

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

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IN THE MATTER OF: :
 :
Ahmed Ouhman Enterprises t/a: :
Taan (Formerly Marrakech : Show Cause
Lounge : Hearing
1817 Columbia Road, NW :
Retailer CR - ANC-1C :
License No. 87585 :
Case #11-CMP-00513 :
 :
(Violation of Voluntary :
Agreement, Noise Violation, :
Failed to Obtain a Sidewalk :
Cafe and Summer Garden :
Endorsement) :
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January 23, 2013

The Alcoholic Beverage Control

Board met in the Alcoholic Beverage Control
Hearing Room, 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
- HERMAN JONES, Member
- MIKE SILVERSTEIN, Member

ALSO PRESENT:

CHRISSY GEPHARDT, OAG

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

(3:19 p.m.)

CHAIRPERSON MILLER: Okay. The next case on our calendar is Case No. 11-CMP-00513, Taan located at 1817 Columbia Road, N.W., License No. 87585.

Are the parties here in this case? Okay. Come on forward. Have a seat and sign in.

MS. GEPHARDT: Good afternoon, Chrissy Gephardt on behalf of the Office of the Attorney General for the District of Columbia.

CHAIRPERSON MILLER: Good afternoon.

MR. OUIHMAN: Ahmed Ouihman the owner of Marrakech Lounge, 1817 Columbia Road.

CHAIRPERSON MILLER: Okay. This is a Show Cause Hearing. I'm just going to ask you if you have any preliminary matters?

MS. GEPHARDT: Yes, we do.

CHAIRPERSON MILLER: Okay.

1 MS. GEPHARDT: In this case, the
2 parties have agreed on an offer in compromise
3 that we would like to present to the Board
4 today.

5 For the three charges:

6 Charge 1, which is failure to
7 observe the voluntary agreement, we propose a
8 \$500 fine.

9 For Charge 2, which is producing
10 noise or music at such intensity that it can
11 be heard on a premises other than the licensed
12 establishment, we propose a \$500 fine.

13 And for Charge 3, failing to
14 obtain a sidewalk cafe and summer garden
15 endorsement is a \$1,000 fine for a total of
16 \$2,000 to be paid within 60 days.

17 CHAIRPERSON MILLER: Okay. Mr.
18 Ouihman, is that right?

19 MR. OUIHMAN: Yes.

20 CHAIRPERSON MILLER: You're the
21 owner, correct?

22 MR. OUIHMAN: Yes.

1 CHAIRPERSON MILLER: Okay. I want
2 to read this back to you and make sure you are
3 agreeable to the offer in compromise that is
4 being offered.

5 \$500 for the first offense,
6 violation of the voluntary agreement; \$500 for
7 the second offense, which deals with the noise
8 restrictions from licensed premises; and
9 \$1,000 for the third offense, failure to
10 obtain a sidewalk cafe and summer garden
11 endorsement for a total of \$2,000 to be paid
12 within 60 days.

13 MR. OUIHMAN: Correct.

14 CHAIRPERSON MILLER: You agree to
15 that?

16 MR. OUIHMAN: I agree, yes.

17 CHAIRPERSON MILLER: Okay. And
18 also, are you aware that you waive your right
19 to a hearing if you agree to an offer in
20 compromise?

21 MR. OUIHMAN: Yes, I do.

22 CHAIRPERSON MILLER: Okay. Are

1 there questions from Board Members? Yes, Mr.
2 Jones?

3 MEMBER JONES: Thank you, Madam
4 Chair. Just for clarification purposes, is it
5 your understanding that the fines that were
6 agreed to for each of the charges all fall
7 into the minimum of that range?

8 MS. GEPHARDT: That is my
9 understanding, yes.

10 MEMBER JONES: Okay. Is there any
11 particular rationale that went into coming to
12 that point?

13 MS. GEPHARDT: The parties were
14 trying to reach a compromise and so the
15 Government was making an offer in order to be
16 able to come to that compromise. And so
17 that's how the Government arrived at those
18 fine amounts.

19 MEMBER JONES: Okay. Thank you.
20 Thank you, Madam Chair.

21 CHAIRPERSON MILLER: Okay. Any
22 other questions? Okay. Then at this point,

1 I will move to approve the offer in --

2 MEMBER ALBERTI: Hold on one
3 second.

4 CHAIRPERSON MILLER: What? Oh,
5 okay. I have a request that we recess to
6 consider this in Executive Session.

7 As Chairperson of the Alcoholic
8 Beverage Control Board for the District of
9 Columbia and in accordance with Section 405 of
10 the Open Meetings Amendment Act of 2010, I
11 move that the ABC Board hold a closed meeting
12 for the purpose of seeking legal advice from
13 our counsel on Case No. 11-CMP-00513, Taan,
14 per Section 405(b)(4) of the Open Meetings
15 Amendment Act of 2010 and potentially
16 deliberating upon this case for the reasons
17 cited in Section 405(b)(13) of the Open
18 Meetings Amendment Act of 2010.

