

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

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IN THE MATTER OF: :
 :
TBM Holdings, LLC :
t/a TruOrleans : Show Cause
400 H Street, NE : Hearing
Retailer CR - ANC-6C : (Status)
License No. 86210 :
Case #13-CMP-00321 :
(No ABC Manager on Duty, :
Failed to Make Settlement :
Agreement Accessible) :
 :
Case #13-CMP-00303 :
(Failed to Comply with Board :
Order) :
 :
Case #13-CMP-00261 :
(Noise Violation) :
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January 8, 2014

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:
RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
MIKE SILVERSTEIN, Member

ALSO PRESENT:
AMY SCHMIDT, OAG

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

2 (9:49 a.m.)

3 CHAIRPERSON MILLER: The next
4 three cases involve the same establishment, so
5 I'm going to call the parties for those three
6 cases.

7 The first case is Case No. 13-CMP-
8 00321. It's TruOrleans located at 400 H
9 Street, N.E., License No. 86210, in ANC-6C.

10 And the next two cases involving
11 the same establishment are Case No. 13-CMP-
12 00303 and then Case No. 13-CMP-00261.

13 MS. TODD: Good morning.

14 CHAIRPERSON MILLER: Good morning.
15 If you are ready, if you would identify
16 yourselves for the record?

17 MS. TODD: Karen Todd, counsel for
18 TBM Holdings, TruOrleans Restaurant.

19 MR. REDDING: James Redding, owner
20 of TruOrleans Restaurant.

21 CHAIRPERSON MILLER: Okay. Good
22 morning.

1 MR. REDDING: Good morning.

2 MS. SCHMIDT: Amy Schmidt,
3 Assistant Attorney General on behalf of the
4 District of Columbia. And in order to make
5 things a little easier, I'm going to have Ms.
6 Walker give you a written breakdown of what is
7 going to occur.

8 CHAIRPERSON MILLER: Okay. I
9 would like to just ask the owner of the
10 establishment whether he got notice of this
11 hearing, read it, understood it and have any
12 objections to the notice?

13 MS. TODD: Yes, we received the
14 notice, Ms. Chairman.

15 CHAIRPERSON MILLER: And did you
16 read it and understand it?

17 MS. TODD: Yes.

18 CHAIRPERSON MILLER: Do you have
19 any objections to the notice?

20 MS. TODD: No objections.

21 CHAIRPERSON MILLER: Okay. All
22 right.

1 (Whereupon, the document was
2 marked for identification as
3 Exhibit 1 and was received in
4 evidence.)

5 CHAIRPERSON MILLER: Okay. Are
6 there some preliminary issues here?

7 MS. SCHMIDT: Yes, there is.

8 CHAIRPERSON MILLER: Okay.

9 MS. SCHMIDT: At the outset,
10 before we go to the individuals, I would just
11 like to say that the OIC is going to consist
12 of a \$15,000 fine to be paid on March 15, 2014
13 with a certified check, I believe.

14 MS. TODD: Yes.

15 MS. SCHMIDT: With a certified
16 check and the establishment will not reopen
17 until the payment of the fine. In other
18 words, the establishment will stay closed
19 until the payment of the fine.

20 Now, to get to specifics, this
21 case also involves cases that are not on the
22 calendar today, that is why I gave you the

1 printout so you could follow along, because
2 this is all the -- these are all the
3 outstanding cases against TruOrleans to this
4 date.

5 So that's a \$15,000 fine and the
6 establishment remaining closed applies to all
7 these cases.

8 So for Case No. -- so if you want
9 to follow along, for the record, for Case No.
10 13-CMP-00303 there is a \$2,000 fine.

11 For Case No. 13-CMP-00261 there is
12 a \$750 fine.

13 For Case No. 13-CMP-00321 there is
14 a \$1,000 fine.

15 Now, I think those are the three
16 cases that are before the Board today.

17 Now, here are the next group of
18 cases, which I believe Ms. Jenkins has pulled
19 for the Board:

20 Case No. 13-CMP-00145 a \$750 fine.

21 Case No. 13-AUD-00060 is a \$2,000
22 fine.

1 Case No. 13-251-0086 is a \$2,000
2 fine.

3 Case No. 13-CMP-363 is a \$2,000
4 fine, which is an outstanding amount, which is
5 -- well, I'm sorry. The last three cases
6 starting with 13-CMP-00363, these are fines
7 that have not been paid and these are all to
8 be paid.

