

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF: :

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ARIAS, INC. :

t/a My Brother's Place :Roll Call

237 2nd Street, NW :Hearing

License #ABRA-071593 :

Retailer CR, License Renewal :

Case #13-PRO-00050 :

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MAY 28, 2013

The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, 7th Floor, at 941 North Capitol Street, N.E., Washington, D.C., La Verne Fletcher, Chairperson, presiding.

PRESENT

LA VERNE FLETCHER, Chairperson

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

10:38 a.m.

AGENT FLETCHER: Would the parties in the matter of My Brother's Place please come forward.

This is Case Number 13-PRO-00050, Arias, Inc., trading as My Brother's Place, 237 2nd Street, NW, License Number ABRA-071593. This is a Retailer CR license renewal.

Introductions beginning with the Applicant.

Is anyone present from My Brother's Place? Is anyone present from My Brother's Place?

There's no one present on behalf of My Brother's Place, therefore, the license renewal application is dismissed.

And who is present on behalf of Catholic University of America?

MS. JENNINGS: Kathryn Jennings.

AGENT FLETCHER: Ms. Jennings,

1 would you please spell your name for the Court
2 Reporter.

3 MS. JENNINGS: Sure. K-A-T-H-R-Y-
4 N J-E-N-N-I-N-G-S.

5 AGENT FLETCHER: Thank you. And
6 you're the designated representative? You're
7 Director of Campus Activities?

8 MS. JENNINGS: Yes.

9 AGENT FLETCHER: Okay. Thank you
10 very much.

11 And your name, sir?

12 MR. GOLDSCHMIDT: Scott
13 Goldschmidt. S-C-O-T-T G-O-L-D-S-C-H-M-I-D-
14 T. And I'm counsel for the University.

15 AGENT FLETCHER: Thank you very
16 much.

17 Ms. Jennings, may I ask you on
18 what basis did the University file its
19 protest?

20 MS. JENNINGS: We've been
21 documenting incidents and working with My
22 Brother's Place since 2005, I believe. And we

1 do have a current voluntary cooperative
2 agreement with them but there's been repeated
3 violations of that agreement. And we have
4 come to the table multiple times with them and
5 ABRA to attempt to solve those issues.

6 Since this license renewal has
7 come up, we've decided to protest it based on
8 the multiple cases that we've documented with
9 both Brother's and ABRA.

10 AGENT FLETCHER: And according to
11 your protest letters, you have a lot of issues
12 with underage drinking at My Brother's Place--

13 MS. JENNINGS: Yes.

14 AGENT FLETCHER: -- so that's
15 basically your concern?

16 MS. JENNINGS: Yes.

17 AGENT FLETCHER: The underage
18 drinking at My Brother's Place?

19 MS. JENNINGS: The underage
20 drinking, yes.

21 AGENT FLETCHER: Okay. What I'm
22 going to do -- those are issues that you

1 should raise with us. But for the purpose of
2 the Roll Call Hearing, I'm going to dismiss
3 Catholic University as a protestant but let me
4 tell you the reason. But still pursue those
5 issues here and you should. I'll tell you the
6 reason for that.

7 Pursuant to D.C. Official Code
8 25601 there are certain bases under which --
9 not under which you can file a protest but it
10 states who can file a protest and one of them
11 would be -- well, let me not make an
12 assumption. You didn't claim to be an
13 abutting property owner but are you an
14 abutting property owner?

15 MS. JENNINGS: No, we are not.

16 AGENT FLETCHER: Okay. You would
17 be an abutting property owner. You would be
18 a group of five or more. You would be a group
19 of at least five. You would be a citizens
20 association incorporated in the District of
21 Columbia. You would be an advisory
22 neighborhood commission or you could be -- the

1 mayor can file a complaint with a designated
2 representative. The United States can file
3 and a designated representative. And the
4 commander of police districts can file a
5 protest. And because the university doesn't
6 fall into either of those categories you can't
7 be granted standing as a protestant but those
8 issues that you raise, you should raise them
9 with our Enforcement Division or I think you
10 mentioned you mentioned it with the agency
11 before.

12 MS. JENNINGS: We have continually
13 reported them to the Enforcement Division and
14 to ABRA. So, they're all on file.

15 AGENT FLETCHER: Okay. And
16 because you gave a list of some of your
17 concerns in the protest letter.

18 MS. JENNINGS: Yes.

19 AGENT FLETCHER: And I don't know
20 if you've done it or not but I would suggest
21 that you provide this document to the Chief of
22 the Enforcement Division --

1 MS. JENNINGS: Okay.

2 AGENT FLETCHER: -- because they
3 are issues that need to be addressed, just not
4 through the protest process, but directly with
5 the Enforcement Division is the way you might
6 want to go.

