

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

Rasika West End, LLC
t/a Rasika West
1177 22nd Street, NW
Retailer CR - ANC-2A
License No. 87042
Case #15-CMP-00356

Show Cause
Hearing
(Status)

(Failed to Post License
Conspicuously in the
Establishment)

September 16, 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:

FERNANDO RIVERO, OAG

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

2 10:41 a.m.

3 CHAIRPERSON MILLER: The next case is
4 another Show Cause Hearing (Status) Case, Case
5 No. 15-CMP-00356, Rasika West End, LLC t/a Rasika
6 West located at 1177 22nd Street, N.W., License
7 No. 87042. Good morning.

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

11 MR. WARRAIN: My name is Atul Warrain
12 and I'm the general manager and I'm representing
13 the owner now.

14 CHAIRPERSON MILLER: You are the
15 manager representing the owner?

16 MR. WARRAIN: Yes, ma'am.

17 CHAIRPERSON MILLER: Do you have any
18 Letter of Authorization?

19 MR. WARRAIN: Yes, ma'am.

20 CHAIRPERSON MILLER: Good.

21 MR. RIVERO: I have seen the letter
22 and it's fine for the Government.

1 CHAIRPERSON MILLER: Okay. Good. We
2 will just put it in the file. Thank you. Okay.
3 I have looked at the letter and that meets our
4 requirements certainly. So you are authorized to
5 represent the owner in this case, right, here and
6 in this proceeding.

7 Are there any preliminary matters?

8 MR. RIVERO: This is a Status Hearing.
9 I guess the licensee received notice and there is
10 no service issues.

11 CHAIRPERSON MILLER: Oh, did you miss
12 the beginning?

13 MR. RIVERO: I must have.

14 CHAIRPERSON MILLER: I made the
15 general announcement to all the Show Cause
16 (Status) cases.

17 MR. RIVERO: Oh, good.

18 CHAIRPERSON MILLER: Okay. And that
19 if there is a notice issue, anyone should raise
20 it though.

21 MR. RIVERO: Oh, we're not raising it.

22 CHAIRPERSON MILLER: Okay. Good.

1 MR. RIVERO: We do have actually an
2 Offer in Compromise to present to the Board --

3 CHAIRPERSON MILLER: Okay.

4 MR. RIVERO: -- at this time. And
5 that offer consists of a written warning, which
6 is mandatory.

7 CHAIRPERSON MILLER: Okay. I think
8 that the Board had an opportunity to review this
9 earlier. It looks like he has never had a
10 violation or this type of case before, correct?

11 MR. RIVERO: This is a first
12 offense --

13 CHAIRPERSON MILLER: Yes.

14 MR. RIVERO: -- in two years.

15 CHAIRPERSON MILLER: First offense in
16 two years for posting -- for not having this
17 license up?

18 MR. RIVERO: Right.

19 CHAIRPERSON MILLER: Okay. Okay. Do
20 you have any -- do you agree to this Offer in
21 Compromise of a mandatory warning?

22 MR. WARRAIN: Yes, ma'am.

1 CHAIRPERSON MILLER: Okay. You know
2 that you waive your right to a hearing and right
3 to an appeal?

4 MR. WARRAIN: Yes, ma'am.

5 CHAIRPERSON MILLER: Okay. Okay. I
6 would -- any questions by Board Members?

7 MEMBER ALBERTI: I just --

8 CHAIRPERSON MILLER: Yes?

9 MEMBER ALBERTI: -- want to clarify.
10 Mr. Rivero, I believe this is the first offense
11 of this statute in four years.

12 MR. RIVERO: Okay.

13 MEMBER ALBERTI: Is that correct?

14 MR. RIVERO: That may be the case, but
15 what is operative is whether you have two
16 offenses within two years, three within three and
17 so on.

18 (Simultaneous speaking.)

19 MEMBER ALBERTI: I would disagree with
20 that. So I --

21 MR. RIVERO: Okay. Well, the Attorney
22 General's --

1 MEMBER ALBERTI: We need to have
2 that --

3 MR. RIVERO: -- meaning of the
4 regulation --

5 MEMBER ALBERTI: -- but the fact of
6 the matter is that this is the first offense of
7 this statute and so it is --

8 MR. RIVERO: A question --

9 MEMBER ALBERTI: -- requires a
10 mandatory warning.

11 MR. RIVERO: If I could answer the
12 question that was asked of me, that would --

13 MEMBER ALBERTI: Sure.

14 MR. RIVERO: -- be great. The
15 question that was asked of me was whether what
16 controls is -- if this is the first violation of
17 its kind. And our reading differs from Board
18 Members' reading in that we look at 23 DCMR 802
19 that says "The Board may fine a licensee for a
20 secondary tier violation at a Show Cause
21 Hearing." And the statute, the regulatory
22 language does not distinguish between kind. It

1 just says secondary tier violation.

2 And it goes on to then enumerate the
3 frequency, that's where we start our analysis.
4 That's the answer to the question that was posed
5 to me.

6 MEMBER ALBERTI: This is all news to
7 me. This is all news to me.

8 CHAIRPERSON MILLER: Are you saying
9 just because it's a secondary violation, it could
10 be any secondary violation?

11 MR. RIVERO: Correct. Under --

12 CHAIRPERSON MILLER: Not --

13 MR. RIVERO: -- that theory,
14 regardless of what theory one picks, the result
15 is the same in this particular case.

16 CHAIRPERSON MILLER: Yes. Are there
17 other questions? Mr. Alberti, did you have an
18 issue with this?

19 MEMBER ALBERTI: Well, I mean, Mr.
20 Rivero is absolutely right. I mean, the outcome
21 is the same.

22 MR. RIVERO: Right.

1 CHAIRPERSON MILLER: Yes, right, okay.

2 MEMBER ALBERTI: This requires a
3 mandatory warning. I think Mr. Rivero and I
4 disagree on the interpretation of the statute and
5 I don't believe this is the time or the place to
6 debate that.

7 MR. RIVERO: Correct.

8 MEMBER ALBERTI: But I just wanted to
9 put Mr. Rivero -- give him a heads up that there
10 is some maybe question in the Board's mind about
11 that interpretation. And we can deal with that
12 in another venue.

13 CHAIRPERSON MILLER: Okay. Okay.

14 MR. RIVERO: Certainly.

15 CHAIRPERSON MILLER: Okay.

16 MEMBER RODRIGUEZ: Yes, I would like
17 to see that debate.

18 CHAIRPERSON MILLER: Okay. I just
19 wanted to make sure that there wasn't a concern
20 whether or not a mandatory was appropriate here.
21 Okay. Then any other questions, comments? All
22 right.

1 Then I move that we grant the Offer in
2 Compromise and issue a mandatory warning in this
3 case. Do I have a second?

4 MEMBER SILVERSTEIN: Second.

5 CHAIRPERSON MILLER: Mr. Silverstein
6 seconded the motion.

7 All those in favor say aye.

8 ALL: Aye.

9 CHAIRPERSON MILLER: All those
10 opposed? All those abstaining? The motion
11 passes 6-0-0. Okay.

12 Thank you very much. Yes, a piece of
13 paper will be coming back to you.

14 MR. WARRAIN: Sure. Thank you.

15 (Whereupon, the Show Cause (Status)
16 Hearing in the above-entitled matter was
17 concluded at 10:47 a.m.)

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