

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
3 ALCOHOLIC BEVERAGE CONTROL BOARD
4

5 - - - - -X

6 IN THE MATTER OF: :

7 Sugar, LLC : Case #15-CMP-00733

8 t/a Sugar :

9 2121K Street Northwest :

10 License #98866 :

11 Retailer CT :

12 ANC A :

13 - - - - -X

14 Wednesday, April 27, 2016

15
16 Whereupon, the above-referenced matter
17 came on for hearing at the Alcoholic Beverage
18 Control Board, Reeves Center, 2000 14th Street,
19 N.W., Suite 400S, Washington, D.C. 20009.

20
21
22

1 BOARD MEMBERS PRESENT

2 NICK ALBERTI, BOARD MEMBER

3 RUTHANNE MILLER, BOARD MEMBER

4 JAMES SHORT, BOARD MEMBER

5 MIKE SILVERSTEIN, BOARD MEMBER

6

7 ALSO PRESENT:

8 AMY SCHMIDT

9 ANDREW KLINE

10 SAAD JALLAD

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

2

3 CHAIRPERSON ANDERSON: I will then recall
4 Case #16-CMP-00733, Sugar, License #988866, will
5 the parties please approach and identify
6 themselves for the record, please.

7 MR. KLINE: Andrew Kline, here on behalf
8 of the licensee.

9 MS. SCHMIDT: Good afternoon, Amy Schmidt
10 Assistant Attorney General on behalf of the
11 District of Columbia.

12 MR. JALLAD: My name is --

13 CHAIRPERSON ANDERSON: I'm sorry, sir, I
14 apologize. Your name?

15 MR. JALLAD: My first name is Saad, my
16 last name is Jallad, and I'm the owner of a bar
17 called Sugar.

18 CHAIRPERSON ANDERSON: Okay, thank you,
19 sir. I like the way you said you're the owner of
20 a bar called Sugar. I like the way you prefaced
21 it, but I appreciate that. All right,
22 Ms.Schmidt, did you identify yourself?

1 MS. SCHMIDT: Yes I did.

2 CHAIRPERSON ANDERSON: All right. Are
3 there any preliminary matters in this case?

4 MS. SCHMIDT: Yes, there is.

5 CHAIRPERSON ANDERSON: And what are they?

6 MS. SCHMIDT: We have an offer in
7 compromise we would like to present to the Board
8 which will encompass not just this case but four
9 other cases which will be enumerated as the
10 compromise is read. So this offer in compromise
11 consists of the following terms:

12 1. The licensee agrees to an OIC
13 consisting of a \$19,250 fine and a
14 25-day suspension with 10 days stayed
15 for one year, and 15 days served.

16 All fines must be paid within 60 days
17 or the license is suspended.

18 2. The licensee agrees to pay a \$3000
19 fine payable in 60 days and a five-day suspension
20 with three days stayed for one year and two days
21 served, plus alcohol training for all servers
22 within three months for Case #16-CC-00010.

1

2 The OIC breakdown is as follows:

3 Charge #1 of a \$3000 fine and three days
4 stayed for one year, two days served.

5 Charges #2 through #6 are dismissed. The
6 suspension days to be served are Friday, April
7 29, and Saturday, April 30th.

8 3) Licensee agrees to pay a \$3000 fine
9 payable in 60 days and a five day suspension of
10 all days stayed for case #16-CC-00005.

11

12 The OIC breakdown is as follows:

13 1) For Charge #1 a \$3000 fine and five
14 days stayed for one year.

15 2) A written warning for charge #2.

16 3) Charges #3 through #6 are dismissed.

17 4) Licensee agrees to pay a fine of
18 \$5000, \$50 and 15 days suspension with 13 days
19 served and two days stayed for case #16-CMP-
20 00022.

21 The OIC includes a \$2000 fine and five
22 days served for violation #25-781, a written

1 warning for #25783, and a \$2000 fine with 8 days
2 suspension with eight days served for interfering
3 with an investigation, under 25, 823-5 and a
4 \$1000 fine for a substantial change violation,
5 increased occupancy, and \$250 fine for no ABC
6 manager on duty. The 13 days to be served are
7 Friday, July 15th through Wednesday, July 27th.

8 5) The licensee agrees to pay a fine of
9 \$1000 for case #16-CMP-00209. The OIC includes a
10 \$1000 fine for a violation of #25-762 with the
11 establishment increase in occupancy and allowed
12 the consumption of alcohol on the sidewalk café
13 after hours.