7 MR. GOLDSCHMIDT: Forgive me if
8 I'm new to the process.

9 AGENT FLETCHER: Yes.

10 MR. GOLDSCHMIDT: But in our
11 voluntary cooperative agreement we have a --
12 in fact, My Brother's Place agreed that we can
13 present this agreement and any concerns at
14 anytime including in protest of any renewals
15 of the establishment's license. Would their
16 agreement and according to D.C. Code, the
17 Board's acceptance of this agreement give us
18 standing in the sense to file this claim?

19 AGENT FLETCHER: If the voluntary
20 agreement which we now call a settlement
21 agreement just FYI, violation of a settlement
22 agreement does not create a basis upon which

1 to file an agreement. But, again, that is an
2 issue that you should raise with the Chief of
3 the Enforcement Division. Because as you
4 know, the settlement agreement becomes a
5 condition of the license once the Board
6 approves it. And so that is also something
7 that should be pursued with the Enforcement
8 Division because we enforce settlement
9 agreements.

10 MS. JENNINGS: Right.

11 AGENT FLETCHER: But settlement
12 agreements are not protestable.

13 MS. JENNINGS: The Enforcement
14 Division knows that we're here today and
15 they're aware of all of the issues.

16 AGENT FLETCHER: Yes.

17 MS. JENNINGS: I think part of and
18 I don't know if this is anything that you can
19 really help us with today. I think part of
20 the frustration is that we've gotten no where
21 with the Enforcement Division. So, I think
22 that's what we're looking for what our next

1 steps are.

2 AGENT FLETCHER: Well, I don't
3 know if you've been in communication with the
4 Director of the Agency, Fred Moosally. Do you
5 know Mr. Moosally?

6 MS. JENNINGS: Yes, and most of
7 these have been directly brought to his
8 attention.

9 AGENT FLETCHER: Okay. If you're
10 unsuccessful with the Enforcement Division
11 contacting Mr. Moosally would be a next step--
12 could be a next step if you haven't done that
13 already.

14 I don't know if he knows you filed
15 this protest and I don't know if he's aware of
16 this document that you filed today?

17 MS. JENNINGS: Yes, sure. I can
18 make him aware.

19 AGENT FLETCHER: Okay. Then that
20 would be a good idea. You can let him know
21 that you showed up for the Roll Call Hearing.
22 He'll know that the case was on the --

1 MS. JENNINGS: Right.

2 AGENT FLETCHER: He won't know at
3 this stage that you were a protestant but at
4 this stage he knows that My Brother's Place
5 was on the calendar for today.

6 MS. JENNINGS: Right.

7 AGENT FLETCHER: So, you can let
8 him know that you were the protestant.

9 MS. JENNINGS: Okay.

10 AGENT FLETCHER: And then submit
11 that document to him. It's very detailed the
12 one that you submitted for --

13 MS. JENNINGS: Yes.

14 AGENT FLETCHER: -- the Protest
15 Hearing. So very detailed so that is what I
16 would suggest.

17 MS. JENNINGS: Okay. Sounds
18 great.

19 MR. GOLDSCHMIDT: And then is
20 there any way to get our concerns in front of
21 the Board while they're making the decision
22 for the license?

1 AGENT FLETCHER: What you can do
2 is once you provide Mr. Moosally with that
3 document, you will, in effect, be doing that.
4 Now, you can ask him if he'll provide that
5 information to the Board as well. But once
6 you provide that information to Mr. Moosally,
7 that's a good step. And you can ask him to
8 also share it with the Board.

9 The Board will then make a
10 decision about what's the best next step. So,
11 the Board will still make a decision if you
12 make the request that the Board review it.

13 Your concerns can be placed on the
14 Board's agenda. The Board has public hearings
15 on Wednesdays and they also have an agenda
16 which is not a public hearing. So, they can
17 still take your concerns under consideration.

18 And, Ms. Jennings or Mr.
19 Goldschmidt, is your contact information on
20 that sheet?

21 MS. JENNINGS: I put mine there.

22 AGENT FLETCHER: Okay. Would you

1 put yours too, please?

2 MR. GOLDSCHMIDT: Sure.

3 AGENT FLETCHER: And just so that
4 you know. What you're going to get is a --
5 you're going to get an order from the ABC
6 Board saying that the University was not
7 granted standing as a protestant. It will
8 give you 10 days to seek standing as a
9 protestant. You always have the right to do
10 that following a Roll Call Hearing.

11 MS. JENNINGS: Yes.

12 AGENT FLETCHER: So, that's an
13 option that you have.

14 MS. JENNINGS: All right.

15 AGENT FLETCHER: But thank you for
16 coming --

17 MS. JENNINGS: Thank you.

18 AGENT FLETCHER: -- today and my
19 card is on the table. If you have any other
20 questions about Roll Call just please feel
21 free to give me a call.

22 MS. JENNINGS: Excellent. Thank

1 you.

2 AGENT FLETCHER: Okay. Thank you
3 very much for coming down.

4 (Whereupon, the above matter was
5 concluded at 10:49 a.m.)

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