

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

IN THE MATTER OF:

Eun Corporation	
t/a West End Market	Show Cause
2424 Pennsylvania Ave., NW	Hearing
Retailer A - ANC-2A	(Status)
License No. 90448	
Case #15-CC-00004	

(Sale to Minor Violation (22 Counts), Failed to Take Steps Necessary to Ascertain Legal Drinking Age (6 Counts), Allowed the Establishment to be Used for an Unlawful or Disorderly Purpose)

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 10:54 a.m.

3 CHAIRPERSON MILLER: Okay. The next
4 case is Case No. 15-CC-00004, West End Market
5 located at 2424 Pennsylvania Avenue, N.W.,
6 License No. 90448, in ANC-2A.

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

10 CHAIRPERSON MILLER: Good morning.

11 MS. WAHABZADAH: Good morning, Board
12 Members. Rema Wahabzadah, counsel for the
13 licensee, West End Market. Sitting to my left is
14 the owner of West End Market, Mr. Hwan Eun.

15 CHAIRPERSON MILLER: And next?

16 INTERPRETER YANG: Good morning, Sung
17 Yang, Korean Interpreter.

18 CHAIRPERSON MILLER: Okay. First of
19 all, counsel, could you repeat your name?

20 MS. WAHABZADAH: Sure. Rema
21 Wahabzadah.

22 CHAIRPERSON MILLER: And you spell the

1 last name?

2 MS. WAHABZADAH: Sure. W-A-H-A-B, as
3 in boy, Z, as in zebra, A-D, as in dog, A-H.

4 CHAIRPERSON MILLER: Thank you. Okay.
5 So we have an Interpreter here for what language?

6 INTERPRETER YANG: Korean.

7 CHAIRPERSON MILLER: Korean. Okay.
8 I'll swear you in. You're ready I can see.

9 Do you solemnly affirm that you will
10 faithfully and accurately interpret the
11 proceedings in this matter from Korean into
12 English and from English into Korean to the best
13 of your ability?

14 INTERPRETER YANG: I do.

15 CHAIRPERSON MILLER: Thank you. And
16 what is your name again?

17 INTERPRETER YANG: Sung Yang, Y-A-N-G.

18 CHAIRPERSON MILLER: All right. Mr.
19 Yang. Okay. Okay. Now, let me see if I can
20 pronounce this, Ms. Wahabzadah?

21 MS. WAHABZADAH: Wahabzadah.

22 CHAIRPERSON MILLER: Wahabzadah.

1 Okay. Can you tell me, did your client receive
2 notice of this hearing?

3 MS. WAHABZADAH: Actually, this
4 hearing was set just yesterday for status, so we
5 did not receive notice, but there are no issues
6 for the hearing, at this time.

7 CHAIRPERSON MILLER: Well, how did you
8 get here? How did you know to come?

9 MS. WAHABZADAH: Mr. Rivero and I --
10 I requested or Mr. Rivero requested to set this
11 for status as we came to an Offer in Compromise.

12 CHAIRPERSON MILLER: Okay.

13 MS. WAHABZADAH: And we wanted to
14 present it to the Board before the Show Cause
15 next week.

16 CHAIRPERSON MILLER: Okay.

17 MR. RIVERO: Hence the notice.

18 CHAIRPERSON MILLER: Yes, okay. So he
19 gave you notice yesterday. Okay. And you don't
20 have any issues about not knowing about this
21 hearing?

22 MS. WAHABZADAH: No.

1 CHAIRPERSON MILLER: Okay.

2 MS. WAHABZADAH: Apologies. No
3 written notice, but --

4 CHAIRPERSON MILLER: Yes.

5 MS. WAHABZADAH: -- we did have
6 notice.

7 CHAIRPERSON MILLER: Okay.

8 MEMBER ALBERTI: So, Ms. Miller, I
9 assume that the licensee is waiving the 30 day
10 notice. Is that correct? No? There is no --

11 CHAIRPERSON MILLER: Well, 30 day
12 notice --

13 MR. RIVERO: Well, to be clear, there
14 has already been a Status Hearing.

15 CHAIRPERSON MILLER: Okay.

16 MR. RIVERO: And so this is just an
17 extra one.

18 CHAIRPERSON MILLER: This is an
19 additional hearing.

20 MEMBER ALBERTI: Oh, okay. Thank you.

21 MR. RIVERO: Because there is -- we
22 thought we should conserve resources and not

1 present the Offer in Compromise at the Show Cause
2 Hearing, because if it were accepted, that time
3 slot would then be free for the Board to do
4 something else with it.

