

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

IN THE MATTER OF:

Caribbean Vibes, Inc.
 t/a Club Timehri
 2493 18th Street, NW
 Retailer CT - ANC-1C
 License No. 77730
 Case #15-251-00041

Show Cause
 Hearing
 (Status)

(Failed to Follow Security
 Plan, Failed to Preserve a
 Crime Scene)

July 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
 NICK ALBERTI, Member
 MIKE SILVERSTEIN, Member
 HECTOR RODRIGUEZ, Member
 JAMES SHORT, Member

ALSO PRESENT:

FERNANDO RIVERO, OAG

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

2 10:12 a.m.

3 CHAIRPERSON MILLER: The next case is
4 Case No. 15-251-00041, Club Timehri located at
5 2493 18th Street, N.W., License No. 77730, in ANC-
6 1C.

7 MR. RIVERO: Good morning, Board
8 Members. Fernando Rivero for the District of
9 Columbia.

10 MR. LYON: Good morning. Zachary Lyon
11 from Veritas Law Firm, counsel to Club Timehri.

12 CHAIRPERSON MILLER: Okay. I'm sorry,
13 could you give your name again?

14 MR. LYON: Zachary Lyon.

15 CHAIRPERSON MILLER: Zachary Lyon?

16 MR. LYON: Lyon.

17 CHAIRPERSON MILLER: Lyon. Okay.

18 MR. LYON: The Veritas Law Firm.

19 CHAIRPERSON MILLER: Okay. Did your
20 client receive notice of this hearing?

21 MR. LYON: Yes.

22 CHAIRPERSON MILLER: Read it and

1 understood it?

2 MR. LYON: Yes.

3 CHAIRPERSON MILLER: Okay. So there
4 are no notice issues with respect to this
5 hearing.

6 MR. LYON: No.

7 CHAIRPERSON MILLER: Okay. Are there
8 preliminary issues?

9 MR. RIVERO: Yes, there are. The
10 parties have an Offer in Compromise to present to
11 the Board at this time. And that Offer in
12 Compromise consists of a statutory warning for
13 Charge 1.

14 CHAIRPERSON MILLER: Okay. Did you
15 submit -- did you put this in writing or no?

16 MR. RIVERO: No.

17 CHAIRPERSON MILLER: No, not this one.
18 Okay.

19 MR. RIVERO: Not this one.

20 CHAIRPERSON MILLER: I was looking to
21 see if I had something in writing. Okay.

22 MR. RIVERO: It's fairly

1 straightforward.

2 CHAIRPERSON MILLER: All right. I'm
3 sorry to interrupt you. Okay. Could you start
4 again?

5 MR. RIVERO: Certainly.

6 CHAIRPERSON MILLER: Okay.

7 MR. RIVERO: A statutory warning for
8 Charge 1.

9 CHAIRPERSON MILLER: All right.

10 MR. RIVERO: And a dismissal of Charge
11 2. The governing statute was not effective on
12 the date of the incident.

13 CHAIRPERSON MILLER: Okay. Could you
14 direct us to the governing statute that says a
15 warning? This is a mandatory warning or a
16 discretionary warning you are talking about?

17 MR. RIVERO: One second, please.

18 CHAIRPERSON MILLER: Okay.

19 MR. RIVERO: Yes, I have that
20 information.

21 CHAIRPERSON MILLER: Okay.

22 MR. RIVERO: It's 25-823(6). And that

1 would be, well that would be, 23 DCMR 800.

2 CHAIRPERSON MILLER: 23 DCMR?

3 MR. RIVERO: DCMR 800.

4 CHAIRPERSON MILLER: 23 DCMR 800.

5 MR. RIVERO: The Schedule of

6 Penalties.

7 CHAIRPERSON MILLER: All right.

8 MR. RIVERO: 23 -- 25-823(6) "Failure
9 to follow security plan," yes, warning.

10 CHAIRPERSON MILLER: And you said 23
11 DCMR what?

12 MR. RIVERO: 800, the Schedule of
13 Penalties. If you look under the Schedule of
14 Penalties, 25-823(6), there is the warning
15 column. There is a violation column.

