

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: :Case # 15-CMP-00417

7 Mama Chuys DC, Inc.,

8 t/a Mama Chuy DC

9 2650 Georgia Ave NW

10 License #86892

11 Retailer CR ANC IB

12 Wednesday, March 2, 2016 :

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15 Wednesday, March 2, 2016

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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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1 CHAIRPERSON:

2 DONOVAN W. ANDERSON, Presiding

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4 BOARD MEMBERS PRESENT:

5 NICK ALBERTI, BOARD MEMBER

6 RUTHANNE MILLER, BOARD MEMBER

7 JAMES SHORT, BOARD MEMBER

8 MIKE SILVERSTEIN, BOARD MEMBER

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10 OTHER PERSONS PRESENT

11 WALTER ADAMS for District of Columbia

12 JOHN SUERO

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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-CMP- 04417, Mama Chuy's
4 License #86892 Would the parties please
5 approach?

6 MR. ADAMS: Good morning Mr. Chairman,
7 Walter Adams for District of Columbia.

8 CHAIRPERSON ANDERSON: And is Mama Chuy
9 here?

10 MR. ADAMS: To my knowledge the owner of
11 Mama Chuy has not been [inaudible 58:00].

12 CHAIRPERSON ANDERSON: Do you know
13 whether or not they were served?

14 MR. ADAMS: Yes, I do have a service form
15 From that was issued on December 8, 2015, where
16 it was served upon an employee of the
17 establishment, Mr. Chairman. It was served on
18 December 9th, I apologize.

19 CHAIRPERSON ANDERSON: All right. So is
20 the government prepared to forward ex parte?

21 MR. ADAMS: Yes, Ms. Phillips will appear
22 for her ex parte. And just add, Mr. Chairman, I

1 also attempted to contact the owner both by the
2 phone number for the establishment and e-mail
3 addresses for the owner and never received any
4 response. But the District is prepared to move
5 forward ex parte. And so -- and that, Mr.
6 Chairman, this particular proposed that we skip
7 the opening statement and we start the testimony.

8 CHAIRPERSON ANDERSON: Is this your case,
9 Mr. Adams?

10 MR. ADAMS: Madame Chuy?

11 CHAIRPERSON ANDERSON: Yes.

12 MR. ADAMS: It is.

13 CHAIRPERSON ANDERSON: Do you recall
14 whether or not the owner was here for the status
15 hearing?

16 MR. ADAMS: If I'm not mistaken, no I
17 actually believe Ms. Phillips handled the status.
18 If I'm -- actually it says here, she made a
19 notation that the owner did come at that time.

20 CHAIRPERSON ANDERSON: Okay.

21 MR. ADAMS: So, the owner was at the
22 status. There was no change on the date in any

1 case.

2 CHAIRPERSON ANDERSON: All right, okay,
3 fine. So, you stated that you want to forego
4 opening statements and you can call your first
5 witness, then.

6 MR. ADAMS: Yes, Mr. Chairman, we will
7 call Investigator John Suero to the stand.

8 CHAIRPERSON ANDERSON: Do you swear or
9 affirm to tell the truth and nothing but the
10 truth?

11 MR. SUERO: I do.

12 CHAIRPERSON ANDERSON: You may be seated.
13 Your witness.

14 MR. ADAMS: All right. Mr. Suero can you
15 please state and spell your name for the record.

16 MR. SUERO: I'm investigator John Suero.
17 My first name is the common spelling. My last
18 name is spelled S- as in Sam U-E-R-O.

19 MR. ADAMS: And Mr. Suero, you are
20 employed by the District of Columbia government,
21 correct?

22 MR. SUERO: I am.

1 MR. ADAMS: And what do you do.

2 MR. SUERO: Alcoholic Beverage Regulatory
3 Administration -- is that correct?

4 MR. ADAMS: The's correct. And you've
5 been employed at the office as the investigator
6 for more than a year, correct?

7 MR. SUERO: Since June of 2013.

8 MR. ADAMS: Very well. And so, as an
9 investigator you're familiar with the
10 establishment known as Mama Chuy's, is that
11 correct?

12 MR. SUERO: I am.

13 MR. ADAMS: And so as part of your
14 familiarity with Mama Chuy you've conducted
15 investigations involving Mama Chuy at some time?

16 MR. SUERO: That's correct.

17 MR. ADAMS: Just one more moment. So, on
18 Did you conduct an investigation on June 6, 2015?

19 MR. SUERO: I did.

20 MR. ADAMS: And did that result in an
21 investigation report being produced?

22 MR. SUERO: It did.

1 MR. ADAMS: All right. Sitting before you
2 is what's marked for identification purposes as
3 the District's exhibit #1. Do you have that in
4 front of you?

