

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
 :
Trattoria Alberto, Inc. :
t/a Trattoria Alberto : Show Cause
504 8th Street, SE : Hearing
Retailer CR - ANC-6B :
License No. 8946 :
Case #11-CMP-00550 :
 :
(Failed to File Quarterly :
Statements) :
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May 16, 2012

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
- CALVIN NOPHLIN, Member
- MIKE SILVERSTEIN, Member
- JEANNETTE MOBLEY, Member

ALSO PRESENT:

CHRISTINE GEPHARDT, OAG

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

(11:11 a.m.)

CHAIRPERSON MILLER: We're back on the record for Case No. 11-CMP-00550, Trattoria Alberto, located at 504 8th Street, S.E., License No. 8946, in ANC-6B.

Would the parties, please, come forward for this case?

MS. GEPHARDT: Good morning, Chrissy Gephardt for the District of Columbia.

MR. YOUNG: Frank Young for Trattoria Alberto.

CHAIRPERSON MILLER: I'm sorry, sir, could you repeat your name?

MR. YOUNG: Frank Young, Y-O-U-N-G.

CHAIRPERSON MILLER: Frank Young. Okay. And what's your relation with the establishment?

MR. YOUNG: I'm their registered agent.

CHAIRPERSON MILLER: Okay. Okay.

1 This is a Show Cause Hearing.

2 Ms. Gephardt, are there any
3 preliminary matters?

4 MS. GEPHARDT: Yes, there is. The
5 parties have discussed this case and we have
6 agreed to enter into an offer in compromise.
7 However, we -- with one exception that is we
8 disagree as to the filing of the quarterly
9 statement.

10 This case is a failure to file the
11 quarterly -- third quarter statement for 2011,
12 but we have agreed to settle the matter, if
13 the Board will accept the offer, for a \$500
14 fine payable within 60 days.

15 However, as of this morning, we
16 had not -- still not received the quarterly
17 statement and it was just faxed about 15
18 minutes ago. So Mr. Adejunmobi is in receipt
19 of it this morning.

20 CHAIRPERSON MILLER: Okay.

21 MS. GEPHARDT: So we would offer
22 to the Board a \$500 fine payable within 60

1 days.

2 CHAIRPERSON MILLER: So it has
3 been faxed to the Agency? Is that right?

4 MS. GEPHARDT: It has been faxed
5 to the Agency.

6 CHAIRPERSON MILLER: Okay. Good.
7 And I'm sorry, how do you know it has been
8 faxed?

9 MS. GEPHARDT: I just saw Mr.
10 O'Neil. I just saw him out here and he said
11 we got it and he went like this.

12 CHAIRPERSON MILLER: Okay.

13 MS. GEPHARDT: So --

14 CHAIRPERSON MILLER: Okay. Okay.
15 So --

16 MS. GEPHARDT: But I can let Mr.
17 Young speak, but they don't agree. They think
18 that it was filed on time. However, they
19 don't want to go to Show Cause to put on
20 witnesses, but they think they filed it on
21 time, but we maintain that it was not filed on
22 time and we're agreeing to a \$500 fine.

1 CHAIRPERSON MILLER: Okay. So let
2 me see if I understand it correctly though.
3 There is an OIC for \$500 to be paid within 60
4 days. Mr. Young, is that what you agreed to?

5 MR. YOUNG: We agreed to it just
6 in the interest of time and money. The owners
7 still maintain that they filed on time and
8 actually did a second mailing whenever they
9 got the citation. And I had copies of it with
10 me the last time I was here. And then I
11 thought we filed it this morning, but somehow
12 it still was not filed, so it has been faxed
13 in.

14 But the owners maintain that they
15 did file it on time, but in the interest of
16 time and money, they are willing to accept a
17 compromise.

18 CHAIRPERSON MILLER: Okay. Okay.
19 Okay. So it's my understanding it's on the
20 record that you believe that you did pay it --
21 did file on time, but you are agreeing to the
22 offer in compromise, a fine of \$500, to be

1 paid within 60 days and you waive your right
2 to a hearing on this issue.

3 MR. YOUNG: That's correct.

4 CHAIRPERSON MILLER: Okay. Okay.

5 Mr. Jones?

6 MEMBER JONES: Just for
7 clarification purposes. I understand that you
8 are representing yourself as the registered
9 agent --

10 MR. YOUNG: Yes.

11 MEMBER JONES: For the --

12 MR. YOUNG: Trattoria.

13 MEMBER JONES: -- company?

14 MR. YOUNG: For Trattoria Alberto,
15 Inc., yes, who is the licensee.

16 MEMBER JONES: Okay. And did you
17 or did they submit a letter noting that you
18 have the authority to represent them in this
19 matter as relates to this proceeding? Because
20 a resident agent doesn't essentially mean you
21 have the authority to represent them, based on
22 my understanding of what a resident agent is

1 in legal proceedings necessarily.

2 I just want to make sure I'm
3 understanding the nature of the relationship.

4 MR. YOUNG: They had not submitted
5 a letter when I was here at the prior hearing.
6 If you would like a letter to make the record
7 complete, we can do that.

