

DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD  
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MEETING

IN THE MATTER OF:

Sizzling Express-Columbia Plaza,  
Inc. t/a Sizzling Express                      Show  
538 23rd Street, NW                              Cause  
Retailer CR - ANC-2A                              Hearing  
License No. 60396  
Case #14-CMP-00677

(Failed to File Quarterly  
Statements-2nd Quarter 2014)

April 22, 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  
NICK ALBERTI, Member  
DONALD BROOKS, Member  
HECTOR RODRIGUEZ, Member  
JAMES SHORT, Member

ALSO PRESENT:

LOUISE PHILLIPS, OAG

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

2 10:50 a.m.

3 CHAIRPERSON MILLER: Okay. The next  
4 case is a Show Cause Hearing, Sizzling Express  
5 located at 538 23rd Street, N.W., License No.  
6 60396, in ANC-2A.

7 MS. PHILLIPS: Good morning.

8 CHAIRPERSON MILLER: Good morning.

9 MS. PHILLIPS: Louise Phillips,  
10 Assistant Attorney General for the District of  
11 Columbia.

12 MR. KIM: Good morning, Yong Kim,  
13 owner of Sizzling Express-Columbia Plaza, Inc.

14 CHAIRPERSON MILLER: Okay. Good  
15 morning. So this is a Show Cause Hearing. Are  
16 there any preliminary matters?

17 MS. PHILLIPS: Yes, Madam Chair. The  
18 owner, Mr. Yong and the District have agreed to  
19 stipulate to the facts, so they agree that they  
20 did not file the quarterly statement timely. And  
21 they have subsequently filed it, I believe. Is  
22 that true?

1 MR. KIM: Yes.

2 MS. PHILLIPS: And therefore, with  
3 that stipulation, the District will neither open  
4 nor close nor present other evidence than the  
5 stipulation and we can move on to Mr. Yong's  
6 case, if the Board consents.

7 CHAIRPERSON MILLER: Okay. I just  
8 want to confirm with you that you do agree to the  
9 facts that you didn't timely file the quarterly  
10 statement.

11 MR. KIM: Right.

12 CHAIRPERSON MILLER: And you have  
13 filed it since then?

14 MR. KIM: Yes, ma'am.

15 CHAIRPERSON MILLER: Okay. So are you  
16 going to be arguing penalty or anything or just  
17 stand on the record?

18 MS. PHILLIPS: The penalty, the  
19 recommended penalty, I believe, is, just a second  
20 let me find it, \$350 fine to be paid within 30  
21 days.

22 MR. KIM: \$350?

1 MS. PHILLIPS: Yes, \$350.

2 MEMBER ALBERTI: Which case is this?

3 MS. PHILLIPS: Yes, yes, you can.

4 That's the citation.

5 MR. KIM: Right.

6 MS. PHILLIPS: You are here now. It's  
7 \$350.

8 CHAIRPERSON MILLER: Do you have a  
9 comment on the penalty?

10 MR. KIM: Well, first citation I  
11 received was a \$250, that's what I have a copy  
12 of.

13 CHAIRPERSON MILLER: \$250?

14 MR. KIM: Yes. And I don't understand  
15 why it became \$350. And I just requested the  
16 hearing. I mean, I'm not here to deny that I  
17 didn't file on time or anything like that. I did  
18 miss one quarterly return.

19 CHAIRPERSON MILLER: Okay.

20 MR. KIM: And out of all past open --  
21 I mean, ever since I opened the business in 2002,  
22 but I am just trying to seek for any type of

1 break or waive, possibly waive of the -- this  
2 penalty. I mean, I won't -- I try my best not to  
3 make any -- the same mistake again. So that's  
4 why I'm here.