5 MR. SUERO: I do, sir.

6 MR. ADAMS: And are you familiar with
7 that document?

8 MR. SUERO: I am, sir.

9 MR. ADAMS: And what is it?

10 MR. SUERO: It is an investigative report
11 regarding Mama Chuy. The date of the occurrence
12 is June 26, 2015, and my reference to a no ABC
13 manager case and I am the individual who prepared
14 the report.

15 MR. ADAMS: All right. And so with the
16 report is obviously the two-page narrative but is
17 there anything else attached to that report? Are
18 there any exhibits with that report?

19 MR. SUERO: There would be. I do not
20 have one.

21 MR. ADAMS: If you don't mind there are
22 some [inaudible 1:02:20].

1 MR. SUERO: Sure.

2 MR. ADAMS: Are there exhibits with that
3 report?

4 MR. SUERO: There are two, sir. Actually
5 there's three. One is the copy of the Alcoholic
6 Beverage Regulation Administration license for
7 Mama Chuy. There's also a copy of the regulatory
8 inspection that I prepared on the date that I
9 visited and there's also a copy of citation #4417
10 charging them with no ABC manager with a total
11 fin of \$500.

12 MR. ADAMS: Is this a true and accurate
13 version of the investigative report that you
14 completed regarding this establishment.

15 Mr. Suero: Yes, sir.

16 MR. ADAMS: Mr. Chairman, I would like to
17 move into evidence this for purposes of the
18 District's Exhibit #1.

19 CHAIRPERSON ANDERSON: So moved.

20 MR. ADAMS: And I'll provide to staff.
21 So, when you conducted the investigation on June
22 26, 2015, Mr. Suero, at the site of Mama Chuy,

1 can you relate to the board your investigation
2 and what happened when you began your
3 investigation?

4 MR. SUERO: I had some preemptive
5 regulatory inspections as we are provided
6 normally by our supervisor and one of those was
7 from Mama Chuy. On that particular date and time
8 I was in the 2000 block of Georgia Avenue
9 Northwest near Washington, D.C. and I stopped in
10 at Mama Chuy at approximately 10:23 p.m. I
11 entered, identified myself to two female
12 employees inside. I asked to speak to an ABC
13 manager or owner. At that time they advised me
14 that the owner had left. It was -- they didn't
15 say exactly where he was, but he wasn't there,
16 and neither of them had an ABC manager. Were
17 there any other employees in the establishment
18 than the two?

19 MR. SUERO: Just the two ladies.

20 MR. ADAMS: All right. And so you didn't
21 ask whether or not someone was in back or
22 anything like that?

1 MR. SUERO: Well, I asked for the
2 management wherever -- I mean, the owner wherever
3 he was and he wasn't there.

4 MR. ADAMS: All right. At the time you
5 had visited was there anything else that you
6 found during this investigation? I mean, after
7 you asked them that question, what else happened?

8 MR. SUERO: I explained to the young lady
9 who was, I guess, in charge for lack of a better
10 word, that ABRA regulations require the presence
11 of either an owner or a properly licensed ABC
12 manager during their hours of operation.

13 MR. ADAMS: And this occurred at 10:23.
14 Was that within their hours of operation?

15 MR. SUERO: I have to look at their
16 license. Yes, actually their hours of operation
17 for -- I see this was a Friday -- their hours of
18 operation according to the ABC license, are until
19 3:00 in the morning on Fridays.

20 MR. ADAMS: And did you make any other
21 observations during your visit to the
22 establishment?

1 MR. SUERO: No sir, I didn't.

2 MR. ADAMS: I have no further questions
3 for Mr. Suero.

4 CHAIRPERSON ANDERSON: Does the board
5 have any questions for Mr. Suero? Yes, Mr.
6 Alberti?

7 MR. ALBERTI: Investigator Suero, thank
8 you for your report. Real quick question. You
9 made a second visit on July 9th to issue the
10 citation, is that correct?

11 MR. SUERO: Yes sir.

12 MR. ALBERTI: Do you happen to remember
13 what time that visit was made on the day?

14 MR. SUERO: I do not sir, sorry.

15 MR. ALBERTI: All right, thank you. I
16 have no further questions.

17 CHAIRPERSON ANDERSON: Any other
18 questions from the board members? And you Mr.
19 Adams do you have any questions of Mr.?

