

PACIFICO CANTINA

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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: :

Pacifico on Eight, LLC,
t/a Pacifico Cantina Case Number 15-CMP-00530
514 8th Street SE
License Number 86033
Retailer CR
ANC 6B

SHOW CAUSE HEARING

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Wednesday, May 18, 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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2 CHAIRPERSON:

3 DONOVAN W. ANDERSON, Presiding

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5 OTHER PERSONS PRESENT:

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7 RUTHANNE MILLER, BOARD MEMBER

8 JAMES SHORT, BOARD MEMBER

9 MIKE SILVERSTEIN, BOARD MEMBER

10 NICK ALBERTI, BOARD MEMBER

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

2 CHAIRPERSON ANDERSON: All right. Our next
3 case -- we're back on the record. Our next case on the
4 calendar is Case Number 15-CMP-00530, Pacifico Cantina,
5 License Number 86033. Will the parties please identify
6 themselves for the record. There's also a piece of paper
7 on the table. Please sign your name on that document
8 please.

9 MS. PHILLIPS: Louise Phillips, Assistant
10 Attorney General for the District of Columbia. Good
11 morning, Board Members.

12 CHAIRPERSON ANDERSON: Good morning,
13 Ms. Phillips.

14 MS. MURPHY: Good morning. Brianne Murphy
15 on behalf of the Pacifico Cantina. I am in-house
16 counsel to the restaurant group. I am not licensed in
17 the District of Columbia, but I was also the manager on
18 duty the night in question. So --

19 CHAIRPERSON ANDERSON: So you are -- explain
20 to me your representation then. So are you --

21 MS. MURPHY: I've never done this before in
22 front of this board, so that's why --

1 CHAIRPERSON ANDERSON: No. Not -- not --
2 not that night. No. What I'm trying to find out is
3 that how are you -- since -- since you're not an
4 attorney representing -- since you're not licensed --
5 you're not an attorney, what is your role here today?

6 MS. MURPHY: Both as an advocate and a
7 witness which puts me in an awkward position.

8 CHAIRPERSON ANDERSON: No. I don't have a
9 problem with you being an advocate and a witness.
10 That's fine. I'm just saying so do you have something
11 from -- from the licensee that -- that authorizes you to
12 make decisions to bind this company to whatever decision
13 that The Board makes today?

14 MS. MURPHY: I do not have anything in
15 writing from him. No.

16 CHAIRPERSON ANDERSON: Are you able to --

17 MS. MURPHY: But I do have his -- I --

18 CHAIRPERSON ANDERSON: -- get anything in
19 writing from the ownership saying that you are
20 authorized to represent the company today?

21 MS. MURPHY: I cannot get it. I mean I can
22 call him and see if I can get it.

1 CHAIRPERSON ANDERSON: Well, why don't we --
2 we have some time.

3 MS. MURPHY: A few minutes. Okay.

4 CHAIRPERSON ANDERSON: We have some time.

5 So we can take an e-mail from -- from someone who's in
6 ownership who is listed on ABRA records as an owner of
7 this establishment that authorizes you to represent them
8 today, to bind them to whatever decision is made by The
9 Board.

10 MS. MURPHY: Okay.

11 CHAIRPERSON ANDERSON: So we will -- it's
12 11:07. And we can take an e-mail -- we can take an
13 e-mail. Our general counsel can give you her card.
14 They can send an e-mail. You can share it with
15 Ms. Phillips. If Ms. Phillips is fine -- at least if
16 she's okay with it, The Board will consider that we can
17 move forward.

18 And also it's is he 11:07. I'll give you --
19 we'll come back here at 11:20. That's 15 --

20 MS. MURPHY: Okay.

21 CHAIRPERSON ANDERSON: -- 15 minutes or so.

22 Okay?

1 MS. MURPHY: Yes.

2 CHAIRPERSON ANDERSON: Is -- is -- is there
3 an OIC in question, or are we going to a hearing?

4 MS. PHILLIPS: My -- my belief is we're
5 going to a hearing. We have not discussed a settlement.
6 They have rejected a settlement before, and we have not
7 talked about it. But since we have 15 minutes we may be
8 able to do all that.

9 MR. ALBERTI: So what we have -- the
10 reason The Chair is asking what we've done in the
11 past --

12 MS. PHILLIPS: On the record as far as I'm
13 concerned.

14 MR. ALBERTI: This is on the record. Yes.
15 So what we've done in the past, and you know this, is
16 if -- if is if there's an OIC, we'll accept the OIC
17 contingent upon getting authorization at some point
18 during the day.

