



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

2 10:47 a.m.

3 CHAIRPERSON MILLER: The next case on  
4 the calendar is Case No. 14-251-00195, Fairmont  
5 Liquor and Grocery located at 2633 Sherman  
6 Avenue, N.W., License No. 80900, in ANC-1B.

7 MS. SCHMIDT: Good morning, Amy  
8 Schmidt, Assistant Attorney General on behalf of  
9 the District of Columbia.

10 MR. FONSECA: Good morning, Members of  
11 the Board. Michael Fonseca on behalf of the  
12 licensee. Mr. Gizachew had texted me about 10  
13 minutes ago and said he was on his way, so I  
14 advised him to hurry the Board seemed to be ahead  
15 of its calendar.

16 CHAIRPERSON MILLER: Okay.

17 MR. FONSECA: But at this point, he  
18 hasn't arrived yet.

19 CHAIRPERSON MILLER: All right.

20 MR. FONSECA: Maybe we could pass  
21 until 11:00, the scheduled time?

22 CHAIRPERSON MILLER: Yes. What we can

1 do is this is the last case on the morning  
2 calendar, I believe, but I don't have any problem  
3 with the Board recessing and doing other work  
4 that we have to do and then when your client gets  
5 here, you can let us know or let Ms. Jenkins  
6 know.

7 MR. FONSECA: Appreciate the  
8 accommodation.

9 CHAIRPERSON MILLER: Okay. Thank you.

10 MR. FONSECA: Thank you.

11 CHAIRPERSON MILLER: All right. So  
12 the Board is going to recess.

13 MR. FONSECA: And we will have a  
14 preliminary matter.

15 (Whereupon, the above-entitled matter  
16 went off the record at 10:49 a.m. and resumed at  
17 11:09 a.m.)

18 CHAIRPERSON MILLER: Okay. I'm  
19 calling the last case on the morning calendar,  
20 Case No. 14-251-00195, Fairmont Liquor and  
21 Grocery located at 2633 Sherman Avenue, N.W.,  
22 License No. 80900, in ANC-1B. Good morning.

1 MR. FONSECA: Good morning.

2 CHAIRPERSON MILLER: And would the  
3 parties introduce themselves for the record when  
4 you are ready?

5 MS. SCHMIDT: Good morning, Amy  
6 Schmidt, Assistant Attorney General on behalf of  
7 the District of Columbia.

8 MR. FONSECA: Michael Fonseca on  
9 behalf of the licensee.

10 MR. GIZACHEW: Good morning, Abel  
11 Gizachew, license holder of Fairmont Liquor and  
12 Grocery.

13 COURT REPORTER: Could you turn your  
14 microphone on, please?

15 MR. GIZACHEW: Good morning, Abel  
16 Gizachew, license holder of Fairmont Liquor and  
17 Grocery.

18 MR. FONSECA: The spelling is on the  
19 sheet for you.

20 CHAIRPERSON MILLER: Okay. This is a  
21 Show Cause Hearing. Are there any preliminary  
22 matters?

1 MS. SCHMIDT: Yes, there is. There is  
2 an Offer in Compromise which we wish to present  
3 to the Board.

4 CHAIRPERSON MILLER: Okay.

5 MS. SCHMIDT: This Offer in Compromise  
6 consists of a \$3,000 fine and a five day  
7 suspension to be served on January 29th, 30th, 31st,  
8 February 2nd and 3rd. The reason why it's not --  
9 he is closed on Sundays, so that's why it's not  
10 on February 1st.

11 CHAIRPERSON MILLER: Okay.

12 MS. SCHMIDT: And if the fine is not  
13 paid within 30 days, the license will be  
14 suspended until the fine is paid.

15 MEMBER ALBERTI: So the suspension is  
16 what days again? I'm sorry.

17 MS. SCHMIDT: January 29th, 30th, 31st,  
18 February 2nd and 3rd.

19 MR. FONSECA: That would be a Thursday  
20 through Tuesday, Sunday being an automatic off,  
21 closed day anyway.

22 MEMBER ALBERTI: Can you -- all right.

1 Go ahead.

2 CHAIRPERSON MILLER: Mr. Fonseca, is  
3 your client agreeable to this Offer in  
4 Compromise, as I understand it to be a \$3,000  
5 fine, license suspended for five days, that being  
6 January 29, 30, 31, February 2nd and February 3rd?  
7 And the penalty shall be paid within 30 days. If  
8 it's not paid within 30 days, the license will  
9 then be suspended pending payment of the fine.

