

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

Glover Park F & B, LLC
t/a Breadsoda
2233 Wisconsin Ave NW
License No. 78085
Retailer CR
ANC 3B
Case No. 13-AUD-00050

Show Cause
Hearing
(Status)

March 19, 2014

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

PRESENT:

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

ALSO PRESENT:

Walter Adams, OAG
Amy Schmidt, OAG

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

(9:57 a.m.)

CHAIRPERSON MILLER: Next case is Case Number 13-AUD-00050. Breadsoda located at 2233 Wisconsin Ave. License Number 78085 and ANC 3B. When you're ready could you introduce yourselves?

MR. ADAMS: I'm sorry, good morning, Madam Chairman. Walter Adams, representing the District of Columbia.

CHAIRPERSON MILLER: Okay.

MR. THOMAS: And William Thomas, representing Breadsoda.

CHAIRPERSON MILLER: All right and Mr. Thomas did you get notice of this hearing?

MR. THOMAS: I did.

CHAIRPERSON MILLER: Did you read it and understand it?

MR. THOMAS: I did.

CHAIRPERSON MILLER: All right, so that notice is part of this record. I'm not hearing any objections, Mr. Adams. Any

1 preliminary matters?

2 MR. ADAMS: There is one
3 preliminary matter for the single charge of,
4 for this case, the parties have discussed this
5 and would like to propose an offer in
6 compromise.

7 To solve this case the parties
8 have proposed that the fine, that there be a
9 fine in the amount \$2000 to be paid within 30
10 days.

11 (Off the record comments)

12 CHAIRPERSON MILLER: Mr. Thomas
13 are you agreeable to that offer in compromise,
14 \$2000 to be paid within 30 days?

15 MR. THOMAS: Yes.

16 CHAIRPERSON MILLER: And you
17 understand that you waive your right to a
18 hearing by entering into a offer in
19 compromise?

20 MR. THOMAS: Yes.

21 CHAIRPERSON MILLER: All right.
22 Are there any questions?

1 MEMBER ALBERTI: Yes. Well, I
2 have more of a statement rather than a
3 question here. I read the investigative
4 report and saw the records of quarterly
5 filings.

6 And the charge here is failed to
7 demonstrate that you, that the licensee meets
8 the requirements of a restaurant license. But
9 the documents I saw show that you far exceed
10 those requirements.

11 MR. THOMAS: I'm sorry, what?

12 MEMBER ALBERTI: The documents I
13 saw show that you far exceed those
14 requirements. Is that your understanding?

15 MR. THOMAS: Yes, that's correct.
16 And we do. I mean --

17 MEMBER ALBERTI: Allegedly, let me
18 finish. Allegedly you under reported on your
19 quarterly finding when you filed your reports.
20 Which is, which if true is not a good thing.

21 MR. THOMAS: That's a --

22 MEMBER ALBERTI: It is a

1 violation.

2 MR. THOMAS: Under reported,
3 that's what I didn't understand about, what do
4 you mean by under reported?

5 MEMBER ALBERTI: Well you reported
6 on your quarterly reports, you actually had
7 more proceeds than you reported.

8 MR. THOMAS: Like more food and --

9 MEMBER ALBERTI: Right, right.
10 You actually had more proceeds --

11 MR. THOMAS: Right.

12 MEMBER ALBERTI: -- from food and
13 alcohol than you reported. But even the lower
14 figure that you reported, met the level of the
15 requirements.

16 MR. THOMAS: Correct.

17 MEMBER ALBERTI: All right, so I'm
18 looking at this and I'm troubled that we have
19 an incorrect charge here, Mr. Adams. That's
20 my angst here. All right?

21 I mean there is a viola--
22 allegedly there is a violation for not

1 truthfully reporting proceeds on the quarterly
2 report which hopefully in the future will not
3 reoccur. All right, but I'm having trouble
4 accepting what I see on a charge that is
5 frankly inaccurate.

6 And it reflects, it could reflect
7 in the future. It could create problems for
8 this licensee in the future. Because, you
9 know, it appears that they are continually not
10 meeting their requirements. That's a concern
11 for the Board.