9 So the first one is \$2,000 for 13-
10 CMP-00363. The second one is 13-AUD-00032 a
11 \$1,000 fine. And then Case No. 11-CMP-00372
12 a \$2,500 fine.

13 CHAIRPERSON MILLER: So the last
14 three, are they what is owed or are they --

15 MS. SCHMIDT: They are what is
16 owed. They are what is owed.

17 CHAIRPERSON MILLER: What is owed.

18 MS. SCHMIDT: They are included in
19 this \$15,000 figure.

20 CHAIRPERSON MILLER: Okay. Ms.
21 Todd, do you want to say anything with respect
22 to this?

1 MS. TODD: The only thing I will
2 add to that is that my client is willing to
3 not open until they are actually -- these
4 fines are all paid, just to show that -- you
5 know, because the last three that are on there
6 a good faith on their part, because they
7 realize that previously they haven't been able
8 to pay due to financial hardships. So they
9 are trying to get their books in order, so
10 that they can prevent these things from
11 happening in the future.

12 CHAIRPERSON MILLER: Okay. And is
13 your client agreeable to this offer in
14 compromise?

15 MS. TODD: Yes.

16 CHAIRPERSON MILLER: Okay. And
17 you have it on a piece of paper as well what
18 Ms. Schmidt --

19 MS. TODD: Yes, I have everything.

20 CHAIRPERSON MILLER: Okay.

21 MS. TODD: Everything you guys
22 see, I see as well.

1 CHAIRPERSON MILLER: And does Mr.
2 Redding understand that by entering into the
3 offer in compromise, he waives his right to a
4 hearing?

5 MS. TODD: Correct.

6 CHAIRPERSON MILLER: Okay.

7 MR. REDDING: Yes.

8 CHAIRPERSON MILLER: Are there any
9 questions from Board Members?

10 MEMBER ALBERTI: Yes. This
11 question may be superfluous, but I'll ask it
12 anyway. Does the licensee waive service on at
13 least, well, on all of the first six? Because
14 we haven't called two of those into the record
15 and we haven't talked about service.

16 So does the licensee waive service
17 on the first six cases that were read?

18 MS. TODD: Yes. We have received
19 service on, I believe, the first four. There
20 is another --

21 MEMBER ALBERTI: So you
22 acknowledge service on the first four?

1 MS. TODD: Yes.

2 MEMBER ALBERTI: And do you waive
3 service on the next two?

4 MS. TODD: Yes.

5 MEMBER ALBERTI: Okay. Thank you.
6 I just wanted to have that into the record --

7 MS. TODD: Okay.

8 MEMBER ALBERTI: -- for
9 completeness. Thank you.

10 CHAIRPERSON MILLER: Any other
11 questions?

12 MEMBER ALBERTI: Oh, I have one
13 other question.

14 CHAIRPERSON MILLER: Okay.

15 MEMBER ALBERTI: When were the
16 fines due for the last three?

17 MS. SCHMIDT: I apologize, I do
18 not have that information with me today. I
19 can -- we can pass the case and I can call Mr.
20 Stern, but I do not have it with me.

21 MEMBER ALBERTI: So it could be
22 that they are in violation of, at this point,

1 not following a Board Order there, which is
2 not -- which is --

3 MS. SCHMIDT: Yes. But I would
4 like to --

5 MEMBER ALBERTI: But nothing has
6 been done on those charges. Is that correct?

7 MS. SCHMIDT: I, for some reason--

8 MEMBER ALBERTI: But we don't
9 know?

10 MS. SCHMIDT: Nothing has been
11 done. However, I think that the intention is
12 that in order to -- keeping the establishment
13 closed and paying the one fine, that this will
14 end the matter.

15 MEMBER ALBERTI: I understand the
16 intent of the whole thing. I'm just trying to
17 get -- understand where we are with this.

