabor
3 this but the 2009 case you're referring to, where the
4 fine was paid, was levied by the Agency, the fine paid,
5 do you have a case number for that?

6 MS. PHILLIPS: I probably --

7 MR. ALBERTI: Because there's some confusion
8 on my part. As -- when I look --

9 MS. PHILLIPS: Yeah, no. I probably do but
10 it wasn't circled on my little list.

11 MR. ALBERTI: Okay.

12 MS. PHILLIPS: So I didn't even really see
13 the dates.

14 MR. ALBERTI: Here's -- let me -- let me tell
15 you, when I look at the investigative history, I see
16 Case No. 11-CMP-00461. And this says -- it says,
17 "Failure to file quarterly statement, 11/16/11." That
18 says to me that it was a violation of failure to file a
19 quarterly statement for the second quarter of 2011.
20 Would you agree? I'm not saying the record's -- the
21 statement's correct.

22 I'm just saying, based on that statement,

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1 would you agree?

2 MS. PHILLIPS: (Inaudible) he has Case No.

3 11-

4 CMP-00461?

5 MR. ALBERTI: Yeah.

6 MS. PHILLIPS: I see that and I see that the
7 fine of \$1000 was paid. And I see that there's no
8 notations that I can see that a quarterly statement was
9 filed. But prior to this hearing, I had a conference
10 with the auditor, the interpreter, and Jose Carcamo and
11 his daughter, who helps with the books. And I was told
12 that all of the quarterly statements prior to the one
13 we're here to assess today had been filed.

14 That's all I can tell you. And so either the
15 recordkeeping is not correct or the report to me was
16 incorrect.

17 MR. ALBERTI: But -- absolutely.

18 MS. PHILLIPS: And I have no way of --

19 MR. ALBERTI: Absolutely. So --

20 MS. PHILLIPS: -- discerning any of that.

21 MR. ALBERTI: And I -- right. And I

22 absolutely understand your position. I just want to

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1 tell you what my confusion is here.

2 MS. PHILLIPS: Right.

3 MR. ALBERTI: And I'm -- I don't know. I'm
4 going to ask -- I'm going to -- I would like a chance
5 to take a look at our records to see where we're at
6 with this. That's --

7 CHAIRPERSON MILLER: Yeah.

8 MS. PHILLIPS: Right. And --

9 MR. ALBERTI: -- my concern.

10 MS. PHILLIPS: And actually while I can
11 understand your concern, what I do know is that that
12 matter is not before the (inaudible) Board now. And
13 that matter has been resolved. And we're here on this
14 one. And the fine has been appropriately raised. And I
15 have spent a lot of time with an interpreter explaining
16 the requirement of quarterly statements to them.

17 As an attorney for the District, that's my
18 obligation, if I can do that, so that I can say the
19 next time -- if there is a next time, which obviously,
20 there never will be a next time -- I can say that I
21 explained it to them with an interpreter. And I don't
22 have to rely on statements from people within the

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1 Agency made through third parties that there -- if this
2 matter has been explained to them and (inaudible) by
3 the Agency.

4 MR. ALBERTI: Okay.

5 MS. PHILLIPS: That's why I did it all today.
6 So I thought I had it all taken care of and then I'd
7 bring this up. And here we are, back where I thought
8 we'd be finished. So anyway, but what -- no matter
9 what, there is a fine that was paid on that one. And
10 the fine for this one was raised. And this quarter
11 statement payment which is before us today has been
12 filed because I collected it personally myself and
13 presented it and got a stamped copy for my file. This
14 case --

15 MR. ALBERTI: Right. Thanks very much. We
16 appreciate that very much. I will tell you that.
17 Thank you.

18 MS. PHILLIPS: So if the records aren't here
19 on this case

20 CHAIRPERSON MILLER: Okay. Any other
21 questions?

22 (No audible response.)