10 MR. FONSECA: Yes, we are. And if I  
11 may for the record? We weren't representing the  
12 client at the time, but we understand he did not  
13 appear at the status, so we would say that  
14 service was made by -- timely and properly, that  
15 he has read it, he understands the Notice to Show  
16 Cause and we waive reading for the record.

17 CHAIRPERSON MILLER: Thank you. Okay.  
18 Ms. Schmidt, I did characterize the Offer in  
19 Compromise correctly?

20 MS. SCHMIDT: Yes, you did.

21 CHAIRPERSON MILLER: Okay. Any  
22 questions from Board Members?

1 MEMBER SHORT: Can I make one?

2 CHAIRPERSON MILLER: Yes, Mr. Short?

3 MEMBER SHORT: Good morning, Mr.

4 Fonseca.

5 MR. FONSECA: Good morning, Member

6 Short.

7 MEMBER SHORT: Underage drinking is a

8 big problem in this city and it causes young

9 people years and years of trouble. And

10 hopefully, Mr. Fonseca, you can get through to

11 this owner that his license to sell alcohol

12 legally in the city, nobody will ever question

13 that.

14 But any question of underage drinking

15 with the problems we already have, Howard

16 University being right around the corner and then

17 some other schools being close by, I, as a Board

18 Member, take underage drinking very, very, very

19 seriously and I look at licenses and look at

20 people that come before us time after time with

21 the same situation. And I vote as such. Thank

22 you. That's all I have.

1 MR. FONSECA: Thank you for your  
2 comments and we have discussed this and he needs  
3 to exit the business with his record and he  
4 understands it. And we will work towards that.

5 MEMBER SHORT: We trust you. Thank  
6 you very much.

7 CHAIRPERSON MILLER: Okay. Any  
8 others?

9 MEMBER ALBERTI: Ms. Miller?

10 CHAIRPERSON MILLER: Yes?

11 MEMBER ALBERTI: Just I want to --  
12 just as a reminder to the licensee, so you have  
13 an \$8,000 fine which is due by close of business  
14 next Tuesday. Otherwise, we will sort of  
15 temporarily help you exit by suspending your  
16 license until it is paid. I just want to remind  
17 you of that.

18 MR. FONSECA: We are well-aware of  
19 this.

20 MEMBER ALBERTI: Okay.

21 MR. FONSECA: And we understand and we  
22 weren't trying not to make it clear.

1 MEMBER ALBERTI: Okay.

2 MR. FONSECA: This essentially  
3 dovetails, it follows the current suspension and  
4 it continues on from that spot on open business  
5 days or now closed business days.

6 MEMBER ALBERTI: Right.

7 MEMBER RODRIGUEZ: Counsel, could you  
8 repeat that? I really didn't understand what you  
9 said.

10 MR. FONSECA: Just now?

11 MEMBER RODRIGUEZ: Yes.

12 MR. FONSECA: Yes. That \$8,000 fine  
13 that Member Alberti was talking to is part of an  
14 ongoing 15 day suspension which ends on the 28th  
15 of January. So the current suspension would  
16 just, and an Offer in Compromise, pick up  
17 thereafter. And at that point, shall we say, has  
18 all the bad behind him and hopefully pays the  
19 \$8,000 and the \$3,000 fine and we have worked  
20 towards a new beginning and an exit strategy..

21 MEMBER RODRIGUEZ: Yes. That's taking  
22 into consideration what Member Alberti just --

1 MR. FONSECA: Absolutely.

2 MEMBER RODRIGUEZ: -- reminded us.

3 MR. FONSECA: Yes, exactly.

4 MEMBER RODRIGUEZ: Okay.

5 MR. FONSECA: That the \$8,000 fine is  
6 payable no later than close of business next  
7 Tuesday.

8 MEMBER RODRIGUEZ: Okay. Thank you.

9 MR. FONSECA: Yes.

10 CHAIRPERSON MILLER: I don't want to  
11 complicate things or maybe I missed something  
12 anyway, but because we have an unusual situation  
13 here. So hopefully the penalty due next Tuesday,  
14 I think that's the date, on the 20th will be paid,  
15 but if it's not, the license will be suspended, I  
16 believe. Is that not part of that?