18 MS. SCHMIDT: Nothing. No -- I
19 don't think any charges have been drafted to
20 this point.

21 MEMBER ALBERTI: And we don't even
22 know if charges are --

1 MS. SCHMIDT: Pending.

2 MEMBER ALBERTI: -- warranted.

3 MS. SCHMIDT: Yes, we don't even
4 know that.

5 CHAIRPERSON MILLER: We know the
6 first three, because they are before us.

7 MEMBER ALBERTI: Right. No, I
8 understand, but the last three. No, we are
9 talking about the last three.

10 CHAIRPERSON MILLER: Oh, okay.

11 MEMBER ALBERTI: I know it's clear
12 what Ms. Schmidt and I are talking about. We
13 understand each other.

14 MS. SCHMIDT: Yes. Today we do,
15 at least.

16 CHAIRPERSON MILLER: Okay. Other
17 questions? Okay. Then I would move that we
18 accept this offer in compromise of a \$15,000
19 fine payable by March 15, 2014. If payment is
20 not made by March 15, 2014, the establishment
21 will remain closed and not permitted to resume
22 operations until payment is received by ABRA.

1 Do I have a second?

2 MEMBER BROOKS: Second.

3 CHAIRPERSON MILLER: All those in
4 favor say aye?

5 MEMBER ALBERTI: I am --

6 CHAIRPERSON MILLER: Aye.

7 MEMBER BROOKS: Aye.

8 MEMBER SILVERSTEIN: Aye.

9 MEMBER ALBERTI: -- going to
10 oppose.

11 CHAIRPERSON MILLER: Okay. All
12 those opposed?

13 MEMBER ALBERTI: And I'll just say
14 why. Actually, I mean, I understand this is
15 a good faith effort by the owner and I
16 appreciate that. It's just the lack of
17 information on the pending fines that -- it's
18 just that lack of information gives me a
19 little uneasiness, so I'm going to oppose
20 this. I would have rather had complete
21 information in which I could feel completely
22 comfortable making the decision, so I will

1 have to oppose on that, based on that.

2 MS. SCHMIDT: Mr. Alberti, I'm
3 pretty sure that ABRA must have the records of
4 when they were due.

5 MEMBER ALBERTI: Oh, I'm sure they
6 do.

7 MS. SCHMIDT: They must have them.

8 MEMBER ALBERTI: I'm sure they do,
9 but we don't have them before us right now and
10 I have to move forward.

11 CHAIRPERSON MILLER: Okay. I
12 believe then the vote is 3-1-0 to accept the
13 offer in compromise with Mr. Alberti opposing.
14 Okay. We will have an order for you here in
15 a minute.

16 MS. TODD: Okay. Thank you.

17 CHAIRPERSON MILLER: I mean, we
18 will be issuing actually a more formal order.
19 Because of the global nature of this
20 settlement, we will be issuing a fuller
21 written order and we will be sending it to you
22 electronically.

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MS. TODD: Okay. Thank you.

CHAIRPERSON MILLER: All right.

Thank you.

MEMBER ALBERTI: Thank you for

coming.

(Whereupon, the Show Cause
(Status) Hearing in the above-entitled matter
was concluded at 9:59 a.m.)