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1 CHAIRPERSON MILLER: Okay. I would move that
2 we approve the offer in compromise of \$1500 to be paid
3 within 60 days based on the government's representation
4 that the quarterly statement has been filed. And I
5 believe she said that the auditor had indicated that
6 there were no past quarterly statements due. I don't
7 see any reason not to accept this offer in compromise,
8 particularly since this quarterly statement has been
9 filed.

10 Do I have a second?

11 MR. BROOKS: Second.

12 CHAIRPERSON MILLER: Any other comments?

13 MR. ALBERTI: Yes.

14 CHAIRPERSON MILLER: Okay.

15 MR. ALBERTI: I -- my concern still remains
16 that there's an outstanding quarterly report to be
17 filed. And I cannot in good conscience accept an OIC
18 when we still have an outstanding quarterly report. I
19 believe, according to the information that I have, that
20 that quarterly report was -- violation for failure to
21 file a quarterly report was settled in Case No. 11-CMP-
22 00461, in which a fine was paid.

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1 But based on the information I have, the
2 quarterly report was not submitted for the second --
3 for the second quarter of FY11, which is -- which is
4 the basis for the case I just stated.

5 MS. PHILLIPS: And my only comment is that
6 this case isn't before the Board right now. And I --
7 you know, I object to moving that in this discussion
8 because of that. But I understand that recordkeeping
9 must be taken care of.

10 CHAIRPERSON MILLER: Any other comments from
11 Board members? Okay. There's a motion before the
12 Board to accept the offer in compromise. That's been
13 seconded. All those in favor, say aye?

14 (Chorus of ayes.)

15 CHAIRPERSON MILLER: All those opposed?

16 MR. JONES: Opposed.

17 MR. ALBERTI: Opposed.

18 CHAIRPERSON MILLER: Let me take a roll call.
19 Mr. Nophlin?

20 MR. NOPHLIN: I agree.

21 CHAIRPERSON MILLER: Mr. Brooks?

22 MR. BROOKS: I agree.

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1 CHAIRPERSON MILLER: Mr. Alberti?

2 MR. ALBERTI: I disagree.

3 CHAIRPERSON MILLER: Ms. Miller agrees. Mr.

4 Silverstein?

5 MR. SILVERSTEIN: I agree.

6 CHAIRPERSON MILLER: Mr. Jones?

7 MR. JONES: I disagree.

8 CHAIRPERSON MILLER: Okay. The motion passes

9 by a vote of 4-2-0 to accept your offer in compromise.

10 Thank you very much.

11 Let me see. Is anybody here on Uncle Lee's

12 Seafood that we had earlier? Okay. No, there's nobody

13 here.

14 We're off the record.

15 (WHEREUPON, at 11:57 a.m., the hearing was

16 concluded.)

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CERTIFICATE OF NOTARY PUBLIC

I, BRADLEY ANGLIN, the officer before whom the foregoing hearing was taken, do hereby certify that the testimony appearing in the foregoing transcript was recorded by me and thereafter reduced to typewriting under my direction; that said transcription is a true record of the testimony given by said parties; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

BRADLEY ANGLIN
Notary Public in and for the
DISTRICT OF COLUMBIA

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CERTIFICATE OF TRANSCRIPTION

I, MIRANDA PENNACHI, hereby certify that I am not the Court Reporter who reported the following proceeding and that I have typed the transcript of this proceeding using the Court Reporter's notes and recordings. The foregoing/attached transcript is a true, correct and complete transcription of said proceeding.