5 CHAIRPERSON MILLER: Okay. So I hear  
6 you that you would like it to be as low as  
7 possible.

8 MR. KIM: Right.

9 CHAIRPERSON MILLER: Right?

10 MR. KIM: Possibly waived.

11 CHAIRPERSON MILLER: Possibly waive  
12 it. Okay. That's waive it or low as possible.  
13 Okay. And the reason in your argument is that?  
14 Your argument why we should waive it or make it  
15 lower?

16 MR. KIM: Oh, well, the -- my -- I  
17 mean, it's not even an argument. I just want to  
18 explain my situation. \$250 can be a rather small  
19 amount, but for small business owner like me, it  
20 is quite a lot and especially the business has  
21 been gone down for quite a bit the last few years  
22 and then just trying to make a living. And

1 honestly it was a mistake on my part that I  
2 didn't file it on time.

3 But since it was the first time, you  
4 know, then I was hoping that I can get some  
5 break, you know, that's my argument.

6 CHAIRPERSON MILLER: Okay. It was  
7 your first time?

8 MR. KIM: Right.

9 CHAIRPERSON MILLER: It's your first  
10 time? You didn't do this --

11 MR. KIM: Right.

12 MEMBER ALBERTI: So, Madam Chair, I'm  
13 a little curious where we are in this stage here.  
14 So are we getting testimony from the licensee?

15 CHAIRPERSON MILLER: It's argument.

16 MEMBER ALBERTI: Are we --

17 CHAIRPERSON MILLER: Argument.

18 MEMBER ALBERTI: We're just arguing  
19 penalty?

20 CHAIRPERSON MILLER: Yes.

21 MS. PHILLIPS: And I'm not even going  
22 to argue. The District stated what they --

1                   MEMBER ALBERTI: I understand. I  
2 understand.

3                   MS. PHILLIPS: -- want and he is now  
4 arguing what he wants.

5                   MEMBER ALBERTI: Right, right. I was  
6 very clear where you were, what you were, but  
7 then we moved on to hearing from the licensee and  
8 I wasn't sure. So we are not hearing any  
9 testimony from the licensee?

10                  CHAIRPERSON MILLER: No, it's  
11 argument. It's argument --

12                  MEMBER ALBERTI: So this is argument?

13                  CHAIRPERSON MILLER: -- as to the  
14 penalty.

15                  MEMBER ALBERTI: This is argument to  
16 the penalty only?

17                  CHAIRPERSON MILLER: Yes, penalty  
18 only.

19                  MEMBER ALBERTI: Okay. Just so I  
20 understand so none of this is under oath. All  
21 right. Great. Absolutely. Thank you.

22                  CHAIRPERSON MILLER: Okay. So I just

1 wanted to ask you as to penalty, as to why it  
2 should be a low fine, you said it's your first  
3 time and I'm just asking you first time in how  
4 many years have you been in business?

5 MR. KIM: The business first opened up  
6 2002, but I -- if I remember correctly, this  
7 quarterly filing started only about five, six  
8 years ago, I think.

9 CHAIRPERSON MILLER: Okay.

10 MR. KIM: And I haven't made any  
11 mistake until that time.

12 CHAIRPERSON MILLER: Okay.

13 MR. KIM: And like I said, I'm not  
14 trying to argue anything.

15 CHAIRPERSON MILLER: Okay.

16 MR. KIM: But I'm seeking for a little  
17 break.

18 CHAIRPERSON MILLER: Okay. All right.  
19 Okay. Then I think that concludes this hearing,  
20 because we are not taking any evidence or  
21 anything, because you have stipulated. So --

22 MR. KIM: Can I ask you a question?

1 CHAIRPERSON MILLER: Okay.

2 MR. KIM: I mean, this is my first  
3 time being here in a hearing.

4 CHAIRPERSON MILLER: Right.

5 MR. KIM: And I did not understand  
6 what stipulated was meaning and she was  
7 explaining outside and I am, yes, actually, I  
8 mean not denying that I missed the filing, so I  
9 said yes, no, I'm not. I mean, I am admitting,  
10 but trying to seek for like a lower or even  
11 possibly waive of the fee.

