DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

IN THE MATTER OF:

District Soul Food
Restaurant & Lounge, LLC,
t/a District Soul Food
Restaurant & Lounge
500 8th Street SE
License #112072
Retailer CR - ANC 6B
Case #20-CMP-00094,
#20-CMP-00108,
#20-CMP-00109

(Alcoholic Beverage Control Board Closure - October 7, 2020)

Wednesday
October 21, 2020

The Alcoholic Beverage Control Board met via Webex videoconference, Chairperson Donovan W. Anderson presiding.

PRESENT:
DONOVAN W. ANDERSON, Chairperson
BOBBY CATO, JR., Member
RAFI ALIYA CROCKETT, Member
EDWARD S. GRANDIS, Member
JENI HANSEN, Member
JAMES SHORT, JR., Member
REMA WAHABZADAH, Member

ALSO PRESENT:
SIMONE ANDREWS, DC ABRA IT Specialist
DAVID ROUNTREE, Licensee
JESSICA KRUPKE, DC OAG
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CHAIRPERSON ANDERSON: (presiding) All right. We are on the record.

Good morning, everyone.

As Chairperson of the Alcoholic Beverage Control Board for the District of Columbia, in accordance with D.C. Official Code Section 25764 of the Open Meetings Act, I'm welcoming you to a regularly-scheduled meeting of the Alcoholic Beverage Control Board. Today is Wednesday, October 21st, 2020, and the time is 10:51 a.m.

This meeting is being conducted pursuant to guidance made available by the District of Columbia's Office of Open Government regarding electronic meetings held by public bodies during the public health emergency. Pursuant to this guidance, notice of today's meeting was provided 48 hours in advance of the meeting on ABRA's website and on the District's central meeting calendar. The notice included the time, date, agenda, and call-in or log-in information for public participation.

This electronic meeting is being hosted by a Webex account provided by the District of Columbia Government. Please address any questions or
complaints to the OOG at opengovoffice@dc.gov.

My name is Donovan Anderson, and I'm Chairman of the Board. I would like to introduce the other members of the Board who are also participating electronically, pursuant to Mayor's Order 2020-054. Please respond when I announce your name.

Mr. James Short?

MEMBER SHORT: Mr. James, present.

CHAIRPERSON ANDERSON: Mr. Bobby Cato?

MEMBER CATO: Bobby Cato, present.

CHAIRPERSON ANDERSON: Ms. Rema Wahabzadah?

MEMBER WAHABZADAH: Ms. Wahabzadah, present.

CHAIRPERSON ANDERSON: Ms. Rafi Crockett?

MEMBER CROCKETT: Rafi Crockett, present.

CHAIRPERSON ANDERSON: Ms. Jeni Hansen?

MEMBER HANSEN: Jeni Hansen, present.

CHAIRPERSON ANDERSON: And Mr. Ed Grandis?

MEMBER GRANDIS: Ed Grandis, present.

CHAIRPERSON ANDERSON: Thank you.

The Board has seven members in attendance for the conduct of business today, and that constitutes a quorum.

Before we get on the way with today's
hearing calendar, I need to make a few instructions very clear, so that the conduct of these hearings is understood by everyone.

There are two cases scheduled for today. Once your case is called, I will take a moment for our IT Specialist to elevate the rights for each party to enable their camera and microphone. Then, and only then, will you have the ability to engage your equipment. If your case is not being heard, you will remain mute and your camera will be disabled. At the conclusion of each case, the parties will have the option to leave. If the party chooses to stay, all cameras and microphones for the concluded case will be disabled.

Should you have any questions or require technical assistance during the hearing, please submit them using the question-and-answer feature or email simone, S-I-M-O-N-E, .andrews, A-N-D-R-E-W-S, the No. 2, @dc.gov.

Our first order of business today is: it's a summary suspension hearing, Case No. 20-CMP-00094, 20-CMP-00108, and 20-CMP-00109, District Soul Food Restaurant & Lounge, License No. 11201 (sic).

I will now take a moment for our IT
Specialist to elevate the rights for each party of this case to enable their camera and microphone.

Ms. Andrews, can you please elevate the rights of the parties in this case, please?

MS. ANDREWS: Sure. Stand by.

You are now panelists. Mr. Rountree, you are now a panelist.

CHAIRPERSON ANDERSON: So, I need Mr. Rountree and Ms. Krupke to turn their microphone on, please, their microphone and camera on, please.

MR. ROUNTREE: I've done so.

CHAIRPERSON ANDERSON: But I can't see you, sir.

MR. ROUNTREE: All right. I don't know how to turn -- oh, start video. Okay, I've got it now.

CHAIRPERSON ANDERSON: Thank you. I know that we're working from home. So, I'll ask you to turn -- thank you, sir. I appreciate that.

MR. ROUNTREE: No problem.

CHAIRPERSON ANDERSON: All right. Good morning, everyone.

And can we have the parties identify themselves for the record, starting with the
Government, please?

    MS. KRUPKE: Good morning. Jessica Krupke, on behalf of the District of Columbia.

