

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

IN THE MATTER OF:

Adams Morgan Spaghetti Garden,
Inc. t/a Spaghetti Garden, Brass Show Cause
Monkey, Peyote, Roxanne Hearing
2317 18th Street, NW (Status)
Retailer CR - ANC-1C
License No. 10284
Case #14-AUD-00122

(Failed to Maintain Books and
Records - Three Counts, Failed
to Qualify as a Restaurant)

April 8, 2015

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
DONALD BROOKS, Member
MIKE SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

ALSO PRESENT:

FERNANDO RIVERO, OAG

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

9:58 a.m.

CHAIRPERSON MILLER: The next case is
14-AUD-00122, Spaghetti Garden/Brass Monkey/
Peyote/Roxanne, located --

MR. RIVERO: Board Members, I'm going
to ask that this case be passed on or tabled for
a moment, because I'm working with the Agency on
an issue.

CHAIRPERSON MILLER: Because what?

MR. RIVERO: I'm working on the --
with the Agency on a matter related to this case
to present to the Board.

CHAIRPERSON MILLER: Okay.

MR. RIVERO: So if you can move on
to the next one?

CHAIRPERSON MILLER: We can pass then.

MR. RIVERO: We can recall this one.
That would be great.

CHAIRPERSON MILLER: Are they here
though? Is the licensee here?

MR. RIVERO: Yes, yes.

1 CHAIRPERSON MILLER: Okay. So we are
2 passing that one. We will come back to that.

3 (Whereupon, the above-entitled matter
4 went off the record at 9:59 a.m. and resumed at
5 10:02 a.m.)

6 CHAIRPERSON MILLER: That completes
7 our Status Hearing cases except for the one that
8 we passed, which was the Spaghetti Garden case.

9 Good morning, Mr. Short has joined us
10 on the dias. Welcome.

11 Mr. Rivero, are you ready for
12 Spaghetti? No, not yet? Okay.

13 MR. RIVERO: Hopefully in two minutes.

14 CHAIRPERSON MILLER: How many?

15 MR. RIVERO: (No audible response.)

16 CHAIRPERSON MILLER: Ready?

17 MR. RIVERO: Yes.

18 CHAIRPERSON MILLER: Okay. Okay. So
19 we are on the Spaghetti Garden case that we had
20 passed, Case No. 14-AUD-00122.

21 And when you are ready, if you could
22 introduce yourselves for the record?

1 MR. RIVERO: Fernando Rivero for the
2 District of Columbia standing in for Assistant
3 Attorney General Gephardt.

4 MR. ASKARINAM: Iraj Askarinam owner
5 of Adams Morgan Spaghetti Garden.

6 CHAIRPERSON MILLER: Okay. Let me ask
7 you, sir, did you receive notice of this hearing?

8 MR. ASKARINAM: Yes, I did.

9 CHAIRPERSON MILLER: And did you read
10 and understand it?

11 MR. ASKARINAM: Yes, miss.

12 CHAIRPERSON MILLER: Okay. So there
13 is no question about notice.

14 All right. Are there some preliminary
15 matters you want to bring to our attention?

16 MR. RIVERO: Yes. The parties wish to
17 present and Offer in Compromise to the Board, at
18 this time.

19 CHAIRPERSON MILLER: Okay.

20 MR. RIVERO: The offer is as follows:
21 For Charges 1 and 2, a mandatory written warning.
22 For Charge 3 a \$4,000 fine. For Charge 4 a

1 \$5,000 fine. The total is a \$9,000 fine with a
2 written warning as specified. The fine will be
3 payable today. Under the regulations in effect,
4 the licensee was entitled to a mandatory warning
5 for the first two charges.

6 CHAIRPERSON MILLER: Could you explain
7 that a little further for the benefit of the
8 Board?

9 MR. RIVERO: Yes.

10 CHAIRPERSON MILLER: Okay. Please.

11 MR. RIVERO: The Agency recently
12 promulgated a Schedule of Fines that required
13 certain offenses to have a mandatory warning.
14 The effective date of that Schedule of Fines took
15 place before the incidents here and, therefore,
16 the licensee is entitled to those warnings and
17 that's for Charges 1 and 2, which are mandatory.

18 We have third primary tier offenses in
19 question. The range is between \$4,000 and \$6,000
20 and, therefore, the fines that are presented
21 today are within the statutory range.