12 CHAIRPERSON MILLER: Okay.

13 MR. KIM: And then she said so that  
14 means that you are accepting or stipulating --

15 CHAIRPERSON MILLER: Well, accepting  
16 the stipulation means that she doesn't have to  
17 put on an employee to prove that your quarterly  
18 statement was late, which within a hearing that's  
19 where it always happens, that's what can happen  
20 if they don't stipulate, testify and present  
21 evidence it was late.

22 MR. KIM: Okay.

1 CHAIRPERSON MILLER: That's all.

2 MR. KIM: Okay.

3 CHAIRPERSON MILLER: So and it was  
4 late, you know.

5 MR. KIM: Right.

6 CHAIRPERSON MILLER: So do you  
7 understand that though?

8 MR. KIM: Yes, ma'am.

9 CHAIRPERSON MILLER: You understand  
10 your stipulation?

11 MR. KIM: Yes.

12 CHAIRPERSON MILLER: Okay. Okay.  
13 Then what we are going to do is then this -- I'm  
14 just going to close the record in this case then  
15 because you stipulated to all the facts. You  
16 stipulated to the facts, the record is closed.  
17 You're not going to give any new information at  
18 any time. That's the end of this case as far as  
19 the record goes. Okay?

20 MR. KIM: Okay.

21 CHAIRPERSON MILLER: We have a  
22 stipulation. We have heard your argument, your

1 remarks about penalty.

2 MR. KIM: Okay.

3 CHAIRPERSON MILLER: Okay. So then  
4 the Board is going to deliberate upon this  
5 actually in closed session and we will issue a  
6 written order with our decision within 90 days.  
7 I'm going to take a vote, a roll call vote on the  
8 Board's decision to deliberate in closed session.

9 As Chairperson of the Alcoholic  
10 Beverage Control Board for the District of  
11 Columbia and in accordance with Section 405 of  
12 the Open Meetings Amendment Act of 2010, I move  
13 that the ABC Board hold a closed meeting for the  
14 purpose of seeking legal advice from our counsel  
15 on Case No. 14-CMP-00677, Sizzling Express, per  
16 Section 405(b)(4) of the Open Meetings Amendment  
17 Act of 2010, and deliberating upon this case for  
18 the reasons cited in Section 405(b)(13) of the  
19 Open Meetings Amendment Act of 2010.

20 Is there a second?

21 MEMBER ALBERTI: Second.

22 CHAIRPERSON MILLER: Mr. Alberti

1 seconded the motion. I'll now take a roll call  
2 vote on the motion before us now that it has been  
3 seconded.

4 Mr. Brooks?

5 MEMBER BROOKS: I agree.

6 CHAIRPERSON MILLER: Mr. Alberti?

7 MEMBER ALBERTI: I agree.

8 CHAIRPERSON MILLER: Mr. Rodriguez?

9 MEMBER RODRIGUEZ: I agree.

10 CHAIRPERSON MILLER: Ms. Miller  
11 agrees.

12 Mr. Short?

13 MEMBER SHORT: I agree.

14 CHAIRPERSON MILLER: Mr. Short agrees.

15 Okay. So the vote is 5-0-0. The motion passed.

16 I hereby give notice that the ABC  
17 Board will deliberate on this case in closed  
18 session pursuant to the Open Meetings Amendment  
19 Act of 2010 and we will issue a written order  
20 within 90 days.

21 Okay. Thank you.

22 MS. PHILLIPS: Thank you.

1                   CHAIRPERSON MILLER: All right. That  
2 concludes this case.

3                   (Whereupon, the Show Cause Hearing in  
4 the above-entitled matter was concluded at 10:58  
5 a.m.)