14 6) Licensee agrees to pay a fine of
15 \$2000 for Case #16-CMP-00262, OIC includes a
16 \$1500 fine for substantial change violation,
17 overcrowding, a \$250 fine for no ABC manager on
18 duty and a \$250 fine for a settlement agreement
19 violation, selling one patron a 32-ounce
20 alcoholic beverage. The OIC includes a mandatory
21 written warning for the window weathering
22 violation.

1

2 7) Licensee agrees to pay a \$5000 fine
3 and five days stayed for Case #15-CMP-00732. The
4 OIC breakdown is as follows: A \$3000 fine and a
5 five day suspension stayed for one year regarding
6 charge #1, a written warning for charge #2, a
7 dismissal of charges #3 through #18. And 4) a
8 \$2000 fine for charge #19 and a mandatory written
9 warning for charge #20. The fine must be paid
10 within 60 days or the license is suspended.

11 8) Licensing of closed business to
12 stop operating August 1, 2016. YThe license will
13 either be placed into safekeeping with the ABC
14 Board or transferred to a new owner by August
15 1st, 2016. Current licensee shall not be
16 permitted to remove the license from safekeeping.

17 9) A transfer to new owner application
18 shall not be issued to a new owner unless all
19 outstanding fines are paid. None of the owners
20 of the current license shall be involved in any
21 new business operating at this location. The
22 licensee is not to apply for a new license at

1 this location. The licensee is not to apply for
2 a liquor license for a period of five years.

3 10) Licensee must utilize after 11:00
4 p.m. the Metropolitan Police Department
5 Reimbursable Detail Program whenever the licensee
6 holds private parties.

7 11) Licensee must utilize and Advance ID
8 scanner at all times the establishment is open.
9 The ID scanner shall not be a substitute for the
10 establishment's responsibility to check each
11 identification to ensure that any patron
12 purchasing or consuming alcoholic beverages is 21
13 years or older.

14 12) Licensee agrees to no longer
15 advertise for 18 Plus parties or 18 Plus events.

16 13) The OIC resolves all cases for
17 investigations occurring on or before April 26,
18 2016.

19 CHAIRPERSON ANDERSON: All right Mr.
20 Kline. Is this the OIC that your client has
21 agreed to?

22 MR. KLINE: Yes, this is the OIC that the

1 applicant, or the licensee, has agreed to and we
2 understand that if the OIC is accepted we waive
3 our right to a hearing on any of these charges
4 and waive our right to appeal any of these
5 charges.

6 CHAIRPERSON ANDERSON: And, Mr. --

7 MR. JALLAD: Jallad.

8 CHAIRPERSON ANDERSON: Mr. Jallad. Are
9 you, if the Board was to consider this, I know
10 that Mr. Kline may represent you but I want to
11 make sure that you're in agreement with what was
12 just stated as the OIC, sir.

13 MR. JALLAD: Yes.

14 CHAIRPERSON ANDERSON: Do we have any
15 questions by any Board members?

16 MS. SCHMIDT: I have one technical
17 correction to make. I realize it was yesterday
18 when I was preparing the OIC I put 733 -- it
19 should be -- there was a misnumbering of the
20 charges and I did send a corrected version to Mr.
21 Kline and to Ms. Jenkins, so the last line of
22 Paragraph 7 should be "the dismissal of charges

1 #3 through #19 and a \$2000 fine for charge #20
2 and a mandatory written warning for charge #21."

3 CHAIRPERSON ANDERSON: That's charge 21?

4 MS. SCHMIDT: Yes, just so it
5 corresponds. I apologize for that.

6 CHAIRPERSON ANDERSON: All right,
7 questions by Board members? Yes, Mr. Alberti.

8 MR. ALBERTI: The \$19,250 to be paid
9 within how many days?

10 CHAIRPERSON ANDERSON: 60 days.

11 MR. ALBERTI: Thank you.

12 CHAIRPERSON ANDERSON: Comments? Before
13 -- what I'm going to do is the Board is going to
14 take this back and I'm going to invoke [inaudible
15 7:40] prior because I'm not going to make a
16 decision; we'll make a decision but not here
17 right at the moment, so I just wanted to have
18 folks' questions or comments.

19 MR. ALBERTI: I have a couple of
20 questions.

21 CHAIRPERSON ANDERSON: Okay, go ahead,
22 Mr. Alberti.

1 MR. ALBERTI: So, Ms. Schmidt, have
2 charging documents been issued for all of these
3 cases?

4 MS. SCHMIDT: No, they have not.

5 MR. ALBERTI: So, does the licensee waive
6 notice?

7 MR. KLINE: We waived notice.

8 MR. ALBERTI: I wanted to make sure we
9 covered that. Since there aren't charging
10 documents, how is this Board to know what charges
11 are being brought on -- which cases have had
12 charging documents made?