16 CHAIRPERSON MILLER: Yes, right.

17 MR. RIVERO: It tells you what kind of
18 violation it is, whether it is a primary or a
19 secondary violation.

20 CHAIRPERSON MILLER: Right.

21 MR. RIVERO: And then there is a
22 warning column.

1 CHAIRPERSON MILLER: Right.

2 MR. RIVERO: And under that warning
3 column is the yes.

4 CHAIRPERSON MILLER: Right, right.

5 MR. RIVERO: So pursuant to that.

6 CHAIRPERSON MILLER: Pursuant to that.
7 I'm not finding the 23 DCMR 800 that you are
8 talking about. Did you say there was --

9 MEMBER ALBERTI: That's the Schedule
10 of Fines.

11 CHAIRPERSON MILLER: Oh, that's the
12 Penalty Schedule in general.

13 MEMBER ALBERTI: Right, right.

14 CHAIRPERSON MILLER: Okay.

15 MEMBER ALBERTI: That whole table is
16 800.

17 CHAIRPERSON MILLER: Okay. So you are
18 just -- okay. So you are just looking at 826 --
19 I mean, 823(6).

20 MR. RIVERO: Yes. So it's -- well,
21 the actual statute that concerns the substantive
22 violation --

1 CHAIRPERSON MILLER: Yes, correct.

2 MR. RIVERO: -- is D.C. Code 25-
3 823(6).

4 CHAIRPERSON MILLER: Yes.

5 MR. RIVERO: That statute is cited in
6 the penalty provisions, which are provided at 23
7 DCMR 800.

8 CHAIRPERSON MILLER: Right. Okay.
9 Got it.

10 MR. RIVERO: Under that particular
11 line, you will find that yes, a warning issues on
12 this particular case. So that's the Offer in
13 Compromise.

14 CHAIRPERSON MILLER: So it's a
15 discretionary warning, correct?

16 MR. RIVERO: Correct.

17 MEMBER RODRIGUEZ: Discretionary.

18 CHAIRPERSON MILLER: Okay. Well,
19 first let me ask the licensee if they are
20 agreeable to this Offer in Compromise of a
21 warning for the first charge and dismissal of the
22 second.

1 MR. LYON: Yes, we are. We understand
2 that if the Board accepts this Offer in
3 Compromise that we are waiving our right to a
4 hearing and to appeal.

5 CHAIRPERSON MILLER: Okay.

6 MEMBER SILVERSTEIN: Can you repeat?

7 MR. LYON: Yes, we understand that if
8 the Board accepts this Offer in Compromise, we
9 are waiving our right to a hearing and an appeal.

10 CHAIRPERSON MILLER: Okay. Mr.
11 Rivero, is there anything you can speak to with
12 respect to why a warning would be in order in
13 this case? You don't have to if it's just your
14 negotiations, you know, it's fine.

15 MR. RIVERO: Well, it's two things.
16 And we generally don't like to lay out --

17 CHAIRPERSON MILLER: Right.

18 MR. RIVERO: -- chapter and verse
19 about our -- the way we interpret the evidence.
20 And so but it had to do with the way that we
21 interpret the evidence and how the law would be
22 applied to the facts that existed at the time.

1 And we felt like a warning would be
2 appropriate, given the status of where we are
3 right now. The licensee has accepted the
4 warning, which means that they don't get a
5 warning any more. The next time we move forward,
6 we can prosecute appropriately.

7 And again, so given the status of the
8 evidence and how the law at the time applied to
9 it, and the fact that the other side has agreed,
10 we feel that a warning is appropriate, at this
11 time.