12 And it, the evidence I see that,
13 that's not what's happening.

14 MR. ADAMS: I'm sorry, Mr.
15 Alberti.

16 MEMBER ALBERTI: I'll leave it at
17 that. I probably won't accept this OIC on
18 those grounds.

19 MR. ADAMS: Thanks, Mr. Alberti.

20 CHAIRPERSON MILLER: Okay. Based
21 on those comments. I would move that we
22 reject this offer in compromise so that OAG

1 can take a closer look at these charges. Do
2 I have a second?

3 MEMBER SILVERSTEIN: Second.

4 CHAIRPERSON MILLER: Mr.
5 Silverstein has seconded the motion. All
6 those in favor of the motion say aye.

7 (Chorus of Ayes)

8 CHAIRPERSON MILLER: All those
9 opposed?

10 (No response)

11 CHAIRPERSON MILLER: All those
12 abstaining?

13 (No response)

14 CHAIRPERSON MILLER: Okay, motion
15 passes 6-0-0 to reject the offer in
16 compromise. So as of now, that the hearing
17 date would be May 21, 2014 at 11:00 a.m. Yes?

18 MR. THOMAS: I have a speaking
19 engagement that day in Kentucky for the 50th
20 Anniversary of bourbon being the National
21 Spirit.

22 I was invited down to speak on

1 behalf of the Kentucky Distiller's Association
2 and formulate a tasting representing the
3 distillers in America. That would be a bad
4 day for me.

5 CHAIRPERSON MILLER: Okay.

6 MR. THOMAS: It's right there in
7 that grouping -- it's kind of a big deal that
8 I was invited to do it, so.

9 MALE PARTICIPANT: You've got to
10 go.

11 MR. THOMAS: It's a good, yes,
12 it's a good gig, I have to admit.

13 CHAIRPERSON MILLER: Okay, so
14 we'll communicate that to our general counsel,
15 Martha Jenkins, who's involved with
16 scheduling. It may very well be that there
17 won't even be a hearing. But we'll get a
18 hearing, you know, date on the calendar just
19 in case. I mean this may drop out.

20 MR. THOMAS: Would you like a ten,
21 would you even like ten seconds of an
22 explanation why I know why they -- no. Okay.

1 CHAIRPERSON MILLER: But you can
2 give that to Mr. Adams at another time too.
3 Okay.

4 MR. ADAMS: Sure.

5 MR. THOMAS: If you like.

6 CHAIRPERSON MILLER: So, we'll be.
7 You all will be in touch with Ms. Jenkins.
8 Okay, so that's the date for now, but we hear
9 you. It probably will not be the date given your
10 circumstances.

11 MR. THOMAS: So I'll just stay in
12 touch with Ms. Jenkins.

13 CHAIRPERSON MILLER: Yes, and Mr.
14 Adams.

15 MR. THOMAS: Okay, got you.

16 CHAIRPERSON MILLER: Okay. Thank
17 you.

18 (Whereupon, the hearing in the
19 above-entitled matter was concluded at 10:03
20 a.m.)