13 MS. SCHMIDT: The cases -- I believe the
14 cases are #16-CMP-0209 --

15 MR. ALBERTI: Wait, which number is that?

16 MS. SCHMIDT: Number 5.

17 MR. ALBERTI: It's hard to find it here.

18 MS. SCHMIDT: I'm sorry. Number 5.

19 MR. ALBERTI: Number 5.

20 MR. KLINE: On the OIC.

21 MS. SCHMIDT: On the OIC.

22 MR. ALBERTI: Yeah, I know, I know.

1 MS. SCHMIDT: And number 6.

2 MR. ALBERTI: Number 6, okay.

3 MS. SCHMIDT: And also, even though the
4 Board has voted on #165-CMP-0022, the notice has
5 not been written up, has not be by the Board.

6 MR. ALBERTI: Which number is that?

7 MS. SCHMIDT: It's number 4.

8 MR. ALBERTI: Number 4, okay. So --

9 MS. SCHMIDT: The Board voted to give you
10 --

11 MR. ALBERTI: My consternation is how am
12 I supposed to know what the charges are that I'm
13 accepting fine for or agreeing to dismiss, so I
14 would ask to go through and for the record tell
15 us what are all the charges that are listed here
16 that are being find for and being dismissed. I
17 think that's only appropriate for this Board to
18 have that knowledge before we take this under
19 consideration.

20 MS. SCHMIDT: I would need a little -- I
21 do not have the charges in front of me, I was --
22 to be quite honest I do not have the charges in

1 front of me.

2 MR. ALBERTI: I am really -- I am really
3 -- I'm going to tell you, Ms. Schmidt, I am
4 really disappointed that you come here prepared
5 with this -- and I don't know how you expect the
6 Board to even consider this if we don't know what
7 the charges that are being dismissed.

8 MR. KLINE: Mr. Alberti, in each
9 numbered paragraph there's a description of the -
10 - of the alleged violation which is --

11 MR. ALBERTI: In which paragraph?

12 MR. KLINE: In each paragraph, and number
13 5 talks about \$1000 fine for violation of 25-762
14 where the establishment increased its occupancy
15 and allowed the consumption of alcohol on the
16 sidewalk after hours and number 6, it talks about
17 "substantial change violation for overcrowding
18 and a fine for no ABC licensed manager." There
19 are descriptions in each of the paragraphs
20 concerning the relevant violation. We're not
21 asking you to look at this blind.

22 MR. ALBERTI: So, number 2, licensee

1 agrees to pay a \$3000 fine payable in 60 days,
2 and a five day suspension with three days stayed
3 for one year and two days served plus alcohol
4 awareness training for all servers within three
5 months for Case number blah, blah, blah. The
6 breakdown is 1) Charge one \$3000 fine, three days
7 stayed for one year and two days served. Charge
8 2 through 4 are dismissed, suspension days are
9 blah, blah, blah" I don't see any -- I don't see
10 any description of what the charges are there,
11 Mr. Kline. Number 7, number within number 7,
12 dismissal of charges 3 through 19, I have no idea
13 what those charges are. I can look them up,
14 maybe, because I think we can get the charging
15 documents, but I think -- I think the parties are
16 coming to this -- I think the Board deserves to
17 know what it's agreeing to. That's my point.

18 MR. KLINE: Mr. Alberti, with all due
19 respect, we did request that the Board continue
20 this matter for a short period of time to give
21 the parties ample time to put together a
22 presentation that might have been more complete,

1 but the Board denied that request.

2 MR. ALBERTI: Yes, and we did deny the
3 request and you, two weeks ago, I believe it was,
4 asked for a continuance.

5 MS. SCHMIDT: That was for me for
6 personal reasons.

7 MR. ALBERTI: Right, fine, but that gave
8 you an extra two weeks -- that's fine, I'm not
9 criticizing you for asking for a continuance, Ms.
10 Schmidt, not at all, and we granted it, and I
11 understood and it was well justified, but we gave
12 you an extra two weeks to get this information
13 together, and I'm not sure, Ms. Schmidt doesn't
14 even have the charges in front her, how she even
15 the discussion with you, but that's not my
16 problem. My problem is I don't have the
17 information in front of me. Okay, number 9, I
18 guess -- I'm not ge

19 CHAIRPERSON ANDERSON: Ones that you have
20 --

21 MR. ALBERTI: I'm not getting [inaudible
22 12:35]. I'll move on, number 9, licensee agrees

1 not to allow the liquor license -- to apply for a
2 liquor license for five years. What does that
3 really mean?