20 MR. ADAMS: I have no further questions.

21 CHAIRPERSON ANDERSON: You can step down,
22 Mr. Suero.

1 MR. SUERO: Thank you.

2 CHAIRPERSON ANDERSON: Do you have any
3 other witnesses?

4 MR. SUERO: The District would like at
5 this time to rest this case.

6 CHAIRPERSON ANDERSON: Do you wish to
7 make a closing statement?

8 MR. SUERO: Mr. Chairman, a brief
9 summation of this case, my in this case Mama Chuy
10 as well as all establishments are required ot
11 have either the owner of the establishment or a
12 licensed ABC manager at the establishment during
13 the hours of operation and during the time that
14 they are actually providing alcoholic beverages
15 and it appears here in this case that this
16 establishment at 10:23 which is well within their
17 hours of operation, did not have an ABC manager
18 or owner at the establishment. So, as a result,
19 this is a very simple case in which the
20 establishment did violate the District of
21 Columbia law as relates to ABC licensees. In
22 this case, this would be the -- I believe the

1 second secondary tier offense for this
2 establishment within a two-year period so, as a
3 result, I just want to make sure --

4 MR. ALBERTI: I -- Just but I would like
5 to interrupt just because I think it's important
6 that I interject this here and not wait for you
7 to finish. I draw your attention on the history
8 to Case #568, Case #12-CMP-00568 and case #12-
9 CMP-00456. Yeah, have you kind of go through
10 those and in your prior, and kind of remember
11 prior violations, I just want to make sure that
12 that's correct.

13 MR. SUERO: I did not. I think basically
14 that was -- let me see -- that was --

15 MR. ALBERTI: I mean, it's easy to miss.

16 MR. SUERO: It is easy to miss. Let's
17 see, when was that adjudicated?

18 MR. ALBERTI: I think the summary of the
19 adjudication is all within the summary of one of
20 the two cases.

21 MR. SUERO: Right. Because I remember
22 this case made quarterly statement violation

1 where they had not opened that they screwed up
2 and didn't pay the thing -- but that was 11 -- I
3 guess 20 - and denied so I guess this would be
4 the third secondary violation within I guess a
5 three-year-period.

6 MR. ALBERTI: Thank you for your
7 indulgence on that.

8 MR. ADAMS: No problem. So, as a result,
9 the establishment is subject to a fine within the
10 range of \$750 to \$1000 and I'll leave it to the
11 board's discretion.

12 CHAIRPERSON ANDERSON: All right. Do you
13 wish to -- do you want to close it on your -- do
14 you want to close the record on your oral
15 statement or do you want to report findings and
16 facts.

17 MR. ADAMS: The District will waive doing
18 a closed findings of fact meeting.

19 CHAIRPERSON ANDERSON: Okay, all right.
20 And okay, therefore, sometimes I'm very organized
21 and other times I'm not. Therefore, as
22 Chairperson of the Alcoholic Beverage Control

1 Board for the District of Columbia and according
2 to section 45 of the Open Meetings Amendment Act,
3 I move that ABC Board hold a closed meeting for
4 the purpose of seeking legal advice from our
5 counsel on Case #15-CMP-00417, Mama Chuy D.C. per
6 section 405(b) per the Open Meetings Amendment
7 Act of 2010 and deliberation upon Case #15-CMP-
8 00417 on Mama Chjuy for the reasons cied in
9 section 405(b) (13) of the Open Meetings Amendment
10 Act of 2010. Is there a second?

11 MR. ALBERTI: Second.

12 CHAIRPERSON ANDERSON: Mr. Alberti
13 seconded the motion. I will now take a roll call
14 vote on the motion before us now that it has been
15 seconded. Ms. Miller?

16 MS. MILLER: I'm sorry -- I'm sorry --
17 could you repeat the motion? I'm sorry I was
18 reading,

19 CHAIRPERSON ANDERSON: We're taking --

20 MS. MILLER: I was looking at those
21 violations. You're taking a vote on which?

22 CHAIRPERSON ANDERSON: Closed.

1 MS. MILLER: Closed meeting? Okay.

2 CHAIRPERSON ANDERSON: Closed Meeting
3 Act.

4 MS. MILLER: I agree.

5 CHAIRPERSON ANDERSON: Mr. Alberti?

6 MR. ALBERTI: I agree.

7 CHAIRPERSON ANDERSON: Mr. Short?

8 MR. SHORT: I agree.

9 CHAIRPERSON ANDERSON: Mr. Silverstein.

10 MR. SILVERSTEIN: I agree.

11 MR. ANDERSON: I agree. As it appears
12 that the motion has passed I hereby give notice
13 that the ABC Board will hold a closed meeting and
14 the ABC Board Conference room pursuant to the
15 Open Meetings Amendment Act of 2010 and will
16 issue an order within 90 days. Thank you. This
17 therefore concludes the board's morning schedule
18 and we are, therefore, in recess until 1:30.
19 Thank you.

20 [Time: 10:50 a.m.]