

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

Sami Restaurant, LLC	
t/a Bistro 18	Show Cause
2420 18th Street, NW	Hearing
Retailer CR	(Status)
License No. 86876	
Case No. 13-CMP-00319	
Violation of agreement	

February 26, 2014

The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street N.W., Washington, D.C., Chairman Ruthanne Miller, presiding.

PRESENT

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
HERMAN JONES, Member
MICHAEL SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

ALSO PRESENT:

Maureen Daniel

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

(10:47 a.m.)

CHAIRPERSON MILLER: I'm going to call Case Number 13-CMP-00319, which is Bistro 18 located at 2420 18th Street Northwest. License Number 86876 in ANC 1C. Good morning.

MS. DANIEL: Good morning. Maureen Daniel on behalf of the District of Columbia.

MR. HOROWITZ: Good morning, Ely Horowitz representing Bistro 18.

CHAIRPERSON MILLER: Okay, this is a show cause hearing. Are there any preliminary matters?

MS. DANIEL: The preliminary matter is this. If we may have just a couple of minutes?

We have spoken for the first time about any possibility of an OIC and we're not exactly ready to conclude that conversation, if we can have just a couple of minutes?

CHAIRPERSON MILLER: Sure. I mean

1 your case is scheduled for 11:00 anyway and we
2 came here earlier, we thought you were ready
3 for us.

4 MS. DANIEL: We thought we were
5 but --

6 CHAIRPERSON MILLER: okay.

7 MS. DANIEL: -- but at last minute
8 we decided to talk compromise.

9 CHAIRPERSON MILLER: Okay. Why
10 don't you do that and the Board has business
11 to do. Do you know how much time you need or
12 do you --

13 MS. DANIEL: Five minutes.

14 CHAIRPERSON MILLER: Five minutes?
15 Sure. Okay.

16 MS. DANIEL: Thanks.

17 CHAIRPERSON MILLER: All right, so
18 we will recess for five minutes. Thank you.
19 You can let our attorney know when you're
20 ready.

21 MS. DANIEL: Okay, it maybe less
22 then five minutes.

1 (Whereupon, the foregoing matter
2 went off the record at 10:49 a.m. and went
3 back on the record at 10:53 a.m.)

4 CHAIRPERSON MILLER: Okay, we're
5 back on the record. Are you ready to proceed?

6 MS. DANIEL: We are ready to
7 proceed.

8 CHAIRPERSON MILLER: Okay.

9 (Off record comments)

10 MS. DANIEL: We do have an Offer-
11 In-Compromise we'd recommend to the Board.
12 And the compromise would be a fine of \$1,000
13 to be paid within 30 days.

14 MALE PARTICIPANT: \$1,000 fine,
15 Offer-in-Compromise.

16 MEMBER ALBERTI: Well I would like
17 us to, I would like us to adjourn to get legal
18 -- It's way outside of policy.

19 (Off record comments)

20 MEMBER ALBERTI: So what are
21 doing?

22 MS. DANIEL: I apologize. In an

1 effort to be --

2 MEMBER ALBERTI: Oh, no, no, no.

3 My question was to the Chair, not you.

4 MS. DANIEL: I apologize.

5 MEMBER ALBERTI: No, my apologies.

6 CHAIRPERSON MILLER: They

7 disappeared from the tables, so.

8 MEMBER ALBERTI: Can we adjourn

9 and --

10 CHAIRPERSON MILLER: Do you have

11 any questions?

12 MEMBER ALBERTI: -- seek legal

13 advice?

14 CHAIRPERSON MILLER: Well do you

15 have any questions for the parties before we

16 adjourn?

17 MEMBER ALBERTI: I don't have any

18 questions for the parties but I would like to

19 discuss some legal questions with our --

20 CHAIRPERSON MILLER: All right,

21 well let's --

22 MEMBER ALBERTI: So I thought

1 maybe we could adjourn, do a closed meeting
2 while they're having their discussions. I'm
3 just trying to be efficient in time that's
4 all.

5 CHAIRPERSON MILLER: I have to
6 read the closed meeting thing again?

7 MEMBER ALBERTI: Yes, go ahead.
8 Read it. And then we don't waste time.

9 CHAIRPERSON MILLER: There's been
10 a request to adjourn to consider this proposed
11 OIC. Okay, before we do that, the parties
12 have stepped away from the table.

13 There's been a request for the
14 Board to adjourn, to recess sorry, to consider
15 the OIC. Is there anything else you'd like to
16 say about it before the Board does that?

17 MS. DANIEL: Yes.

18 CHAIRPERSON MILLER: Okay.

19 MS. DANIEL: It has now come to my
20 attention that there is a previous order which
21 had a day of suspension stayed. Given that
22 fact we no longer have a compromise to offer

1 to the Board.

2 (Off record comment)

3 CHAIRPERSON MILLER: Okay.

4 MR. HOROWITZ: That, this event
5 probably happened before that stay order and
6 we would still agree on a compromise of a
7 \$1,000 fine but not if we have to close for
8 another day.