4 MS. SCHMIDT: What that means -- what
5 that means is that he has agreed that he will not
6 -- that he will be out of the alcohol business
7 for at least five years so.

8 MR. ALBERTI: He will not even have part
9 interest in any alcohol license? Will he manage
10 alcohol establishments? Pardon.

11 MR. KLINE: No, sir.

12 MR. ALBERTI: All right, so we are to
13 understand that he will not be managing any
14 alcohol licensed establishments also?

15 MR. KLINE: That's correct.

16 MR. ALBERTI: All right. And #12,
17 licensee agrees to no longer advertise or promote
18 18 Plus parties or 18 Plus events. I assume that
19 means that you will allow persons of 18 and older
20 to be allowed into the establishment still, is
21 that correct?

22 MR. KLINE: Right, 18 and 21 and under,

1 just --

2 MR. ALBERTI: Oh, I see -- all aged
3 persons to be allowed.

4 MR. KLINE: Yes, sir.

5 MR. ALBERTI: You just won't advertise to
6 bring them in.

7 MR. KLINE: Yes, and the reason for that
8 is it is expected, and there are planned, certain
9 graduation parties where parents will be there,
10 and siblings will be there, and we believe that
11 the issue has been parties that were predominated
12 by students and what have you where those under
13 21 were marketed to, and that was the issue here.
14 We get into the --

15 MR. ALBERTI: The issue here is you're -
16 with this you would be admitting liability to the
17 service of people under 21. It's not just that
18 you were advertising. I understand. I
19 understand the purpose of that. Thank you.

20 CHAIRPERSON ANDERSON: Any other
21 questions? Yes, Ms. Miller.

22 MS. MILLER: I don't understand #8

1 totally. It says the license will be placed in
2 safekeeping with the ABC Board or transferred to
3 a new owner by August 1, 2016. What happens
4 after August 1? I mean, how long can the license
5 be sold from safekeeping, I mean what's the
6 status?

7 MR. KLINE: I mean, what's contemplated,
8 I mean, this gentleman has almost a half million
9 dollars invested in this business. He's going to
10 try to recoup what he can. He's already listed
11 it with a broker and what's contemplated is it's
12 hoped that a buyer will be found, that buyer may
13 or may not, by August 1st have been approved for
14 transfer. If not, under any circumstances, the
15 business will close at that point, the license
16 will be surrendered for safekeeping, if it's
17 ultimately, there's an application filed for
18 transfer, then the Board will in due course
19 consider that application and if it's regular in
20 all respects, I presume the Board will approve it
21 and the license will transfer, provided there's
22 another stipulation, of course, that any

1 outstanding fines have been paid and, if not,
2 then the license will be in safekeeping, I
3 suspect when the next annual payment is due it
4 may or may not be made at that point.

5 MS. MILLER: Okay. I see, okay.

6 MR. KLINE: I mean, if the premises is
7 not maintained -- if there's no sale -- let's
8 just speak in the vernacular -- if there's no
9 sale, and this gentleman gives up the premises,
10 then there certainly won't at that point be any
11 need to maintain this license --

12 MS. MILLER: Got it. Okay.

13 MR. KLINE: The only reason for
14 maintaining it is in the hope that we might find
15 a buyer to mitigate.

16 MS. MILLER: Okay. Then my standard kind
17 of question is, why is this in the public
18 interest for the Board to accept this offer in
19 compromise?

20 MR. KLINE: Sure. There are -- as the
21 Board knows -- a number of charges that are
22 involved and have been wrapped into this offer in

1 compromise. If there's not an offer in
2 compromise, I think we will have at least five
3 hearings, perhaps six, among all of -- all of the
4 different notices of show cause that have been
5 issued at this point, there are significant legal
6 issues discussed in each of those cases, there is
7 a possibility of appeal in each of those cases.

8 This will do a couple things: One is, we
9 understand the Board's concerns with the
10 seriousness of these charges. This puts this
11 licensee out of business, in effect it
12 accomplished what a revocation would accomplish,
13 in that he cannot apply for another license for
14 five years, which is exactly the effect of
15 revocation, so it spares the government, the
16 office of Attorney General, and the Board the
17 administrative time that would be involved in
18 hearing all of these charges and the result is
19 really not that much different.

20 If all of these cases are litigated, I
21 don't see this getting wrapped up any earlier
22 than August 1st at this point, I mean it's going

1 to take some time to try these cases and render
2 decisions. So, all in all, it would seem that
3 the public interest would be served because there
4 will be resolution of these charges in the most
5 efficient manner with the payment of a
6 substantial fine. The purpose of these
7 proceedings is to punish and deter future bad
8 conduct, and this OIC certainly does all of that.