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<hr/> <p style="text-align: center;">A</p> <hr/> <p>\$2000 3:9,14 a.m 2:2 7:17 9:20 above-entitled 9:19 abstaining 7:12 accept 6:17 accepting 6:4 Adams 1:20 2:8,9 2:22 3:2 5:19 6:14,19 9:2,4,14 admit 8:12 agreeable 3:13 Alberti 1:16 4:1,12 4:17,22 5:5,9,12 5:17 6:15,16,19 alcohol 5:13 Alcoholic 1:2,11,12 allegedly 4:17,18 5:22 America 8:3 amount 3:9 Amy 1:20 ANC 1:8 2:6 angst 5:20 Anniversary 7:20 appears 6:9 Association 8:1 Ave 1:7 2:5 aye 7:6 Ayes 7:7</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>B 1:6 bad 8:3 Based 6:20 behalf 8:1 Beverage 1:2,11,12 big 8:7 Board 1:2,12 6:11 bourbon 7:20 Breadsoda 1:6 2:4 2:13 BROOKS 1:17 Building 1:12</p> <hr/> <p style="text-align: center;">C</p> <hr/>	<p>calendar 8:18 case 1:9 2:3,4 3:4,7 8:19 Cause 1:6 Chairman 2:9 Chairperson 1:13 1:16 2:3,11,14,17 2:20 3:12,16,21 6:20 7:4,8,11,14 8:5,13 9:1,6,13,16 charge 3:3 4:6 5:19 6:4 charges 7:1 Chorus 7:7 circumstances 9:10 closer 7:1 Columbia 1:1 2:10 comments 3:11 6:21 communicate 8:14 compromise 3:6,13 3:19 6:22 7:16 concern 6:10 concluded 9:19 continually 6:9 Control 1:2,11,12 correct 4:15 5:16 counsel 8:14 CR 1:8 create 6:7</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>D.C 1:13 date 7:17 8:18 9:8,9 day 7:19 8:4 days 3:10,14 deal 8:7 demonstrate 4:7 discussed 3:4 Distiller's 8:1 distillers 8:3 District 1:1 2:10 documents 4:9,12 DONALD 1:17 drop 8:19</p> <hr/> <p style="text-align: center;">E</p> <hr/>	<p>engagement 7:19 entering 3:18 evidence 6:12 exceed 4:9,13 explanation 8:22</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>F 1:6 failed 4:6 far 4:9,13 favor 7:6 figure 5:14 filed 4:19 filings 4:5 finding 4:19 fine 3:8,9 finish 4:18 food 5:8,12 formulate 8:2 frankly 6:5 future 6:2,7,8</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>general 8:14 gig 8:12 give 9:2 given 9:9 Glover 1:6 go 8:10 good 2:8 4:20 8:11 8:12 grounds 6:18 grouping 8:7</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>happening 6:13 hear 9:8 hearing 1:7,12 2:15 2:22 3:18 7:16 8:17,18 9:18 HECTOR 1:18 hopefully 6:2</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>inaccurate 6:5 incorrect 5:19 introduce 2:7</p>	<p>investigative 4:3 invited 7:22 8:8 involved 8:15</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>JAMES 1:18 Jenkins 8:15 9:7,12</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>Kentucky 7:19 8:1 kind 8:7 know 6:9 8:18,22</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>leave 6:16 level 5:14 license 1:7 2:5 4:8 licensee 4:7 6:8 LLC 1:6 located 2:4 look 7:1 looking 5:18 lower 5:13</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>Madam 2:9 MALE 8:9 March 1:10 Martha 8:15 matter 1:5 3:3 9:19 matters 3:1 mean 4:16 5:4,21 8:19 meeting 1:3 6:10 meets 4:7 Member 1:16,17,17 1:18,18 4:1,12,17 4:22 5:5,9,12,17 6:16 7:3 met 1:12 5:14 MICHAEL 1:17 Miller 1:13,16 2:3 2:11,14,17,20 3:12,16,21 6:20 7:4,8,11,14 8:5,13 9:1,6,13,16 morning 2:9</p>	<p>motion 7:5,6,14 move 6:21</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>N.W 1:13 National 7:20 NICK 1:16 notice 2:15,21 Number 2:4,5 NW 1:7</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>OAG 1:20,20 6:22 objections 2:22 offer 3:5,13,18 6:22 7:15 OIC 6:17 Okay 2:11 6:20 7:14 8:5,13,22 9:3 9:8,15,16 opposed 7:9</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P-R-O-C-E-E-D-... 2:1 paid 3:9,14 Park 1:6 part 2:21 PARTICIPANT 8:9 parties 3:4,7 passes 7:15 preliminary 3:1,3 PRESENT 1:15,19 presiding 1:13 probably 6:17 9:9 problems 6:7 proceeds 5:7,10 6:1 propose 3:5 proposed 3:8</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>quarterly 4:4,19 5:6 6:1 question 4:3 questions 3:22</p>
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