5 MEMBER ALBERTI: Okay. So the hearing
6 -- right, the notice issue has been cured at the
7 previous hearing.

8 MR. RIVERO: Correct.

9 MEMBER ALBERTI: Thank you.

10 CHAIRPERSON MILLER: Okay. All right.
11 I think I'm satisfied we have no notice issue.
12 Okay. Now, are there any preliminary matters you
13 want to bring to our attention?

14 MR. RIVERO: Yes. The parties have an
15 Offer in Compromise to present to the Board at
16 this time. I will be speaking a little more
17 slowly to allow time for the Interpreter to do
18 his job.

19 CHAIRPERSON MILLER: Wait. I want to
20 make sure, you did provide this one in writing to
21 the Board, as well? Does everybody have one?

22 ALL: Yes.

1 CHAIRPERSON MILLER: Okay.

2 MR. RIVERO: All Board Members should
3 have a copy of the terms in writing, so that they
4 can follow along as I make the presentation.

5 CHAIRPERSON MILLER: Yes. Okay. We
6 do. And if at any time anyone is going too fast,
7 just let us know, okay, Mr. Yang?

8 INTERPRETER YANG: I will.

9 CHAIRPERSON MILLER: Okay.

10 MR. RIVERO: This is a case of
11 multiple sales to minors that took place on
12 January 22nd of this year and a smaller number of
13 such sales that took place on January 23rd of this
14 year.

15 All of the charges are being dismissed
16 except four.

17 CHAIRPERSON MILLER: Oh.

18 MR. RIVERO: Charge 1 and Charge 21
19 are not being dismissed. And those charges
20 relate to a sale, Charge 1 --

21 CHAIRPERSON MILLER: Yes.

22 MR. RIVERO: -- and an ID check,

1 Charge 21, that took place on January 22nd.

2 Charge 27 is not being dismissed. That charge
3 relates to a sale that took place on January 23rd.

4 Charge 29 is not being dismissed. That charge
5 relates to the use of the premises for a
6 disorderly or unlawful purpose.

7 Thus, the OIC is premised on those
8 four charges. And I will now review the terms.

9 The licensee agrees to pay a fine of
10 \$12,000. Of that total amount, \$3,000 is for
11 Charge 1; \$2,000 is for Charge 21; \$3,000 is for
12 Charge 27; and \$4,000 is for Charge 29.

13 The licensee shall pay the total fine
14 within 60 days. The licensee shall also serve a
15 30 day suspension of the license. Of the total
16 days, five days are for Charges 1, 21 and 27
17 each. And 15 days are for Charge 29. The
18 suspension will be served from July 20 to August
19 20, 2015.

20 The next condition or term is that
21 Mrs. Jung Kim will not sell or serve alcoholic
22 beverages as an employee or otherwise of West End

1 Market.

2 Also, Mr. Richard Kim will not be an
3 employee in any capacity of West End Market.

4 New employees will be hired to sell
5 and serve alcoholic beverages. All such
6 employees will be trained on ID compliance. At
7 least one employee will obtain an ABC manager's
8 license.

9 The next page. All training must be
10 completed within 30 days or before an employee
11 begins working.

12 Finally, as I indicated, all charges
13 are dismissed except Nos. 1, 21, 27 and 29.

14 To provide a little bit of context for
15 the Board concerning the suspension of the
16 license, the distribution of the days was made
17 taking into account the law that sets certain
18 minimums or maximums. That explains the
19 distribution of the days that you see.

20 With respect to the employees, this
21 term addresses the facts of the case. In the
22 report, it is stated that it is Mrs. Kim who was

1 actually the person selling the beverages. She
2 was the one doing that.

3 Mr. Kim was also an employee, but the
4 basis for Mr. Kim's not participating in that
5 business is that Mr. Kim was the owner of a prior
6 business. I have that case.

7 CHAIRPERSON MILLER: Yes.

8 MR. RIVERO: And I did not believe at
9 the time that he had any place running a similar
10 establishment. The licensee has agreed to
11 exclude this individual. There was no direct
12 evidence that Mr. Kim actually sold beverages,
13 but I wanted the Board to understand the context
14 of my exclusion.

15 MEMBER SILVERSTEIN: Would you repeat
16 that, sir?

17 MR. RIVERO: Yes.

18 MEMBER SILVERSTEIN: There was no
19 direct evidence?

20 MR. RIVERO: There is no direct
21 evidence in the report that Mr. Kim sold the
22 beverages, but I wanted the Board to understand

1 the context of his exclusion that I just
2 provided.

3 The 30 days for the training is
4 intended to coincide with the 30 days of the
5 suspension that allows the licensee to hire
6 people, etcetera, etcetera.

7 The licensee is aware that there is a
8 training session coming up this month, I think in
9 a couple of weeks, and intends to make use of
10 those training sessions that are offered by ABRA.