22 CHAIRPERSON MILLER: I'm not sure.

1 Could you explain or could you state what Charge
2 1 is and what Charge 2 is?

3 MR. RIVERO: Sure.

4 CHAIRPERSON MILLER: Okay.

5 MR. RIVERO: Charge 1 is failure to
6 keep and maintain on the premises adequate books
7 and records showing all sales, purchase invoices
8 and dispositions to establish the gross annual
9 food sales. This is D.C. Official Code 25-
10 113(b)(3)(B)(I).

11 CHAIRPERSON MILLER: Okay.

12 MR. RIVERO: Charge 2 is failure to
13 maintain the books and records on the premises
14 physically for the period of three years from the
15 date of inspection. This is D.C. Official Code
16 25-113(j)(3)(A).

17 CHAIRPERSON MILLER: Thank you. Okay.

18 Before we get into if there are other Board
19 questions, I just have to ask you, sir, if you
20 are agreeable to this Offer in Compromise that
21 the Government has proposed which is Charges 1
22 and 2 mandatory warnings, Charge 3 \$4,000, Charge

1 4 \$5,000 totalling \$9,000 to be paid today?

2 MR. ASKARINAM: I agree, Your Honor.

3 Thank you. Yes.

4 CHAIRPERSON MILLER: Yes?

5 MR. ASKARINAM: (No audible answer.)

6 CHAIRPERSON MILLER: And do you
7 understand that you waive your right to a hearing
8 if you accept this?

9 MR. ASKARINAM: Yes, I do.

10 CHAIRPERSON MILLER: And you waive
11 your right to appeal it?

12 MR. ASKARINAM: Yes. I don't want to
13 appeal it, no.

14 CHAIRPERSON MILLER: Okay. Thank you.
15 All right. Are there Board questions? Mr.
16 Brooks?

17 MEMBER BROOKS: Yes, thank you, Madam
18 Chair. Mr. Askarinam, how long have you been in
19 business?

20 MR. ASKARINAM: 37 years.

21 MEMBER BROOKS: 37 years. All in
22 Adams Morgan?

1 MR. ASKARINAM: All in same place.

2 MEMBER BROOKS: Okay. And do you have
3 a CPA or accountant helping you --

4 MR. ASKARINAM: Yes, I do.

5 MEMBER BROOKS: -- with your books?

6 MR. ASKARINAM: Yes.

7 MEMBER BROOKS: You do have one?

8 MR. ASKARINAM: Yes.

9 MEMBER BROOKS: And he has been with
10 you all the time?

11 MR. ASKARINAM: Unfortunately, my CPA
12 committed suicide after 30 years and this one is
13 new.

14 MEMBER BROOKS: Thank you, Madam
15 Chair.

16 CHAIRPERSON MILLER: Okay. Other
17 questions? Okay.

18 MEMBER RODRIGUEZ: Mr. Silverstein.

19 CHAIRPERSON MILLER: Oh, Mr.
20 Silverstein?

21 MEMBER SILVERSTEIN: Are books and
22 records being kept and up to date now?

1 MR. ASKARINAM: Yes, sir. What we got
2 in-house have now, yes.

3 MEMBER SILVERSTEIN: I'm sorry?

4 MR. ASKARINAM: Yes, yes.

5 MEMBER SILVERSTEIN: Okay.

6 CHAIRPERSON MILLER: Others? Okay.

7 Then I'm going to move that we approve this Offer
8 in Compromise of mandatory written warnings for
9 Charges 1 and 2, \$4,000 penalty for Charge 3,
10 \$5,000 penalty for Charge 4, totalling \$9,000
11 plus two written warnings. The \$9,000 will be
12 paid today.

13 MR. ASKARINAM: That's correct.

14 CHAIRPERSON MILLER: Okay. I'll call
15 for a second on that.

16 MEMBER SILVERSTEIN: Second.

17 CHAIRPERSON MILLER: Mr. Silverstein
18 seconded the motion.

19 All those in favor say aye.

20 MEMBER SILVERSTEIN: Aye.

21 CHAIRPERSON MILLER: Aye.

22 MEMBER RODRIGUEZ: Aye.

1 MEMBER SHORT: Aye.

2 CHAIRPERSON MILLER: All those
3 opposed?

4 MEMBER BROOKS: Opposed.

5 CHAIRPERSON MILLER: All those
6 abstaining? The motion passes, I believe, by a
7 vote of 4-1-0 with Board Member Brooks
8 dissenting. Okay.

9 We will be issuing a written order.
10 Yes, I just wanted to confirm that, yes, we will
11 be issuing a written order today.

12 MR. RIVERO: So I'll just have him
13 wait.

14 CHAIRPERSON MILLER: For the order?
15 I'm not sure how quickly it will be issued today.
16 You can check with Ms. Jenkins in a little bit if
17 you want to.

