

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
3 ALCOHOLIC BEVERAGE CONTROL BOARD

4 - - - - -X

5 IN THE MATTER OF: :
6 Po Boy Jim, LLC., :
7 t/a Po Boy Jim, :
8 709 H. Street N.W. : Case #15-CMP-00494
9 License #87903 : 15-CMP-00463
10 Retailer CR : 15-CMP-00648
11 ANC 6C : Show Cause Hearing
12 No ABC Manager on Duty, :
13 Failed to follow Settlement :
14 Agreement :

15 - - - - - X

16 Wednesday, February 10,
17 2016

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

22

1 CHAIRPERSON:

2 DONOVAN ANDERSON, Presiding

3

4 BOARD MEMBERS:

5 NICK ALBERTI

6 RUTHANNE MILLER

7 JAMES SHORT

8 MIKE SILVERSTEIN

9

10 Office of the Attorney General:

11 MARTHA JENKINS

12 ABRA:

13 DANETTE WALKER

14 LaVERNE FLETCHER

15

16 ALSO PRESENT:

17 MAUREEN ZANLET,

18 on behalf District of Columbia

19 REBECCA ANTOINE,

20 Owner

21

22

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

2 CHAIRPERSON ANDERSON: Back on the
3 record. It's 12:01. I'm calling Case No. 15-
4 CMP-00494, Po Boy Jim. It's my understanding the
5 parties are hanging around somewhere here. I
6 need them to -- up here.

7 Ms. Jenkins, can you please find the
8 parties? It's my understanding that they're
9 here.

10 MS. JENKINS: Yeah. Well, they were
11 packing up when I went to get them, and they told
12 me they were right -- coming right out.

13 CHAIRPERSON ANDERSON: Thank you very
14 much.

15 [Pause.]

16 CHAIRPERSON ANDERSON: I've called the
17 case. Could the parties please identify
18 themselves, please?

19 MS. ZANLET: Maureen Zanlet on behalf of
20 the District of Columbia.

21 MS. ANTOINE: Rebecca Antoine, Po Boy Jim
22 owner.

1 CHAIRPERSON ANDERSON: This is a show
2 cause hearing for this case. Are there any
3 preliminary matters?

4 MS. ZANLET: Yes. You called case 15-
5 CMP-00494, am I correct, Mr. Chairman?

6 CHAIRPERSON ANDERSON: Yes.

7 MS. ZANLET: Okay.

8 CHAIRPERSON ANDERSON: 15-CMP-00494.

9 MS. ZANLET: We have an offer and
10 compromise to recommend to the Board that will
11 take care of three matters currently pending with
12 respect to this establishment. So.

13 CHAIRPERSON ANDERSON: What matters are
14 those?

15 MS. ZANLET: In addition to the one
16 already called it would be Case 15-CMP-00463 and
17 Case -- you ready for the third?

18 CHAIRPERSON ANDERSON: Yes. Go ahead.

19 MS. ZANLET: 15-CMP-00648. So for Case -
20 - the total fine in our compromise will be
21 \$1,550, and that's going to be paid today. And
22 it break -- I'm sorry?

1 MR. SILVERSTEIN: Say again, please?

2 MS. ZANLET: \$1,550 to be paid today.

3 CHAIRPERSON ANDERSON: How does that
4 break --

5 MS. ZANLET: It breaks down like this.
6 For Case No. 463, it's a \$350 fine for Charge 1,
7 and dismiss Charge 2.

8 MR. ALBERTI: Can you tell us what the
9 two charges were?

10 MS. ZANLET: The two charges both revolve
11 around trash. It's charged firstly as trash in
12 the environment, so failure to take care of the
13 litter. And the second is a violation of a
14 settlement agreement which basically has the same
15 dictate with respect to --

16 MR. ALBERTI: Thank you.

17 MS. ZANLET: -- the trash.

18 MR. ALBERTI: Thank you.

19 MS. ZANLET: The Case No. 00648 is a
20 quarterly statement case, and that would be
21 resolved with a \$500 penalty. That quarterly
22 statement has already been filed but it was filed

1 late.

2 And lastly, for Case No. 00494, would be
3 a fine of \$350 for Charge 1, and a fine for \$350
4 for Charge 2. Charge 1 is with respect to no
5 manager on duty, and charge 2 is another trash
6 violation. We believe this is appropriate
7 resolution for those three matters and those
8 three actual cases and would recommend to the
9 Board to accept this offer and compromise.

10 CHAIRPERSON ANDERSON: Now are these
11 three separate cases? Are these three separate
12 cases that were litigated today?

13 MS. ZANLET: Correct. Or adjudicated
14 today. Absolutely. The one that's actually here
15 for today, the second one is scheduled for next
16 week for a show cause hearing, and the quarterly
17 statement case has not been filed as a case but
18 is an outstanding liability with respect to
19 failure to file that quarterly statement timely.