12 CHAIRPERSON MILLER: Okay.

13 MR. RIVERO: It makes my next case
14 easier.

15 CHAIRPERSON MILLER: Correct. Okay.

16 MR. RIVERO: Not that there would be
17 one.

18 CHAIRPERSON MILLER: Right.

19 MR. RIVERO: Should there be one.

20 CHAIRPERSON MILLER: Okay. Right,
21 right. Okay. Are there any other questions
22 before we move forward?

1 MEMBER SHORT: Mr. Alberti is trying
2 to say something.

3 CHAIRPERSON MILLER: Mr. Alberti?

4 MEMBER ALBERTI: I would like to talk.

5 CHAIRPERSON MILLER: Do you want a
6 recess to talk about this?

7 MEMBER ALBERTI: Yes, I would like a
8 recess to talk about this.

9 CHAIRPERSON MILLER: Okay. I have had
10 a request for the Board to take a quick recess to
11 discuss this Offer in Compromise in Executive
12 Session and then come out and vote. Okay.

13 As Chairperson of the Alcoholic
14 Beverage Control Board for the District of
15 Columbia and in accordance with DC Official Code
16 Section 2-574(b) of the Open Meetings Act, I move
17 that the ABC Board hold a closed meeting to
18 consider the Offer in Compromise in the Case of
19 Club Timehri, Case No. 15-251-00041, pursuant to
20 Section 2-574(b)(4) of the Open Meetings Act and
21 consider this case for the reasons cited in
22 Section 2-574(b)(13) of the Open Meetings Act.

1 Is there a second?

2 MEMBER SHORT: Second.

3 CHAIRPERSON MILLER: Mr. Short has
4 seconded the motion.

5 All those in favor say aye.

6 ALL: Aye.

7 CHAIRPERSON MILLER: All those
8 opposed? All those abstaining? The motion
9 passes 5-0-0.

10 So we are just going to take a very
11 brief, I think, recess in Executive Session and
12 we will return shortly to address this Offer in
13 Compromise.

14 MR. RIVERO: Thank you.

15 CHAIRPERSON MILLER: Okay.

16 (Whereupon, the above-entitled matter
17 went off the record at 10:19 a.m. and resumed at
18 10:31 a.m.)

19 CHAIRPERSON MILLER: Okay. The Board
20 is back on the record. I believe that the
21 licensee stated that they accepted the Offer in
22 Compromise and understood that they waive their

1 right to a hearing and appeal, correct?

2 MR. LYON: Yes.

3 CHAIRPERSON MILLER: Okay.

4 MEMBER ALBERTI: Ms. Miller, I think
5 we should acknowledge that the licensee's
6 attorney was just joined at the front table by
7 someone.

8 MR. LYON: This is Shawn Ramdat of
9 Club Timehri.

10 MR. RAMDAT: My name is Shawn Ramdat.
11 I'm the general manager of Club Timehri.

12 CHAIRPERSON MILLER: Okay. Thank you
13 very much. The Board took a brief recess to look
14 at the investigative report and consider the
15 Offer in Compromise that was presented to us
16 which is, I believe, a warning for the first
17 charge and dismissal of the second charge.

18 In light of, or at least I would say
19 this for me, the information in the investigative
20 report, I am inclined not to accept the Offer in
21 Compromise.

22 So I am going to move to deny the

1 Offer in Compromise. Do I have a second?

2 MEMBER SILVERSTEIN: I second, Madam
3 Chair.

4 CHAIRPERSON MILLER: Okay. Other
5 comments?

6 All those in favor then of denying the
7 Offer in Compromise say aye.

8 ALL: Aye.

9 CHAIRPERSON MILLER: All those
10 opposed? All those abstaining? The motion
11 passes 5-0-0 to deny.

12 So that brings us to scheduling a Show
13 Cause hearing for August 12, 2015 at 10:00 a.m.

14 MR. LYON: Okay.

15 CHAIRPERSON MILLER: Okay. Thank you.

16 (Whereupon, the Show Cause (Status)
17 Hearing in the above-entitled matter was
18 concluded at 10:33 a.m.)

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