Date

MIRANDA PENNACHI
Transcriptionist

<p style="text-align: center;">\$</p> <p>\$1000 10:7</p> <p>\$1500 3:19 4:5 13:2</p> <hr/> <p style="text-align: center;">0</p> <p>00461 13:22</p> <hr/> <p style="text-align: center;">1</p> <p>11 10:3</p> <p>11/16/11 9:17</p> <p>11:42 2:2</p> <p>11:44 5:2,3</p> <p>11:57 15:15</p> <p>11-CMP 13:21</p> <p>11-CMP-00461 9:16</p> <p>11th 1:7 2:5</p> <p>1227 1:7 2:5</p> <p>12-AUD-00009 1:9 2:4</p> <p>14th 1:14</p> <p>18 1:12</p> <hr/> <p style="text-align: center;">2</p> <p>2000 1:14</p> <p>2009 5:16,22 6:6,7 8:1,9 9:3</p> <p>2011 6:10 8:16 9:19</p> <p>2012 1:12 4:1</p> <p>23rd 4:1</p> <p>2F 1:9 2:6</p> <hr/> <p style="text-align: center;">4</p> <p>4-2-0 15:9</p>	<hr/> <p style="text-align: center;">6</p> <p>60 3:20 4:5 13:3</p> <hr/> <p style="text-align: center;">7</p> <p>72654 1:8 2:6</p> <hr/> <p style="text-align: center;">A</p> <p>a.m 2:2 5:2,3 15:15</p> <p>ability 2:18</p> <p>ABRA 4:1 5:16</p> <p>absolutely 10:17,19,22</p> <p>accept 3:18 8:6 13:7,17 14:12 15:9</p> <p>accepted 5:17 8:3</p> <p>accepting 4:9 5:18</p> <p>according 13:19</p> <p>accurately 2:16</p> <p>action 7:10 16:10,14</p> <p>actually 11:10</p> <p>addressed 7:6</p> <p>Adilio 3:4</p> <p>Administration 5:17</p> <p>affirm 2:15</p> <p>afternoon 3:2</p> <p>age 5:8</p> <p>agency 8:4 9:4 12:1,3</p> <p>agreeable 4:6</p> <p>Alberti 1:17 4:14,17,22 6:16 8:12,17,20,22 9:2,7,11,14</p>	<p>10:5,17,19,21 11:3,9 12:4,15 13:13,15 14:17 15:1,2</p> <p>Alcoholic 1:2,13,14</p> <p>am 5:7 6:1,7,11 7:13 16:9,11 17:3</p> <p>ANC 1:9 2:6</p> <p>ANGLIN 16:3,19</p> <p>anybody 15:11</p> <p>anything 5:9 6:14</p> <p>anyway 12:8</p> <p>apparently 5:22</p> <p>appearing 16:5</p> <p>appreciate 12:16</p> <p>appropriately 11:14</p> <p>approve 13:2</p> <p>aren't 12:18</p> <p>assess 10:13</p> <p>assistant 3:1</p> <p>attorney 3:1 11:17 16:12</p> <p>audible 12:22</p> <p>auditor 5:16 7:20 10:10 13:5</p> <p>aware 5:5,7 6:8,11 7:13</p> <p>aye 14:13</p> <p>eyes 14:14</p> <hr/> <p style="text-align: center;">B</p> <p>based 9:22 13:3 14:1</p> <p>basis 14:4</p>	<p>behavior 6:4</p> <p>belabor 9:2</p> <p>believe 13:5,19</p> <p>best 2:18</p> <p>Beverage 1:2,13,14</p> <p>Board 1:2,14 3:18 4:4,12 5:9 6:12,15,19,22 11:12 14:6,11,12</p> <p>books 10:11</p> <p>BRADLEY 16:3,19</p> <p>bring 5:21 12:7</p> <p>Brooks 1:18 13:11 14:21,22</p> <p>Building 1:14</p> <hr/> <p style="text-align: center;">C</p> <p>calendar 2:4</p> <p>CALVIN 1:19</p> <p>Carcamo 1:5,6 3:4 4:3 10:10</p> <p>care 12:6 14:9</p> <p>Carryout 2:5</p> <p>Carry-Out 1:7</p> <p>case 1:9 2:3,4,6 5:21,22 9:3,5,16 10:2 12:14,19 13:21 14:4,6</p> <p>cause 1:8 3:12</p> <p>CERTIFICATE 16:1 17:1</p> <p>certify 16:4 17:3</p> <p>Chair 3:14</p> <p>Chairperson 1:15,17</p>
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