9 MS. SCHMIDT: I'd like to come back. Mr.
10 Alberti, the reason I don't have the cases with
11 me is I came in today prepared to try the case
12 because the continuance was denied and that is
13 why I do not have all the other cases and all the
14 charges with me, and the government was ready to
15 go forward. However, today we decided to go into
16 the -- enter into the OIC because it would have
17 the same effect, as Mr. Kline said, the same
18 effect would happen and the main thing is that
19 Mr. Jallad will not be operating -- will not be
20 operating an establishment anymore. And that is
21 -- and Mr. Kline said it would be the same effect
22 as a revocation for five years and that is the

1 end result we all want.

2 MR. ALBERTI: Ms. Schmidt, you really
3 should quit while you're ahead. You signaled,
4 you and Mr. Kline had signaled -- I assume that
5 you were aware that Mr. Kline had signaled to us
6 that you wanted a continuance, is that correct?

7 MS. SCHMIDT: Mr. Kline asked for a
8 continuance -- I did not -- I did not -- Mr.
9 Kline did not -- no, Mr. Kline asked for a
10 continuance in order to resolve this issue. I
11 did not object to it. However --

12 MR. ALBERTI: Well, wait. Did you know
13 that he had signaled to the board that -- that --
14 that -- a continuance was being requested?

15 MS. SCHMIDT: Of course I did.

16 MR. ALBERTI: Okay. We were told at that
17 time that the continuance was being requested so
18 that you could work on an OIC, so I have to
19 assume you came in here with the intent of
20 possibly crafting an OIC, so your statement that
21 you don't have those cases because you only came
22 in here to try this case doesn't quite -- quite

1 ring true to me.

2 MS. SCHMIDT: No, I did not -- no I did
3 not Mr. Albert because I was -- because yesterday
4 I was under the impression that there was not to
5 be a global OIC, and it was only this morning
6 that the counsel [inaudible 20:23]. I came in
7 here prepared -- that is why I did not have the
8 cases and all the charges with me. I came in
9 here fully prepared to try the case. I came --
10 fully prepared to try the case and then this
11 morning when the -- when the proposition of an
12 OIC was brought up again I was not going to say
13 no, we went to explore.

14 MS. MILLER: Can I just -- I just want to
15 make sure that Ms. Schmidt was finished
16 addressing the question as to why this OIC would
17 be in the public interest.

18 MS. SCHMIDT: As I said before, after
19 August 1st this -- after August 1st it would be
20 the same effect if we'd gone to hearings with
21 what your client said and how we would end up
22 with the same result -- with the same result --

1 and therefore it would save the resources and --
2 save the resources and also the same goal for
3 public safety.

4 MS. MILLER: Thank you.

5 CHAIRPERSON ANDERSON: Any other
6 questions of any other Board members. I just
7 want to say I was in favor of granting the
8 continuance, I'll just lay that there. I mean --
9 you know what? I mean, my position is that if --
10 I mean, as attorneys my goal is that we do not
11 abuse the process. If reasonable and given
12 reasonable notice and reason for a continuance
13 are provided, as an attorney I support it as a
14 professional courtesy for other attorneys. But I
15 will let you know, though, that if -- just in the
16 future if we're asking for a continuance, just
17 for continuances, then I'm not going to support
18 that but in general I do provide professional
19 courtesies to folks and that's my stance.

20 MR. KLINE: We appreciate that and I hope
21 you can see -- I mean there was quite a bit of
22 work that went into this and it ended up all

1 being done today, unfortunately, but I mean this
2 took a lot of time, there was a lot of thought, a
3 lot of work, and we made an effort to try to
4 address whatever concerns we could anticipate
5 that the Board might have. I mean, that's why
6 you have a page and a half OIC.

7 CHAIRPERSON ANDERSON: All right, I'm
8 going to take this, as the Chairperson of the
9 Alcoholic Beverage Control Board for the District
10 of Columbia in accordance with D.C. Official Code
11 1601.2 --

12 MR. KLINE: Mr. Chair, before you do
13 that, I would like to make a brief statement
14 concerning why we're here and how we got here and
15 some further reasons as to why this makes sense.

16 CHAIRPERSON ANDERSON: I'm gonna -- we're
17 gonna come back out here in a couple of minutes
18 and let you know whether or not we're going to
19 accept or reject.