20 CHAIRPERSON ANDERSON: Okay.

21 MR. ALBERTI: May I ask a question?

22 CHAIRPERSON ANDERSON: Sure.

1 MR. ALBERTI: Does the licensee
2 understand that if this offer and compromise is
3 accepted and they agree to it, that if next week
4 they were to commit another secondary that would
5 be their fourth secondary with a minimum fine of
6 \$1,000 per our regulations?

7 MS. ZANLET: I can't say that I
8 specifically communicated that to the licensee,
9 but she certainly is hearing it from you. I did
10 communicate that it is a progressive sanction
11 system.

12 MR. ALBERTI: Okay. Thank you. Any
13 questions, Ms. Antoine, on that regard?

14 MS. ANTOINE: Say what you just said
15 again.

16 MR. ALBERTI: So, my point is, is that if
17 you agree to this offer and compromise and it's
18 accepted --

19 MS. ANTOINE: Uh-huh.

20 MR. ALBERTI: -- that if next week --

21 MS. ANTOINE: Uh-huh.

22 MR. ALBERTI: -- you committed another

1 secondary --

2 MS. ANTOINE: Okay.

3 MR. ALBERTI: -- all right, a violation
4 of the same level, that because of the
5 progressive nature of our finding schedule you
6 would -- the minimum fine for that violation
7 would be \$1,000.

8 MS. ANTOINE: Okay.

9 MR. ALBERTI: All right. Do you
10 understand that?

11 MS. ANTOINE: I understand that.

12 MR. ALBERTI: Okay. Thank you.

13 CHAIRPERSON ANDERSON: All right, what is
14 the -- the offer and compromise is how much?
15 \$1,550. Okay.

16 All right. The offer of compromise is
17 \$1,550, and that fine will be paid today. And
18 that this offer and compromise covers three
19 cases. The first case is 15-CMP-00463, and the
20 fine for Charge 1 in 0463 is a \$450 fine --

21 MS. ZANLET: Three fifty.

22 CHAIRPERSON ANDERSON: Three fifty?

1 MS. ZANLET: Three fifty.

2 CHAIRPERSON ANDERSON: I'm sorry. \$350
3 fine for charge 1, and that Charge 2 will be
4 dismissed. Is that correct, Ms. -- I'm sorry,
5 your name again?

6 MS. ANTOINE: Antoine.

7 CHAIRPERSON ANDERSON: Ms. Antoine, yeah.
8 All right. And then the second case is Case No.
9 15-CMP-00648, and that there is a \$500 penalty
10 for this case. Is that the agreement?

11 MS. ANTOINE: Yes.

12 CHAIRPERSON ANDERSON: And that the third
13 case is for Case No. 15-CMP-00494, and that there
14 is a \$350 charge for Charge 1, and that there's a
15 \$350 charge for Charge 2. Is that your
16 understanding of the agreement?

17 MS. ANTOINE: Yeah. I understand the
18 agreement with respect to -- it's just the
19 amounts that I was never cited for. But I guess
20 it's a surcharge by the Attorney General's Office
21 of an additional \$100 on the \$250 ticket, so.

22 CHAIRPERSON ANDERSON: Well, I'm told

1 that you have an offer and compromise and this is
2 it. And that these are the numbers that the
3 government -- that both parties agreed to. So my
4 job is just to make sure that these are the
5 numbers that you two agree to. Not the reason
6 why, but that these are the numbers that you
7 agree to.

8 MS. ANTOINE: I guess I don't know if
9 this is just my -- I'm just now understanding
10 that when I get a citation and it's written for a
11 certain amount, when it gets to the Attorney
12 General's Office if it's not paid by that time it
13 can increase. So that's where the confusion was
14 with me, originally.

15 CHAIRPERSON ANDERSON: The only thing I'm
16 going to say to you is that I'm not sure what the
17 rules and regulations states, but if the
18 investigator comes out and gives you a citation,
19 that you have a period of time that it needs to
20 be paid.

21 MS. ANTOINE: Uh-huh.

22 CHAIRPERSON ANDERSON: And it should be

1 paid promptly. If it's not paid, then you're
2 brought here and I'll just state that there is a
3 -- for each charge there is the rules and
4 regulation says that what the fine is.

5 MS. ANTOINE: Uh-huh.

6 CHAIRPERSON ANDERSON: And so the
7 investigator might charge a minimum, but the rule
8 says that it might be \$250 to \$400.

9 MS. ANTOINE: Okay.

10 CHAIRPERSON ANDERSON: And so the
11 government can, as long as it's in the range. So
12 but there is a table of penalty that I think that
13 you should get a copy of that will tell you for
14 each violation what the table of penalty
15 establishes.

16 But my dialog with you, though, is just
17 to make sure that the numbers as presented by the
18 government, that these are the same numbers that
19 you agree to. Not the reason, but just the
20 total. And so I just want to make sure that the
21 amount of money that you have agreed to pay today
22 is \$1,550.

1 MS. ANTOINE: Yes, I have agreed to pay
2 that.

3 CHAIRPERSON ANDERSON: All right. All
4 right. Now, do you understand that by accepting
5 this offer and compromise that you have given up
6 your right to have a hearing on these three
7 specific cases that you're settling today?