18 Okay. So that completes that case.
19 That completes our Status Hearing cases for the
20 morning.

21 MR. ASKARINAM: Thank you.

22 CHAIRPERSON MILLER: Okay. Sir, would

1 you wait around for a few minutes? Just one
2 second. Okay. Our staff person is going to help
3 you. Okay.

4 Okay. Mr. Rivero, we are finished
5 with your case, right? I mean, you can take your
6 time, we're finished though, right? Okay.

7 (Whereupon, the Show Cause (Status)
8 Hearing in the above-entitled matter was
9 concluded at 10:15 a.m.)

10
11
12
13
14
15
16
17
18
19
20
21
22

A	Chair 7:18 8:15 Chairperson 1:15,17 2:3,10,14,17,20 3:1,6 3:14,16,18 4:6,9,12 4:19 5:6,10,22 6:4,11 6:17 7:4,6,10,14 8:16 8:19 9:6,14,17,21 10:2,5,14,22 Charge 4:22,22 6:1,2,5 6:12,22,22 9:9,10 charges 4:21 5:5,17 6:21 9:9 check 10:16 Code 6:9,15 Columbia 1:1 4:2 come 3:2 committed 8:12 completes 3:6 10:18,19 Compromise 4:17 6:20 9:8 concluded 11:9 confirm 10:10 Control 1:2,13,14 correct 9:13 Counts 1:10 CPA 8:3,11 CR 1:8	Garden 1:6,6 3:8,19 4:5 Garden/Brass 2:4 General 4:3 Gephardt 4:3 going 2:6 9:7 11:2 Good 3:9 Government 6:21 great 2:19 gross 6:8	9:22 10:1,4,7 Members 2:6 met 1:14 MIKE 1:18 Miller 1:15,17 2:3,10,14 2:17,20 3:1,6,14,16 3:18 4:6,9,12,19 5:6 5:10,22 6:4,11,17 7:4 7:6,10,14 8:16,19 9:6 9:14,17,21 10:2,5,14 10:22 minutes 3:13 11:1 moment 2:8 Monet 1:7 2:4 Morgan 1:6 4:5 7:22 morning 3:9 10:20 motion 9:18 10:6 move 2:15 9:7
\$4,000 4:22 5:19 6:22 9:9 \$5,000 5:1 7:1 9:10 \$6,000 5:19 \$9,000 5:1 7:1 9:10,11 a.m 2:2 3:4,5 11:9 above-entitled 3:3 11:8 abstaining 10:6 accept 7:8 accountant 8:3 Adams 1:6 4:5 7:22 adequate 6:6 Agency 2:8,12 5:11 agree 7:2 agreeable 6:20 Alcoholic 1:2,13,14 ANC-1C 1:8 annual 6:8 answer 7:5 appeal 7:11,13 approve 9:7 April 1:12 Askarinam 4:4,4,8,11 7:2,5,9,12,18,20 8:1,4 8:6,8,11 9:1,4,13 10:21 Assistant 4:2 attention 4:15 Attorney 4:3 audible 3:15 7:5 aye 9:19,20,21,22 10:1	D	H	N
B	D.C 1:15 6:9,15 date 5:14 6:15 8:22 dias 3:10 dispositions 6:8 dissenting 10:8 District 1:1 4:2 DONALD 1:18	I	N.W 1:14 new 8:13 notice 4:7,13 NW 1:7
back 3:2 believe 10:6 benefit 5:7 Beverage 1:2,13,14 bit 10:16 Board 1:2,13 2:6,13 4:17 5:8 6:18 7:15 10:7 books 1:10 6:6,13 8:5 8:21 Brass 1:6 bring 4:15 Brooks 1:18 7:16,17,21 8:2,5,7,9,14 10:4,7 Building 1:14 business 7:19	E	in-house 9:2 incidents 5:15 inspection 6:15 introduce 3:22 invoices 6:7 Iraj 4:4 issue 2:9 issued 10:15 issuing 10:9,11	O
C	effect 5:3 effective 5:14 entitled 5:4,16 establish 6:8 explain 5:6 6:1	J	OAG 1:21 offenses 5:13,18 offer 4:17,20 6:20 9:7 Official 6:9,15 Oh 8:19 Okay 2:14 3:1,12,18,18 4:6,12,19 5:10 6:4,11 6:17 7:14 8:2,16,17 9:5,6,14 10:8,18,22 11:2,3,4,6 opposed 10:3,4 order 10:9,11,14 owner 4:4
call 9:14 case 1:9 2:3,7,12 3:8,19 3:20 10:18 11:5 cases 3:7 10:19 Cause 1:6 11:7 certain 5:13	F	K	P
	Failed 1:10,10 failure 6:5,12 favor 9:19 Fernando 1:21 4:1 fine 4:22 5:1,1,2 fines 5:12,14,20 finished 11:4,6 first 5:5 follows 4:20 food 6:9 further 5:7	keep 6:6 kept 8:22	P-R-O-C-E-E-D-I-N-G-S 2:1 paid 7:1 9:12 parties 4:16 pass 2:17 passed 2:7 3:8,20 passes 10:6 passing 3:2 payable 5:3 penalty 9:9,10 period 6:14 person 11:2 Peyote 1:7 Peyote/Roxanne 2:5 physically 6:14 place 5:15 8:1 Please 5:10
	G	L	
		License 1:8 licensee 2:21 5:4,16 little 5:7 10:16 located 2:5 long 7:18	
		M	
		Madam 7:17 8:14 maintain 1:10 6:6,13 mandatory 4:21 5:4,13 5:17 6:22 9:8 matter 1:5 2:12 3:3 11:8 matters 4:15 mean 11:5 MEETING 1:3 Member 1:18,18,19,19 7:17,21 8:2,5,7,9,14 8:18,21 9:3,5,16,20	