20 MR. KLINE: But what I would like to
21 point out --

22 CHAIRPERSON ANDERSON: Go ahead.

1 MR. KLINE: -- before you make that --

2 CHAIRPERSON ANDERSON: All right, go
3 ahead.

4 MR. KLINE: Mr. Jallad is a business
5 owner. He is operating a non-alcohol business
6 called the Crepeway on L Street for ten years.
7 You can see he is a relatively young man. This
8 is his first foray, and probably his last, sadly,
9 in an alcohol establishment. He did not have
10 experience in the business before, and it has
11 certainly been -- and I think the Board can
12 attest to it -- challenging for him, and he's
13 found it very, very difficult to battle the issue
14 of these fake IDs that are out there and
15 everywhere. Since then, and unfortunately it's
16 obviously too late, he's finally gotten to a
17 place and developed a system that seems to be
18 effective, but he did it all on his own, he did
19 reach out to the agency several times, and didn't
20 get much help, frankly, and found himself pretty
21 helpless in terms of dealing with it. He learned
22 it all on his own over the course of the last

1 several months. He finally thinks he has it
2 under control, as I said, but he is about a half
3 million dollars invested in this business which
4 he's going to lose most of at this point frankly.
5 Not the Board's problem. I understand that. You
6 have a duty to see that the laws are enforced and
7 see that -- and enforce the laws -- and see that
8 those who are underage do not consume alcohol.
9 That's what the law says on the books.

10 But, I want you to know, and I hope
11 you'll believe, that this gentleman did not set
12 out to open a business to make money from selling
13 to underage people. He just found himself ill
14 equipped to deal with the problem -- ill equipped
15 to deal with dozens, if not hundreds, of IDs that
16 are principally made overseas that are fake and
17 that are pretty good fakes. He invested money in
18 this machine that you see over here to my left,
19 which is called a Patron Scan. It's of some use.
20 It's not perfect, but it is a deterrent when you
21 put it near the front door and people think they
22 might get caught. The biggest problem that we

1 see which is not an issue in this case, but a
2 larger policy issue, that we hope that you would
3 look at and address in the business community is
4 that these kids go out and set out to
5 intentionally break the law, that's their goal.
6 They get dressed up in their dorms. They get
7 their fake IDs overseas and they go out and they
8 intend to break the law. This gentleman arguably
9 is merely negligent, they're the intentional
10 wrongdoers. Nothing happens to them. ABC
11 investigators go in, they find people with fake
12 IDs, the police aren't called. If the police
13 were called they wouldn't do anything anyway.

14 The message, if we are really serious
15 about underage drinking, needs to be sent that
16 the District of Columbia is a place where
17 underage drinking is not tolerated. And that's
18 the larger problem. I mean, this man's going to
19 lose his business and lose a lot of money, but
20 the larger problem is if we're serious about
21 underage drinking is that -- it doesn't happen in
22 Virginia. It doesn't happen in Maryland because

1 the message is clear. You do it in Maryland or
2 you do it in Virginia -- it happens some, not
3 like it happens here, because those kids know
4 that they are going to get arrested if they are
5 caught with fake IDs in those jurisdictions. So,
6 we did think that this -- we do not think to the
7 kids that are underage that are seeking to buy
8 alcohol, I see this some the board members may
9 want to address. This OIC, although not perfect,
10 I think accomplishes the Board's goals of
11 assuring the public safety, it allows an orderly
12 wind down of the business, it is certainly
13 punitive, it certainly is a deterrent to any
14 other operators that learn or hear about it and
15 we would request that you accept it. Thank you.

16 CHAIRPERSON ANDERSON: Thank you,
17 Mr.Kline. Do you need anything? Before the
18 Board deliberates and makes a decision do you
19 have any?

20 MS. SCHMIDT: Not from the government.

21 CHAIRPERSON ANDERSON: All right, we're
22 going to discuss it and come back out shortly.

1 All right. So, as the Chairperson of the
2 Alcoholic Beverage Control Board for the District
3 of Columbia and in accordance with D.C. Official
4 Code Section 25745 B of the Open Meetings
5 Amendment Act of 2010 I move that the ABC Board
6 hold a closed meeting for the purpose of seeking
7 legal advice from our counsel on Case #15-CMP-
8 00733, Sugar, pursuant to D.C. Official Code
9 Section 2574B-4 of the Open Meetings Amendment
10 Act and deliberate upon Case #15-CMP-00733,
11 Sugar, for the reasons cited in D.C. Official
12 Code 1601.2 Section 2574 B13 of the Open Meetings
13 Act. Is there a second?

14 MR. SHORT: Second.

15 CHAIRPERSON ANDERSON: Mr. Short has
16 seconded the motion. I will now take a roll call
17 vote of the motion before us now that it has been
18 seconded. Mr. Silverstein?