8 MS. ANTOINE: Yes.

9 CHAIRPERSON ANDERSON: And do you also
10 understand that you're also giving up your right
11 to appeal these three specific cases that we have
12 today?

13 MS. ANTOINE: Yes.

14 CHAIRPERSON ANDERSON: All right. Does
15 the board members, any board members have any
16 questions that they need to ask on this offer and
17 compromise? No? All right.

18 I will then make a motion that we accept
19 the offer and compromise for \$1,550 that would
20 settle Cases No. 15-CMP-00463, for \$350. That
21 would also settle Case No. 15-CMP-00648 for a
22 \$500 penalty, and for Case No. 15-CMP-00494 for

1 \$300 and \$50 for Charge 1 and \$350 for Charge 2.

2 Is there a second?

3 MR. ALBERTI: Second.

4 CHAIRPERSON ANDERSON: Mr. Alberti has
5 seconded the motion.

6 [Vote taken.]

7 CHAIRPERSON ANDERSON: The matter passes
8 five, zero, zero. So the offer has been
9 accepted.

10 We will be issuing an order so you won't
11 have a statement to sign today. The Board will
12 be issuing a board order. Thank you very much.

13 MS. ANTOINE: Thank you.

14 CHAIRPERSON ANDERSON: I just want to
15 state that in looking at the investigative
16 history of Po Boy there are -- it appears that
17 there are a lot of violations for quarterly
18 statements violation. And do you understand the
19 process of filing the quarterly statement, and
20 why is it that your establishment has not been
21 able to file these?

22 MS. ANTOINE: Actually, I didn't

1 understand it in the beginning. That wasn't --
2 you know, that wasn't something that was related
3 to me. I don't recall it. So whether it's my
4 ignorance, I'll accept it. I didn't know at the
5 time and when it was brought to me and I find
6 out, you know, later on after I started getting
7 the tickets. So like I said, this is my first
8 year doing the business in the city, so that
9 portion of it I didn't understand. But I did
10 file all of the back statements that I needed to.

11 CHAIRPERSON ANDERSON: But are you fully
12 now aware of the process --

13 MS. ANTOINE: Yes, I am.

14 CHAIRPERSON ANDERSON: -- that needs to
15 be followed?

16 MS. ANTOINE: Yes.

17 CHAIRPERSON ANDERSON: I mean, I don't
18 like having establishments come in to us for the
19 same type of violations over and over, so if
20 there is any type of training I might -- my
21 assumption that the Board -- I'm sorry, the
22 Agency will provide you whatever guidelines that

1 you need to ensure that you don't keep on getting
2 these fines.

3 MS. ANTOINE: I did come to the training.
4 I did.

5 CHAIRPERSON ANDERSON: Okay. And it
6 should not just be that one training. I'm
7 suggesting, if you need more training then it's
8 better to ask ABRA for the guidance than for
9 someone to keep on coming and ticketing you.
10 So --

11 MS. ANTOINE: Okay.

12 CHAIRPERSON ANDERSON: So that's just my
13 recommendation to you. Okay?

14 MS. ANTOINE: Uh-huh.

15 CHAIRPERSON ANDERSON: All right.

16 MR. SHORT: One comment.

17 CHAIRPERSON ANDERSON: Yes, Mr. Short.

18 MR. SHORT: Ms. Antoine, have you ever
19 purchased or got one of these rule books on --

20 MS. ANTOINE: No.

21 MR. SHORT: -- what you can and cannot do
22 at a business?

1 MS. ANTOINE: No.

2 MR. SHORT: Since you're new in the city
3 and new doing business here, I would suggest talk
4 with our attorney or one of the staff. You might
5 want to consider just getting and reading through
6 and so you won't run into these kind of problems.
7 Because if you don't know the rules that's not
8 going to be an excuse for you not to get
9 ticketed.

10 MS. ANTOINE: No, I'm not going to make
11 an excuse. I'm going to --

12 MR. SHORT: Okay. Will you consider
13 getting --

14 MS. ANTOINE: Yeah, I will. I will be
15 willing to get it.

16 MR. SHORT: Okay.

17 MS. ANTOINE: That's why I said I wasn't
18 aware. You know, that brought me to the training
19 after I got the ticket. So there was a lot I
20 wasn't aware of. So, you know.

21 MR. SHORT: I understand.

22 MS. ANTOINE: I will get the books.

1 MR. SHORT: I understand. Thank you.
2 That's all I have, Mr. Chair.

3 CHAIRPERSON ANDERSON: All right. Any
4 other comments from any board members?

5 Well, thank you. Thank you for the offer
6 and compromise, that you were able to settle this
7 matter. And as I said before, there are some
8 outstanding cases that are on our docket and I'm
9 hoping that those can be disposed of. Those can
10 be disposed of. So, thank you.

11 MS. ANTOINE: Uh-huh.

12 CHAIRPERSON ANDERSON: The Board will be
13 in recess until 1:30.

14 [Whereupon, the above-entitled matter
15 concluded.]

16

17

18

19

20

21

22