17 MR. FONSECA: Actually, they will be  
18 ongoing under suspension and I guess technically  
19 if you were to pay it before the 28th, it's a  
20 matter of whether the Board wants to raise a  
21 charge of failure to pay timely, which I think  
22 arguably is a whole --

1 CHAIRPERSON MILLER: Oh, no.

2 MR. FONSECA: -- other thing. But we  
3 don't want to go there.

4 CHAIRPERSON MILLER: Okay. No.

5 MR. FONSECA: He is going to pay his  
6 \$8,000.

7 CHAIRPERSON MILLER: All right. We  
8 won't go there.

9 MEMBER ALBERTI: Right, right, right.

10 MR. FONSECA: He knows that.

11 MEMBER ALBERTI: Okay.

12 MR. FONSECA: And what happened was  
13 that prior matter, which we weren't involved in,  
14 was done in November with a 60 day window to pay  
15 and that is why we have this awkward situation.

16 CHAIRPERSON MILLER: This was my  
17 question and I don't really, you know, know that  
18 we have to deal with this, but say that it is  
19 closed, the establishment is closed anyway as a  
20 result of nonpayment of another fine on January  
21 29th, then these suspension days don't mean  
22 anything.

1 MR. FONSECA: I think the Board would  
2 have the discretion to hold in abeyance this  
3 current five days until he has cured the other  
4 one.

5 CHAIRPERSON MILLER: Okay.

6 MR. FONSECA: So that in other words--

7 CHAIRPERSON MILLER: You would consent  
8 to that?

9 MR. FONSECA: -- this is a separate  
10 charge. Punishment has to follow this charge.

11 CHAIRPERSON MILLER: Okay.

12 MR. FONSECA: And can't be piggybacked  
13 with our failure --

14 CHAIRPERSON MILLER: Right.

15 MR. FONSECA: -- to comply with a  
16 prior offer. And I, as one member of this Bar  
17 here, would not attempt to make that argument.

18 CHAIRPERSON MILLER: Okay.

19 MR. FONSECA: I don't play fast and  
20 loose like that.

21 CHAIRPERSON MILLER: Okay. Yes. We  
22 know that. All right. All right. Any other

1 questions?

2 Okay. Then I would move that we --  
3 wait a minute, no, sorry.

4 Mr. Fonseca, does your client know  
5 that by accepting this Offer in Compromise he  
6 waives his right to a hearing and right to appeal  
7 of the penalty?

8 MR. FONSECA: Say that on the record.

9 MR. GIZACHEW: Yes.

10 CHAIRPERSON MILLER: Okay. All right.  
11 Then I would move that we approve this Offer in  
12 Compromise of a fine of \$3,000 to be paid within  
13 30 days. And if not paid, the license will be  
14 suspended pending payment. And that part of this  
15 OIC, the license will also be suspended for five  
16 days, those days being January 29, 30, 31,  
17 February 2 and February 3.

18 MEMBER SHORT: Second.

19 CHAIRPERSON MILLER: Okay. Mr. Short  
20 has seconded the motion.

21 All those in favor say aye.

22 ALL: Aye.

1                   CHAIRPERSON MILLER: All those  
2                   opposed? All those abstaining? The motion  
3                   passes 6-0-0. Okay.

4                   MS. SCHMIDT: May I be excused to  
5                   excuse my officer?

6                   CHAIRPERSON MILLER: Yes. That  
7                   concludes this case. Thank you very much. We  
8                   will get the paperwork out to you.

9                   MR. FONSECA: Thank you, Members of  
10                  the Board.

11                  MEMBER RODRIGUEZ: Thank you.

12                  CHAIRPERSON MILLER: Okay. So that  
13                  concludes our morning calendar. And the Board  
14                  will recess now. I know our next case is at 1:30  
15                  p.m. and most likely that's when we will come  
16                  out, unless we are ready to do our agenda before  
17                  then.

18                  But as of now, our next case is 1:30  
19                  p.m. Okay.

20                  (Whereupon, the Show Cause Hearing in  
21                  the above-entitled matter was concluded at 11:19  
22                  a.m.)

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