19 MR. SILVERSTEIN: I agree.

20 CHAIRPERSON ANDERSON: Mr. Short?

21 MR. SHORT: I agree.

22 CHAIRPERSON ANDERSON: Mr. Alberti?

1 MR. ALBERTI: I agree.

2 CHAIRPERSON ANDERSON: Ms. Miller?

3 MS. MILLER: I agree.

4 CHAIRPERSON ANDERSON: Mr. Anderson? As
5 it appears that the motion has passed I hereby
6 give notice that the ABC Board will recess these
7 proceedings to hold a closed meeting in the ABC
8 Board conference room pursuant to Section 2574 B
9 of the Open Meetings Amendment Act. We'll be in
10 recess and give me -- I'll try to come back here
11 in no more than 20 minutes. We will be in recess
12 for about 20 minutes.

13 All right we're back on the record
14 regarding Case #15-CMP-00733. The Board was
15 presented with an OIC that covered this case and
16 some other cases and the Board was able to
17 discuss this matter. Therefore, I make a motion
18 that the OIC that was presented, and I can't read
19 it, in the record because it's so, it's
20 extensive, but it will be made a part of the
21 record, but I do make a motion that this OIC be
22 accepted. Is there a second?

1 MS. MILLER: Second.

2 CHAIRPERSON ANDERSON: Ms. Miller seconded the
3 motion. Those in favor say aye.

4 [Chorus of ayes]

5 Those opposed?

6 MR. ALBERTI: Opposed.

7 The matter passed 4-one with Mr. Alberti
8 in opposition. I want to thank the parties for -

9 -

10 MR. ALBERTI: May I make a comment?

11 CHAIRPERSON ANDERSON: I'm sorry, any
12 Board members want to make any comments? Since
13 Mr. Alberti has stated first, so go ahead Mr.
14 Alberti.

15 MR. ALBERTI: I voted against this
16 because I couldn't in good conscience accept an
17 OIC with the behavior I observed from this
18 licensee. I count seven, with this OIC this
19 licensee is admitting liability to I count seven
20 primary violations, many of them are violations
21 of service to underage persons. Some of them --
22 some as young as 18 from the reports that we

1 have. I think it's especially concerning that
2 one of those charges, one of the reports that we
3 have, shows -- we have video showing the licensee
4 escorting a young woman out the back door, and
5 underage woman, under 21, maybe as young as 18,
6 out the back door to evade detection. That's
7 really troubling -- troubling behavior.

8 Mr. Kline kind of faults MPD for this
9 behavior because "well, they are not really
10 arresting people and so -- you know -- they're
11 coming in and challenging the system" -- well,
12 you know it's not all MPD's fault. We have a
13 licensee who actually is complicit in evading
14 detection, knowing that the person's underage and
15 taking her out the back door. That's really
16 concerning. So, I can't in good conscience
17 accept this, because in the end, really the
18 essence of what this -- what this does, is it
19 allows the licensee to avoid revocation, because
20 if he was found guilty of those seven charges,
21 he'd be facing certain revocation and the
22 consequences of revocation would mean to me that

1 he wouldn't have a license to sell. Well, you
2 know, what we're doing is we're giving him the
3 privilege of having that license to sell and
4 recoup some of his -- his -- his investment and I
5 don't think he deserves that privilege.

6 Given his behavior, the repeated --
7 repeated lack of concern for who he was serving,
8 even after he came -- you know, he says he wasn't
9 told, and ABRA didn't help him, but I know that
10 he was here. We have evidence that he was here
11 for underage training. Who then knows that the
12 Board, that the staff here was responsive to his
13 questions about "what do I do?" And, so, I don't
14 think he deserves that privilege of being able to
15 have something that's worthwhile to sell in the
16 end. And that's really what this does and in
17 good conscience I really can't accept this OIC.

18 CHAIRPERSON ANDERSON: Thank you, Mr.
19 Alberti. Mr. Silverstein.

20 MR. SILVERSTEIN: Thank you, Mr.
21 Chairman, and I deeply respect the comments of my
22 colleague, Mr. Alberti. We were forced to

1 choose between two difficult choices here. We
2 could have moved forward with this case today,
3 the first of them, and then the others, and that
4 certainly would drag into August and maybe as far
5 forward as January and we still would not have
6 been able to shut this establishment even for a
7 number of days, until July or August. Our other
8 choice, to accept this OIC, shortcut the series
9 of hearings and board orders, collects the fines,
10 and yet we're still not able to shut the
11 establishment until the middle of July, except
12 for two days in May.