9 CHAIRPERSON MILLER: Okay.

10 MEMBER ALBERTI: May I ask a
11 question then on this? Okay. The date of the
12 event, the date of the order which implemented
13 the day stayed was what? We have an order in
14 place in which there was a day stayed, what is
15 the date on which that order was decided?

16 MS. DANIEL: I believe --

17 MEMBER ALBERTI: Actually, when
18 was that adjudicated, not when the order was
19 issued, when was that adjudicated? Do we have
20 it in our --

21 CHAIRPERSON MILLER: It's the
22 same.

1 MS. DANIEL: I believe it was
2 November 29, 2012 but I would ask to --

3 MEMBER ALBERTI: Wait, wait, wait.

4 MS. DANIEL: -- the Board record
5 to confirm it.

6 MEMBER ALBERTI: Just a moment,
7 I'm going to take a look at the records. What
8 case is this? If you would give me a case
9 number?

10 MS. DANIEL: Yes, sir, CMP, it's
11 number 11-CMP-00457.

12 MEMBER ALBERTI: 00457.

13 MS. DANIEL: 57.

14 MEMBER ALBERTI: Okay. So the
15 Board, okay. So the Board accepted an OIC in
16 that case on November 14th, 2012. Correct?

17 MS. DANIEL: Yes, that is correct.

18 MEMBER ALBERTI: That's what my
19 record shows.

20 MS. DANIEL: You're correct.

21 MEMBER ALBERTI: Okay, we an
22 accepted an OIC on November 14, 2012. What

1 was the date of this event?

2 MS. DANIEL: May 25, 2013.

3 MEMBER ALBERTI: Okay.

4 MS. DANIEL: The event --

5 MEMBER ALBERTI: So this event
6 happened after that OIC was accepted, is that
7 correct?

8 MS. DANIEL: Correct.

9 MEMBER ALBERTI: Thank you. I
10 just wanted to understand that.

11 MR. HOROWITZ: Thank you.

12 MEMBER ALBERTI: So my point, just
13 for my thinking, the reason I'm asking, I want
14 to know whether the owner was on notice that
15 they had committed a violation at the time
16 that this alleged violation was committed?

17 MS. DANIEL: That's correct.

18 MEMBER ALBERTI: Thank you.

19 MS. DANIEL: The Offer-In-
20 Compromise of the earlier case was in effect
21 when the allegations giving rise to this case
22 took place.

1 MS. DANIEL: Thank you very much.

2 CHAIRPERSON MILLER: In any event,
3 either the parties have an Offer-In-Compromise
4 or they don't. And if you don't we'll be
5 scheduling a new hearing. So --

6 MS. DANIEL: Yes, that's correct.

7 CHAIRPERSON MILLER: Okay.

8 MS. DANIEL: We do not have a
9 compromise to offer.

10 CHAIRPERSON MILLER: Okay.

11 MS. DANIEL: But we are here today
12 for a show cause hearing. The Government is
13 seeking a continuance because only learning
14 this morning that a necessary witness is sick
15 and unable to be here.

16 CHAIRPERSON MILLER: Mr. Horowitz,
17 would you like to speak to that --

18 MR. HOROWITZ: Yes.

19 CHAIRPERSON MILLER: -- or do you
20 agree to the continuance?

21 MR. HOROWITZ: We agree to the
22 continuance.

1 CHAIRPERSON MILLER: Okay.

2 MR. HOROWITZ: No objection to
3 that.

4 CHAIRPERSON MILLER: All right,
5 given that the parties agree to the
6 continuance, I would say that that would be
7 good cause that being that the investigator,
8 the key witness, is sick. I believe we will
9 continue this hearing. Our attorney will get
10 back to you with respect to that dates.

11 MEMBER ALBERTI: Do we need to
12 vote on the continuance, I don't know? I'm
13 just asking procedurally.

14 CHAIRPERSON MILLER: Okay.

15 MEMBER ALBERTI: Just want to move
16 --

17 CHAIRPERSON MILLER: All right,
18 I'll move, I'm sorry, I'll make a motion that
19 the move to continue the hearing to a date to
20 be determined.

21 MEMBER RODRIGUEZ: Second.

22 CHAIRPERSON MILLER: Mr. Rodriguez

1 has seconded the motion. All those in favor
2 say aye?

3 (Chorus of ayes)

4 CHAIRPERSON MILLER: All those
5 opposed? All those abstaining? Motion passes
6 6-0-0. Okay, thank you very much.

7 MS. DANIEL: Thank you.

8 MR. HOROWITZ: Thank you.

9 CHAIRPERSON MILLER: Okay, that
10 completes our morning hearings and the Board
11 will recess until this afternoon hearing and
12 agenda. Thank you.

13 (Whereupon, the hearing in the
14 above-mentioned matter was concluded at 11:01
15 a.m.)

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