

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: :
7 Adams Morgan Spaghetti Gardens: Case#16-AUD-00013
8 t/a Spaghetti Garden :
9 Brass Monkey Peyote Roxanne :
10 2317 18th Street NW :
11 License #10284 :
12 Retailer CR :
13 ANC 1C

14 Failed maintain sufficient books:

15 - - - - -X

16 Wednesday, November 16, 2016

17
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.

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3 BOARD MEMBERS PRESENT

4 DONOVAN ANDERSON, CHAIRMAN

5 NICK ALBERTI, BOARD MEMBER

6 JAMES SHORT, BOARD MEMBER

7 MIKE SILVERSTEIN, BOARD MEMBER

8 JAKE PERRY, BOARD MEMBER

9 MAFARA HOBSON, BOARD MEMBER

10

11 ALSO PRESENT:

12 JONATHAN ASKARINAM

13 CHRISSY GEPHARDT

14

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

2 SHOW CAUSE HEARING (STATUS)

3 CHAIRPERSON ANDERSON: Our next case is #16-
4 AUD-00013, Spaghetti Garden Brass Monkey, license
5 #10284. Will the parties please approach and
6 identify themselves for the record, please?

7 MR. ASKARINAM: -- Jonathan Askarinam,
8 treasurer of Spaghetti Garden.

9 CHAIRPERSON ANDERSON: Good morning, sir.

10 MR. ASKARINAM: How are you guys today?

11 CHAIRPERSON ANDERSON: I am well, thank you.

12 MS. GEPHARDT: Hello, Chrissy Gephardt on
13 behalf of the office of the Attorney General.

14 CHAIRPERSON ANDERSON: Good morning. All
15 right, Are there any preliminary matters in this
16 case?

17 MS. GEPHARDT: Yes, there is. The parties
18 have agreed on an offer in compromise. There are
19 three charges in this case. The government will
20 be dropping charges #2 and #3. Charge #1 will be
21 a \$30,000 fine and a 30-day suspension, and the
22 suspension will run from, I think November 26th -

1 -

2 MR. ASKARINAM: I'm sorry, November 28th.

3 Let me just make sure. Yeah, November 26

4 preferably and November 27.

5 MS. GEPHARDT: November 27 to December 27?

6 MR. ASKARINAM: Yeah, that would be great.

7 MS. GEPHARDT: Okay. Is that 30 days? I
8 don't have my calendar in front of me.

9 MR. SILVERSTEIN: If you could say 30 days
10 consecutive beginning November 27th.

11 MS. GEPHARDT: I'm sorry, 30 days consecutive
12 beginning --

13 MR. SILVERSTEIN: Would that be acceptable?

14 MS. GEPHARDT: I'm sorry, can you repeat
15 that?

16 MR. SILVERSTEIN: If you were to say 30 days
17 consecutive beginning November 27th --

18 MS. GEPHARDT: That would suffice.

19 MR. SILVERSTEIN: Okay.

20 MS. GEPHARDT: And the fine, the \$30,000
21 fine, would be paid within 90 days and if the
22 fine was not paid the license would be suspended

1 immediately.

2 CHAIRPERSON ANDERSON: Mr. Askarinam, it's my
3 understanding that there is an offer in
4 compromise and the offer in compromise is that on
5 charge #1 that there is a \$30,000 fine payable in
6 90 days along with a 30 day suspension for 30
7 consecutive days from November 27, 2016, until
8 the 30 days have expired, and that charge #2 and
9 charge #3 will be dismissed. Is this your
10 understanding of the offer in compromise, sir?

11 MR. ASKARINAM: Yes, sir

12 CHAIRPERSON ANDERSON: All right. And prior
13 to me making a motion to whether this offer will
14 be accepted or not, we just want to give any
15 board members an opportunity to ask questions
16 prior to making a motion. I just want -- if the
17 board members have any questions that they want
18 to ask.

19 MS. GEPHARDT: Okay.

20 MR. ALBERTI: Ms. Gephardt, so I'm not sure
21 you can answer this but I'm going to ask it
22 anyway. Are any of the facts of the report in

1 dispute here? Specifically there was no audit
2 done because the records were not immediately
3 available to the auditor?

4 MS. GEPHARDT: Well, the audit -- [inaudible
5 14:20]

6 MR. ALBERTI: Well okay, you can't answer it.
7 Let me -- here's my -- the second question is the
8 charge that you're prosecuting here is failure to
9 qualify as a restaurant, is that correct?

10 MS. GEPHARDT: Well, that's one of the ones
11 we dropped as it was similar to charge #1 -- they
12 are all three pretty related.

13 MR. ALBERTI: There's three charges?

14 MS. GEPHARDT: There's three charges. They
15 all have to do with books and records.

16 MR. ALBERTI: Can you do that again? Tell me
17 again.

18 MS. GEPHARDT: I'm sorry, what are the
19 charges?

20 MR. ALBERTI: I missed that, I only have on
21 my briefing sheet here two charges, so what are
22 the three charges?

1 MS. GEPHARDT: #1 is failure to keep and
2 maintain on the premises adequate books and
3 records. Charge #2 is failure to keep and
4 maintain on the premises for a period of three
5 years adequate books and records and charge #3
6 failing to exhibit that your establishment
7 qualifies as a restaurant.

8 MR. ALBERTI: And which is it you're
9 dropping?

10 MS. GEPHARDT: I'm dropping those two -- the
11 last two. I'm keeping #1.

12 MR. ALBERTI: Okay, so, I'm all confused.
13 So, the first charge is primary or secondary?

14 MS. GEPHARDT: It's a primary and that is
15 based on 23-DCMR-1204.1.

16 MR. ALBERTI: I think my confusion is looking
17 at my briefing sheet. I'm still perplexed what
18 you're telling me here, alright? So, the first
19 charge is failure to maintain and keep adequate
20 books and records. Okay, so the charge that
21 they're being charged with is not actually having
22 the records at all, right?

1 MS. GEPHARDT: Right.

2 MR. ALBERTI: Okay.

3 MS. GEPHARDT: No, wait, wait, wait. "You
4 failed to maintain and keep adequate books and
5 records." So, something was produced but it was
6 deficient.

7 MR. ALBERTI: It was not accurate. All
8 right, so deficient records were being kept and
9 that's the primary.

10 MS. GEPHARDT: And that's based on the regs.

11 MR. ALBERTI: Okay, very good, all right. My
12 confusion has just been cleared up, thank you.

13 MS. GEPHARDT: All right.

14 CHAIRPERSON ANDERSON: Are there any other
15 questions by any other board members? As
16 chairperson of the Alcoholic Beverage Control
17 Board for the District of Columbia and in
18 accordance with D.C. section 405 of the Open
19 Meetings Amendment Act of 2010, I move that the
20 ABC Board hold a closed meeting for the purpose
21 of seeking legal advice from our counsel on case
22 #16-AUD-00013. I make a motion that the offer

1 in compromise of a fine for charge #1 of a
2 \$30,000 fine payable in 90 days that there is a
3 30-day suspension, 30 consecutive days'
4 suspension, from November 27, 2016, until
5 December 27, 2016, 30 days, and that charge #2
6 and charge #3 will be dismissed. Is there a
7 second?

8 MR. SHORT: Second.

9 CHAIRPERSON ANDERSON: Mr. Short has seconded
10 the motion. Any questions by any other board
11 members? Hearing none, all in favor say aye.
12 (Chorus of ayes.) Those opposed? (No audible
13 response.) The matter passed 6-zero-zero. Thank
14 you very much

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

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