13 Either way, the establishment remains
14 open during finals and graduation season at the
15 nearby universities and this is a great matter of
16 concern to this board member given the repeated
17 citations for sales to minors. We have two
18 principals that we cherish that were in conflict
19 here: One is due process and the other is public
20 safety. In order that the licensee receive the
21 due process that he's guaranteed by law takes
22 time, hearings, transcripts, Board orders takes

1 time, the charges are numerous, they would have
2 had to have been tried sequentially, one and then
3 another one a couple of weeks later and another a
4 couple of weeks later. Even the first case, the
5 first case that we would have heard today would
6 have stretched into July or August before
7 transcripts would be available, before we'd be
8 able to come up with a decision, before we'd be
9 able to have a decision written and published.
10 So, no matter what we did the establishment would
11 have been open for the next 90 days. Nothing we
12 can do about that. Based on that, I believe the
13 better of the two difficult choices was to accept
14 the OIC because it will bring this operation to a
15 certain end at the end of July.

16 The licensee will place the license into
17 safekeeping and he agrees not to apply for
18 another liquor license for five years. Even
19 then, should the licensee apply in five years,
20 the Board reviews such applications to determine
21 if they are appropriate under the standards set
22 forth under Title 25 in Section 301. I just hope

1 and pray that nothing bad happens between now and
2 the end of July, and I personally want to thank
3 Ms. Schmidt, Mr. Kline, and Mr. Jallad for your
4 hard work on this matter today so that we can
5 bring this matter to a close. I thank you and I
6 wish you well.

7 MR. KLINE: Thank you.

8 MR. JALLAD: Thank you.

9 MS. SCHMIDT: Thank you.

10 CHAIRPERSON ANDERSON: Any other board
11 members wish to speak?

12 MS. MILLER: I just briefly want --

13 CHAIRPERSON ANDERSON: Yes, Ms. Miller.

14 MS. MILLER: Thank you, I just want to
15 briefly make a couple of points and that is that
16 at the OIC stage we don't have any evidence in
17 the record and so, therefore, I don't think that
18 we can make a conclusion as to whether the
19 license would be revoked or anything like that.
20 I think we have to rely on the attorneys that
21 bring the OIC to us and on their -- on the face
22 of it, it appears to be a fair compromise and it

1 does appear to accomplish our goals of public
2 safety, deterrence and punishment as well, as the
3 attorneys had represented and based on experience
4 I believe that Ms. Schmidt was accurate in
5 predicting the results would probably be very
6 similar and without going through weeks and weeks
7 of hearings. And I do thank the attorneys for
8 their hard work in putting together this
9 comprehensive OIC. Thank you.

10 CHAIRPERSON ANDERSON: I also would like
11 to thank the parties for negotiating this matter.
12 As Chair of the Board, one of my responsibilities
13 -- at least I try to do -- is to move through the
14 calendar and try to do what's in the best
15 interests of all of the residents and all parties
16 involved and I thought that, going through a long
17 hearing that's just my view. What is being
18 offered, what is being compromised and at the end
19 of the day what it is that the Board wants, and I
20 believe that if we have an offer in compromise
21 that satisfies the Board's interests it should be
22 acceptable, so again I want to thank the parties

1 for working this matter and coming to an
2 agreement and it's called an offer in compromise
3 -- not all sides are going to be happy, at least
4 both sides it's a give and take, so anyway.

5 I just want to remind the applicant,
6 sorry, the licensee, that you have agreed, sir,
7 that your establishment, although the Board --
8 we're going to issue a Board Order, it will not
9 be issued today, but you have agreed that the
10 establishment will be closed Friday, April 29th
11 through Saturday, April 30th, so I want you to
12 know that although we don't have a Board order
13 stating that that is what you agreed to and the
14 Board expects that the establishment will be
15 closed and also that the days served -- I know
16 that you'll have the decision by then but I just
17 want to make sure that you are also aware that
18 the establishment will -- you have agreed that it
19 will be closed July 15th through Wednesday, July
20 27th. I just want to make sure that you are
21 aware of that. But, again, I'm new to this and I
22 don't have the history with Sugar as you informed

1 me, but whatever your venture is, good luck, and
2 I hope that it may have been five years if you
3 decide to reapply you have learned from the
4 mistakes and then you can move on and be a
5 productive member of the District of Columbia.
6 So, anyway, thank you very much.

7 MR. JALLAD: Thank you.

8 CHAIRPERSON ANDERSON: All right, we're
9 going to be in recess for about another ten
10 minutes so we can do the legal agenda, then I'll
11 come and close for the day, okay? All right
12 thank you.

13 (Whereupon the above-entitled matter was
14 concluded.)