<p style="text-align: center;">A</p> <p>\$1,000 5:14 6:11 \$15,000 4:12 5:5 6:19 11:18 \$2,000 5:10,21 6:1 6:3,9 \$2,500 6:12 \$750 5:12,20 a.m 2:2 14:8 ABC 1:9 able 7:7 above-entitled 14:7 ABRA 11:22 13:3 accept 11:18 13:12 Accessible 1:10 acknowledge 8:22 add 7:2 agreeable 7:13 Agreement 1:10 Alberti 1:22 8:10 8:21 9:2,5,8,12,15 9:21 10:5,8,15,21 11:2,7,11 12:5,9 12:13 13:2,5,8,13 14:4 Alcoholic 1:2,17,18 amount 6:4 Amy 1:25 3:2 ANC-6C 1:8 2:9 anyway 8:12 apologize 9:17 applies 5:6 appreciate 12:16 Assistant 3:3 Attorney 3:3 aye 12:4,6,7,8</p> <hr/> <p style="text-align: center;">B</p> <p>based 13:1 behalf 3:3 believe 4:13 5:18 8:19 13:12 Beverage 1:2,17,18 Board 1:2,12,18 5:16,19 8:9 10:1 books 7:9 breakdown 3:6</p>	<p>BROOKS 1:22 12:2,7 Building 1:18</p> <hr/> <p style="text-align: center;">C</p> <p>calendar 4:22 call 2:5 9:19 called 8:14 case 1:9,12,14 2:7,7 2:11,12 4:21 5:8,9 5:11,13,20,21 6:1 6:3,11 9:19 cases 2:4,6,10 4:21 5:3,7,16,18 6:5 8:17 Cause 1:6 14:6 certified 4:13,15 Chairman 3:14 Chairperson 1:19 1:21 2:3,14,21 3:8 3:15,18,21 4:5,8 6:13,17,20 7:12 7:16,20 8:1,6,8 9:10,14 11:5,10 11:16 12:3,6,11 13:11,17 14:2 charges 10:6,19,22 check 4:13,16 clear 11:11 client 7:2,13 closed 4:18 5:6 10:13 11:21 CMP-00363 6:10 Columbia 1:1 3:4 comfortable 12:22 coming 14:5 complete 12:20 completely 12:21 completeness 9:9 Comply 1:12 compromise 7:14 8:3 11:18 13:13 concluded 14:8 consist 4:11 Control 1:2,17,18 correct 8:5 10:6 counsel 2:17 CR 1:8</p>	<p style="text-align: center;">D</p> <p>D.C 1:19 date 5:4 decision 12:22 District 1:1 3:4 document 4:1 DONALD 1:22 drafted 10:19 due 7:8 9:16 13:4 Duty 1:9</p> <hr/> <p style="text-align: center;">E</p> <p>easier 3:5 effort 12:15 electronically 13:22 entering 8:2 establishment 2:4 2:11 3:10 4:16,18 5:6 10:12 11:20 evidence 4:4 Exhibit 4:3</p> <hr/> <p style="text-align: center;">F</p> <p>Failed 1:10,12 faith 7:6 12:15 favor 12:4 feel 12:21 figure 6:19 financial 7:8 fine 4:12,17,19 5:5 5:10,12,14,20,22 6:2,4,11,12 10:13 11:19 finances 6:6 7:4 9:16 12:17 first 2:7 6:9 8:13,17 8:19,22 11:6 follow 5:1,9 following 10:1 formal 13:18 forward 13:10 four 8:19,22 fuller 13:20 future 7:11</p> <hr/> <p style="text-align: center;">G</p> <p>General 3:3</p>	<p>give 3:6 gives 12:18 global 13:19 go 4:10 going 2:5 3:5,7 4:11 12:9,19 good 2:13,14,21 3:1 7:6 12:15 group 5:17 guys 7:21</p> <hr/> <p style="text-align: center;">H</p> <p>H 1:7 2:8 happening 7:11 hardships 7:8 hearing 1:7,18 3:11 8:4 14:7 Holdings 1:6 2:18</p> <hr/> <p style="text-align: center;">I</p> <p>identification 4:2 identify 2:15 included 6:18 individuals 4:10 information 9:18 12:17,18,21 intent 10:16 intention 10:11 involve 2:4 involves 4:21 involving 2:10 issues 4:6 issuing 13:18,20</p> <hr/> <p style="text-align: center;">J</p> <p>James 2:19 January 1:16 Jenkins 5:18</p> <hr/> <p style="text-align: center;">K</p> <p>Karen 2:17 keeping 10:12 know 7:5 10:9,22 11:4,5,11</p> <hr/> <p style="text-align: center;">L</p> <p>lack 12:16,18 License 1:8 2:9</p>	<p>licensee 8:12,16 little 3:5 12:19 LLC 1:6 located 2:8</p> <hr/> <p style="text-align: center;">M</p> <p>making 12:22 Manager 1:9 March 4:12 11:19 11:20 marked 4:2 matter 1:5 10:14 14:7 mean 12:14 13:17 MEETING 1:3 Member 1:22,22,23 8:10,21 9:2,5,8,12 9:15,21 10:5,8,15 10:21 11:2,7,11 12:2,5,7,8,9,13 13:5,8 14:4 Members 8:9 met 1:18 MIKE 1:23 Miller 1:19,21 2:3 2:14,21 3:8,15,18 3:21 4:5,8 6:13,17 6:20 7:12,16,20 8:1,6,8 9:10,14 11:5,10,16 12:3,6 12:11 13:11,17 14:2 minute 13:15 morning 2:13,14,22 3:1 move 11:17 13:10</p> <hr/> <p style="text-align: center;">N</p> <p>N.E 2:9 N.W 1:19 nature 13:19 NE 1:7 NICK 1:22 Noise 1:14 notice 3:10,12,14 3:19</p> <hr/> <p style="text-align: center;">O</p>
---	---	--	--	---