11 Unlike the prior case I mentioned, the
12 licensee in this case has demonstrated a
13 willingness to take responsibility and,
14 therefore, the Government engaged in this
15 negotiation and we are presenting these terms
16 today.

17 CHAIRPERSON MILLER: The prior case
18 you are referring to where Mr. Kim was involved?

19 MR. RIVERO: Correct.

20 CHAIRPERSON MILLER: Okay.

21 MR. RIVERO: Those are the terms. If
22 there are any questions that I can answer, I will

1 do so.

2 CHAIRPERSON MILLER: Okay. Thank you
3 very much. First, let me ask the licensee if
4 they are agreeable to this Offer in Compromise?

5 MS. WAHABZADAH: Yes, they are.

6 CHAIRPERSON MILLER: Do you have a
7 written copy as well of what Mr. Rivero just
8 read?

9 MS. WAHABZADAH: Yes. We have a
10 written copy in English as well as translated to
11 Korean.

12 CHAIRPERSON MILLER: Great. Okay.
13 And does your client understand that if he enters
14 into this Offer in Compromise, he waives his
15 right to a hearing and an appeal?

16 MS. WAHABZADAH: Yes, he does.

17 CHAIRPERSON MILLER: Okay. Any
18 questions by Board Members? Okay. Okay. Thank
19 you, Mr. Rivero. It's a very thorough Offer in
20 Compromise and very well-explained.

21 So I'm not going to read it all for
22 the Board's vote, because we have a copy in

1 writing. You have gone through and put the whole
2 offer on the record, so unless I hear otherwise
3 from my Board Members, I'm going to just go ahead
4 now and move that we approve this Offer in
5 Compromise. Do I have a second?

6 MEMBER RODRIGUEZ: Second.

7 CHAIRPERSON MILLER: Comments?

8 MEMBER SILVERSTEIN: Yes.

9 CHAIRPERSON MILLER: Okay. Mr.
10 Silverstein?

11 MEMBER SILVERSTEIN: Yes, Madam Chair.
12 First, since we last met, we have received an
13 enormous amount of work here by both parties and,
14 in fact, all parties. There have been a great
15 number of Offers in Compromise that have been
16 negotiated. The Office of the Attorney General
17 has not spent the 4th of July on the beach and we
18 -- I take notice of that and of the hard work
19 that was done by all.

20 Also since we met, there was an
21 unspeakable tragedy that occurred in Bethesda
22 involving young people, two of whom died on the

1 highway because of a high rate of speed and
2 alcohol. The sale of alcohol to minors can be
3 especially dangerous when there is a single place
4 that becomes a go-to place.

5 When people understand that -- when
6 young people understand that you can get liquor
7 at such and such a place, they will drive there
8 from great distances and there will be, as one
9 Montgomery Police Officer told us, a feeding
10 frenzy.

11 That was a case involving the
12 gentleman who was actually then selling here.
13 There were 29 counts. I'm sickened by this. I'm
14 absolutely horrified and sickened by this and
15 this is in my neighborhood. I can walk to this
16 place in five minutes.

17 I think that the effort that was taken
18 into this is outstanding. I think that what has
19 -- the product of this is as good as we are ever
20 going to get in something like this and that all
21 parties are looking forward to turning a new
22 chapter.

1 But I cannot in good conscience vote
2 for it myself and I will be casting a protest
3 vote against it.

4 CHAIRPERSON MILLER: Okay. Other
5 comments? I thank you, Mr. Silverstein, and I
6 appreciate all the remarks that you made. And I
7 would just say by moving for approval on this, I
8 certainly in no way condone the actions that took
9 place here. I just think that it is a fair Offer
10 in Compromise that does appropriately punish the
11 licensee, but at the same time seem to put him on
12 a positive path.

13 So okay. Anything else? All right.
14 So there has been a motion to approve that has
15 been seconded.

16 All those in favor say aye.

17 MEMBER RODRIGUEZ: Aye.

18 CHAIRPERSON MILLER: Aye.

19 MEMBER ALBERTI: Aye.

20 CHAIRPERSON MILLER: All those
21 opposed?

22 MEMBER SILVERSTEIN: No.

1 MEMBER SHORT: Opposed.

2 CHAIRPERSON MILLER: All those
3 abstaining? Then the motion passes by a vote of
4 3-2-1 with Board Member Silverstein and Short
5 opposed.

6 So this one will also be written in a
7 Board Order. We don't have anything to give you
8 at this time.

9 MS. WAHABZADAH: Okay.

10 CHAIRPERSON MILLER: Thank you very
11 much.

12 MS. WAHABZADAH: Thank you.

13 (Whereupon, the Show Cause (Status)
14 Hearing in the above-entitled matter was
15 concluded at 11:12 a.m.)

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