19 MS. PHILLIPS: Okay.

20 MR. ALBERTI: And so --

21 MS. PHILLIPS: Right. And we --

22 MR. ALBERTI: But things change if we

1 have -- if we have a preliminary matter. I just want to
2 point that out.

3 MS. PHILLIPS: Thank you.

4 MR. ALBERTI: Okay.

5 CHAIRPERSON ANDERSON: Yeah. We're off the
6 record.

7 (Whereupon, the above-entitled matter was
8 recalled.)

9 CHAIRPERSON ANDERSON: All right. We're
10 back on the record with Case Number 15-CMP-00530,
11 Pacifico Cantina. We had taken a break for -- for The
12 Board to be provided authorization from the
13 representative that -- that this person can represent
14 the person in this capacity. Where are we on that issue
15 and any other issues?

16 MS. MURPHY: I was able to get ahold of
17 Mr. Cervera. He is going to e-mail Ms. Walker by the
18 end of the day with that information, and we have agreed
19 to settle.

20 MR. SILVERSTEIN: Please speak up. I'm
21 sorry.

22 MS. MURPHY: I'm sorry. We have agreed

1 to -- we have agreed to settle it, and I will have that
2 from Mr. Cervera by the end of the day.

3 CHAIRPERSON ANDERSON: Well, you know, I
4 think it's always good when we -- The Board breaks and
5 it's helpful to go and -- and go to chitchat. And
6 things -- I always like when positive things occur.

7 MS. MURPHY: Yes.

8 CHAIRPERSON ANDERSON: So -- so what are --
9 are there -- what are the preliminary issues and
10 matters -- I'm sorry -- Ms. -- Ms. Phillips?

11 MS. PHILLIPS: The parties have an Offer in
12 Compromise to present to The Board. There is only one
13 charge in this matter. If you've looked at
14 investigation report, the second charge at this -- the
15 other two charges that are listed there were not sent to
16 the Office of the Attorney General. They were resolved
17 prior to coming to us. So we're only here on the litter
18 charge, and that would be a fine of \$850 to be paid
19 within 60 days. Otherwise the license will be suspended
20 until it is paid.

21 MR. SHORT: In how many days, within --

22 MS. PHILLIPS: 60. 60. I'm sorry.

1 CHAIRPERSON ANDERSON: All right. All
2 right. I'm sorry. Your name again please, ma'am?

3 MS. MURPHY: Brianne, B-R-I-A-N-N-E, Murphy.

4 CHAIRPERSON ANDERSON: Murphy, Ms. Murphy.
5 Ms. Murphy, it's my understanding that there is a Offer
6 in Compromise of \$850, and you're here today in a
7 representative capacity to represent the Pacifico
8 Cantina. And it's my understanding that you have stated
9 that we will receive -- that The Board will receive
10 confirmation by close of business today that you are
11 authorized to make -- to agree to in matter; is that
12 correct?

13 MS. MURPHY: That is correct.

14 CHAIRPERSON ANDERSON: And so in your
15 capacity are you aware of that by accepting a -- an
16 Offer in Compromise that you're giving up your right to
17 a hearing?

18 MS. MURPHY: Yes, I do.

19 CHAIRPERSON ANDERSON: You're also aware
20 that you're giving up your right to appeal this matter?

21 MS. MURPHY: Yes, I do.

22 CHAIRPERSON ANDERSON: All right. Are there

1 any discussions by the board members? Then the only
2 thing I'm going to add to it, I'm going to -- what I'm
3 going to add to it then I make a motion that this Offer
4 in Compromise of -- of a fine of \$850 payable in 60 days
5 be accepted by The Board provided that by close of
6 business today that Ms. Murphy provide The Board with a
7 representation letter saying that she is authorized to
8 agree with -- to accept to bind Pacifico Cantina and
9 that if the -- if -- yeah. And so if the fine is not
10 payable within 60 days, the license will be suspended.
11 Is there a second?

12 MR. SHORT: Second.

13 CHAIRPERSON ANDERSON: Mr. Short has
14 seconded the motion. Those in favor say aye. [Chorus
15 of ayes]. Those opposed. [No audible response]. The
16 matter passed 5-zero-zero. Thank you very much. We'll
17 have you sign some papers. All right. Thank you. All
18 right.

19 MS. PHILLIPS: Thank you, Board Members.

20 MS. MURPHY: Thank you.

21 MS. PHILLIPS: You need to sign something
22 and then they'll give you a copy of it.

1 MS. MURPHY: We'll all have copies I'll
2 learn to get copies. I hate paper.

3 CHAIRPERSON ANDERSON: The Board -- The
4 Board is now in recess until our 1:30 afternoon
5 calendar. Thank you.

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

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