OAG 1:25	pretty 13:3	13:20	V	15 4:12 11:19,20
objections 3:12,19 3:20	prevent 7:10	show 1:6 7:4 14:6	violation 1:14 9:22	2
occur 3:7	previously 7:7	SILVERSTEIN	vote 13:12	2000 1:18
offer 7:13 8:3 11:18 13:13	printout 5:1	1:23 12:8	W	2009 1:19
Oh 9:12 11:10 13:5	pulled 5:18	six 8:13,17	waive 8:12,16 9:2	2014 1:16 4:12 11:19,20
OIC 4:11	Q	sorry 6:5	waives 8:3	3
okay 2:21 3:8,21	question 8:11 9:13	specifics 4:20	Walker 3:6	3-1-0 13:12
4:5,8 6:20 7:12,16	questions 8:9 9:11 11:17	starting 6:6	want 5:8 6:21	4
7:20 8:6 9:5,7,14	R	Status 1:8 14:7	wanted 9:6	400 1:7 2:8
11:10,16,17 12:11	read 3:11,16 8:17	stay 4:18	warranted 11:2	400S 1:19
13:11,14,16 14:1	ready 2:15	Stern 9:20	Washington 1:19	5
open 7:3	realize 7:7	Street 1:7,19 2:9	willing 7:2	6
operations 11:22	reason 10:7	Suite 1:19	words 4:18	7
oppose 12:10,19 13:1	received 3:13 4:3 8:18 11:22	superfluous 8:11	written 3:6 13:21	8
opposed 12:12	record 2:16 5:9 8:14 9:6	sure 13:3,5,8	X	8 1:16
opposing 13:13	records 13:3	T	Y	86210 1:8 2:9
order 1:13 3:4 7:9 10:1,12 13:14,18 13:21	Redding 2:19,19 3:1 8:2,7	t/a 1:6	Z	9
outset 4:9	Reeves 1:18	talked 8:15	0	
outstanding 5:3 6:4	remain 11:21	talking 11:9,12	00303 2:12	
owed 6:14,16,16,17	remaining 5:6	TBM 1:6 2:18	00321 2:8	
owner 2:19 3:9 12:15	reopen 4:16	p 1:4,15	1	
P	respect 6:21	Thank 9:5,9 13:16 14:1,3,4	1 4:3	
P-R-O-C-E-E-D-... 2:1	Restaurant 2:18,20	thing 7:1 10:16	11-CMP-00372 6:11	
paid 4:12 6:7,8 7:4	resume 11:21	things 3:5 7:10	13 6:9	
paper 7:17	Retailer 1:8	think 5:15 10:11,19	13-251-0086 6:1	
part 7:6	right 3:22 8:3 11:7 13:9 14:2	three 2:4,5 5:15 6:5 6:14 7:5 9:16 11:6 11:8,9	13-AUD-00032 6:10	
parties 2:5	Room 1:18	today 4:22 5:16 9:18 11:14	13-AUD-00060 5:21	
pass 9:19	Ruthanne 1:19,21	Todd 2:13,17,17 3:13,17,20 4:14 6:21 7:1,15,19,21 8:5,18 9:1,4,7 13:16 14:1	13-CMP 2:7,11	
pay 7:8	S	TruOrleans 1:6 2:8 2:18,20 5:3	13-CMP-00145 5:20	
payable 11:19	Schmidt 1:25 3:2,2 4:7,9,15 6:15,18 7:18 9:17 10:3,7 10:10,18 11:1,3 11:12,14 13:2,7	trying 7:9 10:16	13-CMP-00261 1:14 2:12 5:11	
paying 10:13	second 6:10 12:1,2	two 2:10 8:14 9:3	13-CMP-00303 1:12 5:10	
payment 4:17,19 11:19,22	see 7:22,22	U	13-CMP-00321 1:9 5:13	
pending 11:1 12:17	sending 13:21	understand 3:16 8:2 10:15,17 11:8 11:13 12:14	13-CMP-00363 6:6	
permitted 11:21	service 8:12,15,16 8:19,22 9:3	understood 3:11	13-CMP-363 6:3	
piece 7:17	settlement 1:10	uneasiness 12:19	14th 1:18	
point 9:22 10:20				
preliminary 4:6				
PRESENT 1:21,24				
presiding 1:19				