19 Is there a second?

20 MEMBER BROOKS: Second.

21 CHAIRPERSON MILLER: Mr. Brooks
22 has seconded the motion.

1 I will now take a roll call vote
2 on the motion.

3 Mr. Brooks?

4 MEMBER BROOKS: I agree.

5 CHAIRPERSON MILLER: Mr. Alberti?

6 MEMBER ALBERTI: Ms. Miller, I
7 guess my understanding is that we are
8 recessing to get legal advice?

9 CHAIRPERSON MILLER: I read the
10 standard in the event that it led to
11 deliberation as well.

12 MEMBER ALBERTI: Okay.

13 CHAIRPERSON MILLER: The first I
14 said seeking legal advice.

15 MEMBER ALBERTI: Thank you.

16 CHAIRPERSON MILLER: I didn't know
17 if that was exclusive or not.

18 MEMBER ALBERTI: Okay.

19 CHAIRPERSON MILLER: Okay.

20 MEMBER ALBERTI: Thank you. I
21 agree.

22 CHAIRPERSON MILLER: Okay. I

1 agree.

2 Mr. Silverstein?

3 MEMBER SILVERSTEIN: I agree.

4 CHAIRPERSON MILLER: Mr. Jones?

5 MEMBER JONES: I agree.

6 CHAIRPERSON MILLER: Okay. It
7 appears that the motion has passed by a 5-0-0
8 vote. We are going to recess and we will be
9 back pretty shortly or pretty soon to rule on
10 the motion.

11 MS. GEPHARDT: Okay. Thank you.

12 CHAIRPERSON MILLER: Okay.

13 (Whereupon, at 3:25 p.m. a recess
14 until 3:40 p.m.)

15 CHAIRPERSON MILLER: Okay. We are
16 back on the record after taking some time to
17 consider the offer in compromise that has been
18 presented to the Board and as has been agreed
19 to by the parties.

20 So I'm going to make a motion
21 again and reiterate what that offer in
22 compromise is, as I understand it, and if any

1 party feels that I haven't characterized it
2 properly, please, correct me.

3 Okay. So my understanding is, and
4 I move that we approve an offer in compromise
5 for \$500 for the first violation, that being
6 of the voluntary agreement; \$500 for the
7 second violation, that being -- regarding
8 noise restrictions from the licensed premises;
9 and \$1,000 for the violation regarding a
10 failure to obtain a sidewalk cafe and summer
11 garden endorsement.

12 So that is a total of \$2,000
13 penalty payable within 60 days. Okay. Not
14 hearing anything from the parties that I may
15 have mischaracterized the offer in compromise,
16 that motion then is to approve the offer in
17 compromise as I just articulated it.

18 Do I have a second?

19 MEMBER BROOKS: Second.

20 CHAIRPERSON MILLER: Okay. Mr.
21 Brooks has seconded the motion. Any comments,
22 questions?

1 MEMBER ALBERTI: Well, before we
2 take the vote --

3 CHAIRPERSON MILLER: Okay.

4 MEMBER ALBERTI: I am going -- Mr.
5 Jones?

6 MEMBER JONES: Yes, just for
7 clarification purposes. I, as an individual
8 Board Member, am going to align myself in the
9 affirmative with the motion when the vote is
10 finally called, but I'm only doing so because
11 based on my review of their record and the
12 history that this is actually their first
13 secondary tier violation and, therefore, the
14 range is from \$250 to \$500 and therefore the
15 OIC presented represents the higher end of the
16 range for the two secondary tier violations.

17 So for that reason only, I would
18 be in acceptance of the OIC. But I am
19 concerned how it was presented initially, but
20 based on our review and clarification, I am
21 more comfortable with accepting the OIC.
22 Thank you, Madam Chair.

1 CHAIRPERSON MILLER: Okay. Any
2 other comments?

3 MEMBER ALBERTI: And I will be
4 voting in favor of this for the same reasons.
5 Thank you, Mr. Jones.

6 MEMBER JONES: You're welcome.

7 CHAIRPERSON MILLER: Okay. There
8 is a motion that has been seconded.

9 All those in favor say aye.

10 ALL: Aye.

11 CHAIRPERSON MILLER: All those
12 opposed? All those abstaining? The vote is
13 5-0-0 to approve the offer in compromise.

14 (Whereupon, the Show Cause Hearing
15 in the above-entitled matter was concluded at
16 3:43 p.m.)

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