

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

IN THE MATTER OF:

1010 V, LLC, Josephine	Show Cause
1010 Vermont Ave., NW	Hearing
Retailer CT - ANC-2F	(Status)
License No. 76906	
Case #15-251-00099	

(Failed to Follow Security Plan)

June 24, 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
MIKE SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

ALSO PRESENT:

CHRISSY GEPHARDT, OAG

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

2 9:59 a.m.

3 CHAIRPERSON MILLER: All right. So
4 then I believe we can move on to the next
5 Josephine case which is 15-251-00099. Why don't
6 you identify yourselves again for the record
7 again?

8 MR. SHIRAFKAN: Good morning again,
9 Madam Chair, Members of the Board. Makan
10 Shirafkan on behalf of Josephine. And to my left
11 and present is Alain Kalantar, K-A-L-A-N-T-A-R,
12 one of the managing members of Josephine.

13 MS. GEPHARDT: Good morning, Members
14 of the Board. Chrissy Gephardt on behalf of the
15 Office of the Attorney General for the District
16 of Columbia.

17 CHAIRPERSON MILLER: Mr. Shirafkan,
18 did your client receive notice of this hearing?

19 MR. SHIRAFKAN: Yes, Your Honor. Yes,
20 ma'am. And we have read it and we waive formal
21 reading.

22 CHAIRPERSON MILLER: Okay. Ms.

1 Gephardt, any preliminary matters here?

2 MS. GEPHARDT: We do. We have a Offer
3 in Compromise to present to the Board this
4 morning.

5 For this case, 15-251-00099, the
6 parties have agreed to a \$4,000 fine and a five
7 day suspension with two days served and three
8 days stayed for one year. The \$4,000 fine would
9 be paid within 90 days.

10 And the suspension days would be
11 served once the establishment reopens. Right
12 now, they are currently closed for renovations,
13 as I understand.

14 And so in terms of what exact day that
15 would be when we would start the suspension, I
16 don't know if the Board wants to make that
17 determination based on what the licensee -- I'm
18 just not sure, at this point.

19 CHAIRPERSON MILLER: Okay.

20 MR. SHIRAFKAN: Madam Chair, I believe
21 we have a new offer --

22 CHAIRPERSON MILLER: Okay.

1 MR. SHIRAFKAN: -- in place. Just
2 given the statute, I believe the \$4,000 is down
3 to \$2,000, given that is more of a primary tier.

4 CHAIRPERSON MILLER: \$2,000?

5 MR. SHIRAFKAN: Yes. And we have no
6 objection to that modification.

7 CHAIRPERSON MILLER: Gotcha.

8 MR. SHIRAFKAN: I believe the statute
9 -- given the timing that we have, \$2,000 is the
10 appropriate number. And the OAG's Office has no
11 objection. We have no objection.

12 MS. GEPHARDT: Right. That's correct.

13 CHAIRPERSON MILLER: Do you want to
14 explain that?

15 MR. SHIRAFKAN: I think I can because
16 I had dealt with Ms. Schmidt in regards to this.
17 This was a two year primary offense within two
18 years and we had actually missed it and I sent
19 this to Ms. Schmidt regarding the fact that when
20 the conviction or the liability on the last issue
21 had come and when this one is beyond the two
22 years, within two years, so therefore it -- the

1 maximum would be \$2,000 and not \$4,000.

2 CHAIRPERSON MILLER: Okay.

3 MR. SHIRAFKAN: Because it's not
4 within two years of the last one.

5 CHAIRPERSON MILLER: Okay.

6 MS. GEPHARDT: It was a miscalculation
7 on the Government's part. I apologize, but we do
8 agree to the \$2,000 fine and the five days
9 suspension with two days served and three days
10 stayed, to be paid within 90 days.

11 CHAIRPERSON MILLER: How many days
12 served, three?

13 MS. GEPHARDT: Three stayed.

14 MR. SHIRAFKAN: Two days served.

15 MS. GEPHARDT: And two served.

16 CHAIRPERSON MILLER: Three stayed and
17 two served. Okay. Yes, okay.

18 MEMBER ALBERTI: May I ask the dates
19 for this?

20 MS. GEPHARDT: Well, that's --

21 MR. SHIRAFKAN: If I can shed some
22 light on this. In regards -- Josephine has

1 decided to close down and we are going to
2 actually be later surrendering the license while
3 they are doing the -- into safekeeping while they
4 are doing the construction that they need.

5 But they are doing renovation. Part
6 of it, they are going to do additional things
7 with the security, but when you have time to
8 serve, it has to be when you are technically
9 open.

10 MEMBER ALBERTI: Yes.

11 MR. SHIRAFKAN: And because we don't
12 know the construction, whether it is going to be
13 60 days, 90 days, 100 days depending on the
14 permit, I didn't want to give a specific date
15 today not knowing when this renovation is going
16 to be done. But we could definitely notify the
17 Board, because we are going to have to to get the
18 license back and then do this serving time after
19 the grand opening or reopening of it.