    CHAIRPERSON ANDERSON: I'm sorry, Ms. Krupke. Can you also spell your name for the record?

    MS. KRUPKE: Sure. Sure. It's Jessica, J-E-S-S-I-C-A; last name is Krupke. That's K-R-U-P-K-E.

    CHAIRPERSON ANDERSON: And can we have the Licensee introduce their self for the record, please, and spell your name, too, please, sir?

    MR. ROUNTREE: Yes, sir. My name is David Rountree, and that's D-A-V-I-D; last name, R-O-U-N-T-R-E-E.

    CHAIRPERSON ANDERSON: All right. This is a summary suspension hearing. So, are there any preliminary matters in this case, Ms. Krupke?

    MS. KRUPKE: Yes, there are.

    CHAIRPERSON ANDERSON: All right, MS. KRUPKE: The parties have agreed to an Offer in Compromise.

    CHAIRPERSON ANDERSON: And what is that, please?

    MS. KRUPKE: So, this case stems from
three separate investigations and case. And so, those occurred on August 15th, August 22nd, and October 2nd, 2020.

So, the Summary Suspension was issued for a number of reasons that were outlined in the notice itself, and the parties have reached an Offer in Compromise that we feel addresses those concerns that were outlined in the notice.

And so, the Offer in Compromise, as signed by both parties, states that -- I'm sorry -- the terms state that:

Term No. 1 is suspension. "The Respondent agrees to a 25-day suspension of its ABC license, for 15 days served and 10 days stayed. The 15 days served suspension shall commence on Friday, October 9th, 2020 through Saturday, October 24th, 2020, which includes time served during the Summary Suspension period. The ABC license suspension shall be lifted at 8:00 a.m. on Sunday, October 25th, 2020, provided Respondent satisfies all other applicable requirements in this OIC. The initial 10 suspension days shall be stayed for a period of one year, beginning on the day of the Board's acceptance of this OIC. If Respondent complies with the terms of this OIC and does not have any additional violations in the year following the
Board's acceptance of this OIC, per the requirements of 23 DCMR Section 808.16, the Respondent shall not serve the 10 stayed days."

Term 2 is dining activities. "Respondent shall only serve food and alcoholic beverages to patrons seated at tables while the District of Columbia remains subject to Mayor's Order 2020-067, May 27th, 2020, and Mayor's Order 2020-075, June 19th, 2020, and in accordance with 23 DCMR Sections 810.2(b), (d), and (l), tables shall be placed so that patrons in different parties are placed at least six feet apart from one another with no more than six patrons per table. Patrons shall not be permitted to walk around the establishment with food or alcoholic beverages. Respondent shall require the purchase of one or more prepared food items per table."

Item 3 is bar activities. "While the District of Columbia remains subject to Mayor's Order 2020-067, May 27th, 2020, and Mayor's Order 2020-075, June 19th, 2020, Respondent shall not seat patrons at indoor or outdoor bars that are being staffed or utilized by a bartender. Patrons shall not be permitted to stand at an indoor or outdoor bar to order food or alcoholic beverages, as required by 23 DCMR Section 810.22."
Item 4 is social-distancing walk-through. "Prior to lifting a suspension of the establishment's alcoholic beverage license, an ABRA investigator shall conduct a walk-through of the licensed establishment with Respondent to evaluate the establishment's compliance with the District's social-distancing requirements. This evaluation shall include an assessment of Respondent's compliance with Mayor's Order 2020-075, May 27th, 2020; Mayor's Order 2020-080, June 19th, 2020 (sic), and in accordance with 23 DCMR 810.2."

Item 5 is queues. "While the District of Columbia remains subject to Mayor's Order 2020-067, May 27th, 2020, and Mayor's Order 2020-075, June 19th, 2020, and in accordance with 23 DCMR Section 810.2(m), Respondent shall require patrons to wait outside at least six feet apart until they are ready to be seated. Queueing indoors shall not be permitted."

Item 6 is egress. "Respondent shall not prevent egress from the establishment. Respondent shall not lock doors during business hours or when patrons are inside of the establishment."

Item 7 is masks. "While the District of Columbia remains subject to Mayor's Order 2020-080, July 22nd, 2020, and in accordance with 23 DCMR
Section 810.2(s) and (t), except when eating or
drinking while seated during the public health
emergency, Respondent shall require that all owners
and employees of the establishment wear a mask or face
covering while present on the licensed premises,
regardless of whether they are on duty. Respondent
shall also require patrons during the public health
emergency to wear masks or face coverings prior to
entering or while waiting in line outside of the
licensed premises, and while traveling to use the
restroom or until they are seated and eating or
drinking."

Item 8 is the music. "While the District
of Columbia remains subject to Mayor's Order 2020-067,
May 27th, 2020, and Mayor's Order 2020-075, June 19th,
2020, and in accordance with 23 DCMR Section 810.2(n),
Respondent shall only offer recorded or background
music that is played at a conversational level, that
is not heard in the homes of District residents. A DJ
shall not be permitted."