8 MEMBER JONES: And so you have no
9 equity interest in the company personally,
10 correct?

11 MR. YOUNG: Not at this time.

12 MEMBER JONES: Not at this time.
13 Okay. All right. Thank you.

14 CHAIRPERSON MILLER: Okay. So
15 what does that mean you are a registered
16 agent? What does that authorize you to do?

17 MR. YOUNG: Under the corporation
18 laws of the District of Columbia, any D.C.
19 corporation must have an agent who is -- must
20 be a District resident or serve as a process
21 for any notifications and all notifications
22 should come to the registered agent.

1 CHAIRPERSON MILLER: Yes.

2 MR. YOUNG: I for one do not -- I
3 don't think ABRA follows that procedure.

4 CHAIRPERSON MILLER: Okay. So Mr.
5 Jones is saying that doesn't necessarily, if
6 I understand you correctly, authorize you to
7 enter into a settlement for the owner.

8 MR. YOUNG: I have authorization
9 from the owners. And if the Board desires a
10 letter, we can provide that to you.

11 CHAIRPERSON MILLER: Okay. I
12 think that would probably be good just to
13 supplement the record. But in the meantime,
14 I think that the Board can vote on the offer
15 in compromise, unless others object to that.

16 Okay. Are there any --

17 MEMBER ALBERTI: Madam Chair?

18 CHAIRPERSON MILLER: Yes, go
19 ahead, Mr. Alberti.

20 MEMBER ALBERTI: Well, I'm
21 assuming that the acceptance to the offer in
22 compromise would be contingent upon a letter

1 of representation? Is that my understanding?

2 CHAIRPERSON MILLER: That would be
3 fine.

4 MEMBER ALBERTI: Okay.

5 MEMBER JONES: Yes, that would be
6 my druthers.

7 CHAIRPERSON MILLER: Yes, all
8 right.

9 MEMBER ALBERTI: Okay. May I just
10 ask Mr. Young?

11 CHAIRPERSON MILLER: Yes.

12 MEMBER ALBERTI: Take the floor
13 over Mr. Jones?

14 CHAIRPERSON MILLER: Yes.

15 MEMBER ALBERTI: Mr. Young, I
16 don't know if the owner is aware of this, but
17 there is the ability to do electronic filing
18 of quarterly reports. And you mentioned it
19 being mailed in. I would recommend that you
20 speak to the owner about the ability to do
21 electronic filing.

22 It gives you proof that you sent

1 it in and then so there is no question of did
2 it get lost in the mail, did we get it? And
3 that's just a piece of advice moving or going
4 forward. Okay?

5 MR. YOUNG: Thank you, Mr.
6 Alberti. And what the owners are doing, they
7 are now filing by fax and by fax they do have
8 a confirmation.

9 MEMBER ALBERTI: Okay. But you
10 might want to still look into electronic
11 filing. It's very easy. And most businesses
12 are moving to that. So my advice is what it's
13 worth. You can take it or leave it.

14 MR. YOUNG: Thank you.

15 CHAIRPERSON MILLER: Okay.

16 MEMBER JONES: Where is the owner
17 supposed to be located?

18 MR. YOUNG: Pardon?

19 MEMBER JONES: Where are the
20 owners physically located? Do they live in
21 the District of Columbia?

22 MR. YOUNG: One lives in the

1 District of Columbia and one lives in Maryland
2 nd one lives in Virginia.

3 MEMBER JONES: Are they involved
4 in the day-to-day operations of the
5 establishment?

6 MR. YOUNG: Yes, they are.

7 MEMBER JONES: Okay. Thank you.

8 CHAIRPERSON MILLER: Mr. Young,
9 would you be able to have the owner fax a
10 letter in today authorizing your approval of
11 the OIC?

12 MR. YOUNG: I could -- I'm sure it
13 would be done within 24 hours.

14 CHAIRPERSON MILLER: Okay.

15 MR. YOUNG: I'll have to type it
16 up for them and I probably wont see them until
17 this evening.

18 CHAIRPERSON MILLER: Okay. Okay.
19 Well, then turn it in. Okay. What I'm going
20 to suggest is that the Board vote on the offer
21 in compromise, but sign it withhold issuing
22 you a singed order until that authorization is

1 in.

2 Is that amenable to the Board
3 Members.

4 CHAIRPERSON MILLER: Okay. All
5 right. Are there any other comments on the
6 offer in compromise? Okay.

7 So I would move that we approve
8 the offer in compromise of \$500 to be paid
9 within 60 days. Do I have a second?

10 MEMBER JONES: Second.

11 CHAIRPERSON MILLER: Any other
12 comments?

13 All those in favor say aye.

14 A:: Aye.

15 CHAIRPERSON MILLER: All those
16 opposed? All those abstaining? Then the vote
17 is 7-0-0. Okay.

18 Thank you very much. And when we
19 get that form, then a written order will be
20 issued.

21 MR. YOUNG: Okay.

22 CHAIRPERSON MILLER: Okay. Thank

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you.

MS. GEPHARDT: Thank you.

(Whereupon, the Show Cause Hearing
in the above-entitled matter was concluded at
11:20 a.m.)

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