20 MEMBER ALBERTI: Okay. I understand,
21 Mr. Shirafkan. Ms. Miller, I would suggest that
22 they give us at least days of the week. And

1 sometimes that is as important as the dates
2 themselves --

3 CHAIRPERSON MILLER: Yes.

4 MEMBER ALBERTI: -- when we are
5 looking at these kinds of penalties. So if they
6 could at least give us, and not leave that
7 hanging, the days of the week and agree to that,
8 then I think that would be best.

9 MR. SHIRAFKAN: I understand.

10 MEMBER ALBERTI: And they can settle
11 on the exact dates later.

12 MR. SHIRAFKAN: Yes. I did not have
13 that discussion with Ms. Schmidt, but I would
14 purport Monday and Tuesday.

15 MS. GEPHARDT: I have a different
16 idea. I think the Government would request a
17 Friday and a Saturday.

18 MEMBER ALBERTI: So maybe they want to
19 take -- maybe the parties would like to take the
20 -- recess or take -- I don't know if they can do
21 this quickly or recess and come back to us? I'm
22 just trying to help out here.

1 CHAIRPERSON MILLER: Yes. Yes, Mr.
2 Short?

3 MEMBER SHORT: Also, the 90 days was
4 with the \$4,000, so would it be a little less
5 days with \$2,000?

6 MS. GEPHARDT: Less days to pay you
7 mean?

8 CHAIRPERSON MILLER: Okay. We don't
9 really --

10 MEMBER SHORT: Yes.

11 MEMBER ALBERTI: We can't --

12 CHAIRPERSON MILLER: -- get into that.

13 MEMBER SHORT: I understand.

14 MEMBER ALBERTI: We can't enter into
15 negotiations.

16 MEMBER SHORT: Okay.

17 MEMBER ALBERTI: We can just request
18 details.

19 MEMBER SHORT: All right. Okay. All
20 right. Thank you.

21 MR. SHIRAFKAN: All right. I think we
22 have a new settlement. Thursday and Friday are

1 going to be the days. And it will be within 70
2 days payment of \$2,000 within 70 days.

3 MEMBER ALBERTI: Okay.

4 CHAIRPERSON MILLER: Okay. I'm still
5 not clear about the logistics of --

6 MEMBER ALBERTI: I think he said 70
7 days?

8 MR. SHIRAFKAN: 70 days.

9 MEMBER ALBERTI: That's what I thought
10 I heard.

11 CHAIRPERSON MILLER: 70. Picking the
12 days and communicating the days or whether or not
13 you just can't pick a date far enough out there
14 for sure, you know, like December or something?

15 MR. SHIRAFKAN: Well --

16 CHAIRPERSON MILLER: I mean, I don't
17 know. I just want to -- you know, how are we
18 going to track that this actually happens?

19 MS. GEPHARDT: I see. If you can pick
20 a date that we know way in the future that they
21 are probably for sure going to be open. I mean,
22 we can do that.

1 MR. SHIRAFKAN: Well, I would say the
2 concern is this. We have a pending hearing
3 coming up, right? And what is detrimental to the
4 business is if we come back for the second
5 hearing and say heaven forbid we are liable on
6 that, there is going to be some suspensions on
7 that that is going to come. And if we do opening
8 and then we are closing again, I mean, as far as
9 the affect of the business, it's detrimental to
10 have a grand opening of a renovated place.

11 And then I think at least for the
12 business it would be much easier to be able to
13 come back and say this thing were opening, at
14 least at the beginning of it do the close down,
15 so that it's not this, you know, to the public,
16 to the customers, it's not we are open and now we
17 are shut down and then we are open again.

18 CHAIRPERSON MILLER: Okay. How about
19 I just want to try to pin this down, so it can be
20 tracked and not lost. I mean, how about that is
21 there a date that you can determine the day by?
22 Like you're going to know by --

1 MEMBER ALBERTI: Ms. Miller, could we
2 maybe have them set a date prior to sometime? Do
3 you know what I'm saying? Before the end of the
4 year, so that we know to reach back to them at
5 least by the end of the year?

6 CHAIRPERSON MILLER: That's a
7 suggestion?

8 MEMBER ALBERTI: Because I understand
9 there are difficulties.

10 CHAIRPERSON MILLER: Right.

11 MEMBER ALBERTI: I mean --

12 CHAIRPERSON MILLER: That's what --

13 MEMBER ALBERTI: -- nobody knows how
14 long construction is going to take. All right.
15 But you might be able to push it -- push a drop
16 dead date far enough out, so that we are
17 guaranteed that, you know, we will know that if
18 that drop dead date is approaching, we will reach
19 out, staff will reach out to them. So I think --

20 CHAIRPERSON MILLER: Do you mean, Mr.
21 Alberti, I think you mean which I think is a good
22 suggestion, it would be like by December 15th they

1 will have informed us of the date that --

2 MEMBER ALBERTI: Yes, yes.

3 CHAIRPERSON MILLER: Yes, that they
4 will be closed.

5 MEMBER ALBERTI: Something like that.

6 MR. SHIRAFKAN: That would be
7 absolutely great. If we could have a date, yes,
8 by December 15, we can inform the solid dates of
9 this and any other. That would be great.