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<p style="text-align: center;"><b>A</b></p> <p><b>\$250</b> 4:11,13 5:18  <b>\$350</b> 3:20,22 4:1,7,15  <b>a.m</b> 2:2 13:5  <b>ABC</b> 11:13 12:16  <b>above-entitled</b> 13:4  <b>Absolutely</b> 7:21  <b>accepting</b> 9:14,15  <b>Act</b> 11:12,17,19 12:19  <b>admitting</b> 9:9  <b>advice</b> 11:14  <b>ago</b> 8:8  <b>agree</b> 2:19 3:8 12:5,7,9 12:13  <b>agreed</b> 2:18  <b>agrees</b> 12:11,14  <b>Alberti</b> 1:17 4:2 6:12,16 6:18 7:1,5,12,15,19 11:21,22 12:6,7  <b>Alcoholic</b> 1:2,12,13 11:9  <b>Amendment</b> 11:12,16 11:19 12:18  <b>amount</b> 5:19  <b>ANC-2A</b> 1:7 2:6  <b>April</b> 1:11  <b>argue</b> 6:22 8:14  <b>arguing</b> 3:16 6:18 7:4  <b>argument</b> 5:13,14,17 6:5,15,17 7:11,11,12 7:15 10:22  <b>asking</b> 8:3  <b>Assistant</b> 2:10  <b>Attorney</b> 2:10</p>	<p>2:3,8,14 3:7,12,15 4:8 4:13,19 5:5,9,11 6:6,9 6:15,17,20 7:10,13,17 7:22 8:9,12,15,18 9:1 9:4,12,15 10:1,3,6,9 10:12,21 11:3,9,22 12:6,8,10,14 13:1</p> <p><b>citation</b> 4:4,10  <b>cited</b> 11:18  <b>clear</b> 7:6  <b>close</b> 3:4 10:14  <b>closed</b> 10:16 11:5,8,13 12:17  <b>Columbia</b> 1:1 2:11 11:11  <b>comment</b> 4:9  <b>concluded</b> 13:4  <b>concludes</b> 8:19 13:2  <b>confirm</b> 3:8  <b>consents</b> 3:6  <b>Control</b> 1:2,12,13 11:10  <b>copy</b> 4:11  <b>correctly</b> 8:6  <b>counsel</b> 11:14  <b>CR</b> 1:7  <b>curious</b> 6:13</p>	<p><b>fine</b> 3:20 8:2  <b>first</b> 4:10 6:3,7,9 8:2,3,5 9:2  <b>five</b> 8:7</p> <p style="text-align: center;"><b>G</b></p> <p><b>General</b> 2:10  <b>getting</b> 6:14  <b>give</b> 10:17 12:16  <b>goes</b> 10:19  <b>going</b> 3:16 6:21 10:13 10:14,17 11:4,7  <b>Good</b> 2:7,8,12,14  <b>Great</b> 7:21</p>	<p><b>ma'am</b> 3:14 10:8  <b>Madam</b> 2:17 6:12  <b>matter</b> 1:5 13:4  <b>matters</b> 2:16  <b>mean</b> 4:16,21 5:2,17 9:2,8,9  <b>meaning</b> 9:6  <b>means</b> 9:14,16  <b>meeting</b> 1:3 11:13  <b>Meetings</b> 11:12,16,19 12:18  <b>Member</b> 1:17,17,18,18 4:2 6:12,16,18 7:1,5 7:12,15,19 11:21 12:5 12:7,9,13  <b>met</b> 1:13  <b>Miller</b> 1:14,16 2:3,8,14 3:7,12,15 4:8,13,19 5:5,9,11 6:6,9,15,17 6:20 7:10,13,17,22 8:9,12,15,18 9:1,4,12 9:15 10:1,3,6,9,12,21 11:3,22 12:6,8,10,10 12:14 13:1  <b>missed</b> 9:8  <b>mistake</b> 5:3 6:1 8:11  <b>morning</b> 2:7,8,12,15  <b>motion</b> 12:1,2,15  <b>move</b> 3:5 11:12  <b>moved</b> 7:7</p>
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