plus 9:11
preliminary 4:14
premises 6:6,13
present 1:16,20 2:13
 4:17
presented 5:20
presiding 1:15
primary 5:18
promulgated 5:12
proposed 6:21
purchase 6:7

Q

Qualify 1:11
question 4:13 5:19
questions 6:19 7:15
 8:17
quickly 10:15

R

range 5:19,21
read 4:9
ready 3:11,16,21
recall 2:18
receive 4:7
record 3:4,22
records 1:10 6:7,13
 8:22
Reeves 1:14
regulations 5:3
related 2:12
required 5:12
response 3:15
Restaurant 1:11
resumed 3:4
Retailer 1:8
right 4:14 7:7,11,15
 11:5,6
Rivero 1:21 2:6,11,15
 2:18,22 3:11,13,15,17
 4:1,1,16,20 5:9,11 6:3
 6:5,12 10:12 11:4
RODRIGUEZ 1:19 8:18
 9:22
Room 1:14
Roxanne 1:7
Ruthanne 1:15,17

S

sales 6:7,9
Schedule 5:12,14
second 9:15,16 11:2
seconded 9:18
Short 1:19 3:9 10:1
Show 1:6 11:7
showing 6:7
Silverstein 1:18 8:18,20
 8:21 9:3,5,16,17,20

sir 4:7 6:19 9:1 10:22
sorry 9:3
Spaghetti 1:6,6 2:4 3:8
 3:12,19 4:5
specified 5:2
staff 11:2
standing 4:2
state 6:1
Status 1:7 3:7 10:19
 11:7
statutory 5:21
Street 1:7,14
suicide 8:12
Suite 1:15
sure 5:22 6:3 10:15

T

t/a 1:6
tabled 2:7
take 11:5
thank 6:17 7:3,14,17
 8:14 10:21
third 5:18
three 1:10 6:14
tier 5:18
time 4:18 8:10 11:6
today 5:3,21 7:1 9:12
 10:11,15
total 5:1
totalling 7:1 9:10
two 3:13 5:5 9:11

U

understand 4:10 7:7
Unfortunately 8:11

V

vote 10:7

W

wait 10:13 11:1
waive 7:7,10
want 4:15 7:12 10:17
wanted 10:10
warning 4:21 5:2,4,13
warnings 5:16 6:22 9:8
 9:11
Washington 1:15
we're 11:6
Welcome 3:10
went 3:4
wish 4:16
working 2:8,11
written 4:21 5:2 9:8,11
 10:9,11

X

Y

years 6:14 7:20,21 8:12

Z

0

1

1 4:21 5:17 6:2,5,21 9:9
10:02 3:5
10:15 11:9
10284 1:8
113(b)(3)(B)(I) 6:10
14-AUD-00122 1:9 2:4
 3:20
14th 1:14
18th 1:7

2

2 4:21 5:17 6:2,12,22
 9:9
2000 1:14
20009 1:15
2015 1:12
2317 1:7
25 6:9
25-113(j)(3)(A) 6:16

3

3 4:22 6:22 9:9
30 8:12
37 7:20,21

4

4 4:22 7:1 9:10
4-1-0 10:7
400S 1:15

5

6

7

8

8 1:12

9