10 MEMBER ALBERTI: Great.

11 MS. GEPHARDT: Just one amendment to
12 the time of the payment, it would be 60 days. It
13 was like we don't really do that.

14 MR. SHIRAFKAN: So --

15 CHAIRPERSON MILLER: Okay. Now, all
16 right. I'm almost about to reiterate it, but I
17 just threw out that December 15th as an example,
18 but is that the date that you would like?

19 MR. SHIRAFKAN: That's fine.

20 CHAIRPERSON MILLER: Okay.

21 MR. SHIRAFKAN: That's fine.

22 Absolutely.

1 CHAIRPERSON MILLER: That is the date
2 that you agreed to. Okay. Okay. And that they
3 will be a Thursday and a Friday?

4 MR. SHIRAFKAN: Yes.

5 CHAIRPERSON MILLER: Okay. I'm going
6 to try to repeat this and then you all can
7 correct me if I'm wrong.

8 Okay. The Offer in Compromise is a
9 \$2,000 penalty plus five days suspension, three
10 days stayed, two days served. Those two days
11 will be on a Thursday and Friday to be identified
12 to the Board specifically by December 15, 2015.
13 And the fine will be paid within 60 days. And if
14 not paid within 60 days, then the license will be
15 suspended until it is paid. Okay.

16 MR. SHIRAFKAN: And one last
17 clarification. Because we have a pending case,
18 these dates that are hanging over our head, in a
19 sense, is for one year, we understand that. I
20 just want to make sure it gets going forward and
21 it's not going to include going back on the case
22 that we got coming up on July 22nd since it

1 happened before even this incident.

2 CHAIRPERSON MILLER: The five days are
3 suspended from the date of the order.

4 MR. SHIRAFKAN: Thank you.

5 CHAIRPERSON MILLER: Okay. And the
6 serving is within the year --

7 MR. SHIRAFKAN: Okay.

8 CHAIRPERSON MILLER: -- of this order.
9 Does that clear it up? Okay.

10 MEMBER ALBERTI: I think his question
11 was when the other case is resolved, will it
12 trigger these days?

13 MR. SHIRAFKAN: Right. My
14 understanding is it is not going to trigger --

15 CHAIRPERSON MILLER: Oh.

16 MR. SHIRAFKAN: -- that is not going
17 to trigger this incident.

18 MS. GEPHARDT: I believe it has to be
19 a new violation.

20 MR. SHIRAFKAN: Yes.

21 MEMBER ALBERTI: Well, I'll -- may I
22 speak, Ms. Miller?

1 CHAIRPERSON MILLER: Yes.

2 MEMBER ALBERTI: According to our
3 current practice of how we have been counting
4 violations, the way we have been counting
5 previous violations, according to our current
6 practice it would not trigger.

7 MR. SHIRAFKAN: Thank you.

8 MEMBER ALBERTI: But if our practice
9 changes, then all bets are off. We have a
10 pending case, I will put on the record, that may
11 affect that.

12 CHAIRPERSON MILLER: Okay. All right.
13 Are we set?

14 MR. SHIRAFKAN: Yes.

15 CHAIRPERSON MILLER: You agree to the
16 Offer in Compromise as I read it and so do you,
17 Ms. Gephardt?

18 MS. GEPHARDT: Yes, yes.

19 CHAIRPERSON MILLER: Okay. Board
20 Members, you don't need me to read it again, do
21 you?

22 MEMBER SILVERSTEIN: No.

1 MEMBER SHORT: No.

2 CHAIRPERSON MILLER: You all heard it,
3 right? Okay.

4 Then all those in favor then of the
5 Offer in Compromise say aye.

6 ALL: Aye.

7 CHAIRPERSON MILLER: All those
8 opposed? All those abstaining? The motion
9 passes 6-0-0.

10 Okay. Thank you.

11 MR. SHIRAFKAN: Thank you very much.

12 CHAIRPERSON MILLER: So we will get
13 something out to you. Great.

14 MR. SHIRAFKAN: Have a wonderful day.

15 CHAIRPERSON MILLER: Thank you.

16 MR. SHIRAFKAN: By the way, off the
17 record, I wanted to let you know last time that I
18 was late, I did email and afterwards I wanted to
19 send you a letter to say I apologize for being
20 late, I was stuck in traffic, just so you know
21 that.

22 MEMBER ALBERTI: Thank you.

1 CHAIRPERSON MILLER: Okay. Thank you.

2 MEMBER SILVERSTEIN: Thank you, Mr.

3 Shirafkan.

4 CHAIRPERSON MILLER: That's a good
5 thing to do. Thank you. Okay.

6 (Whereupon, the Show Cause (Status)
7 Hearing in the above-entitled matter was
8 concluded at 10:12 a.m.)

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