And Item 9, operating hours. "Respondent
shall restrict its operations, excluding carryout and
delivery, and the sales, service, or the consumption
of alcoholic beverages, both indoor and outdoor, for
on-premises consumption to the hours between 8:00 a.m.
and midnight during every day of the week while the District of Columbia remains subject to Mayor's Order 2020-067, May 27, 2020, and Mayor's Order 2020-075, June 19th, 2020, and in accordance with 23 DCMR Section 810.2(k)."

And that is the final item in the agreement.

CHAIRPERSON ANDERSON: I know that the order went out -- I'm sorry -- the Notice of Summary Suspension went out, I think it was issued on October 9th. And I see, based on the terms of the agreement, the time served, and that if the Board accepts this Offer in Compromise, that the business will be able to operate to open back up for business on the 25th. Why, based on the nature of this, of the nature of the suspension -- I'm sorry -- the infraction, why do you believe that this Offer in Compromise covers the issue and protects the residents of the District of Columbia?

MS. KRUPKE: The District has entered into this agreement for several reasons. First, the 25-day suspension with the 10 days stayed offers an incentive to the establishment to continue compliance with the laws and the Mayor's Orders, even after this 15-day suspension is served. So, it does provide that
additional mechanism for ensuring compliance with the law.

Additionally, the District has outlined the different violations that were found by investigators and addressed those individual violations within this Offer in Compromise. The only exception to that that I will note is there was an issue with interference with investigation, and that has not been listed in this. That is not typically something that's addressed through Summary Suspension and would, instead, be addressed through a normal Board case. It could involve additional (telephonic interference), et cetera. And, of course, not interfering with an investigation is something that is required by the law already. And so, I just want to note that.

But the additional violations, for example, the face mask violations, the DJ, those are all addressed within this Board order. And so, the District feels that at this time this is the best mechanism to ensuring compliance with the law moving forward and does provide that additional incentive of those 10 stayed days.

CHAIRPERSON ANDERSON: Does any other member of the Board have any questions of the
Government regarding the terms of the OIC? I just
want to remind Board members that we can't negotiate
with the Government. It's a matter of accepting or
rejecting the OIC. But if you have any questions
about the OIC, you're free to ask those questions.

Any questions by any Board members?

(No response.)

All right. Hearing none, Mr. Rountree, it's my understanding that there is an Offer in Compromise, and Ms. Krupke just reviewed the terms of the OIC. Is this the document, sir, that you have negotiated with the Government?

MR. ROUNTREE: Yes, sir.

CHAIRPERSON ANDERSON: And are you aware that, by accepting an Offer in Compromise, that you give up your right to a hearing?

MR. ROUNTREE: Yes, sir.

CHAIRPERSON ANDERSON: And are you also aware that, by accepting the Offer in Compromise, that you're giving up your right to appeal this matter?

MR. ROUNTREE: Yes, sir.

CHAIRPERSON ANDERSON: All right. As Chair of the Board, I do have some significant concerns with this OIC. I do not believe that it covers, based on the seriousness of the infraction, I
do not believe that it's appropriate.

So, with that said, the terms of the OIC, for the first term, it's a suspension. It says that there's a suspension, that Respondent agrees to a 25-day suspension of its ABC license with 15 days served and 10 days stayed. The 15-day suspension shall commence on Friday, October 9th, 2020 through Saturday, October 24th, 2020, which includes time served during the Summary Suspension period. The ABC license suspension shall be lifted at 8:00 a.m. on Sunday, October 25th, 2020, provided Respondent satisfied all other applicable requirements in the OIC. The additional 10 days shall be stayed for one, for a period of one year, beginning on the day of the Board's acceptance of this OIC. "If Respondent complies with the terms of this OIC and does not have any additional violations in the year following the Board's acceptance of the OIC, per the requirements of 23 DCMR Section 808.16, Respondent shall not serve the 10 days stayed."

The second term of the OIC, dining activities, Respondent shall only serve food and alcoholic beverages to patrons seated at tables while the District of Columbia remains subject to Mayor's Order 2020-067 and Mayor's Order 2020-076, and in
accordance with 23 DCMR Section 810.2(b), (d), and (i) (sic). Tables shall be placed so that patrons in different parties are placed at least six feet apart from one another with no more than six patrons per table. Respondent shall not be permitted to walk around the establishment with food or alcoholic beverages. Respondent shall require the purchase of one or more prepared food items per table.

No. 3, bar activities. While the District of Columbia remains subject to Mayor's Order 2020-067 and Mayor's Order 2020-075, Respondent shall not seat patrons at indoor or outdoor bars that are being staffed or utilized by a bartender. Patrons shall not be permitted to stand at an indoor or outdoor bar to order food or alcoholic beverages, as required by 23 DCMR Section 810.22.

No. 4, social-distancing walk-through. Prior to lifting the suspension of the establishment's alcoholic beverage license, an ABRA investigator shall conduct a walk-through of the licensed establishment with Respondent to evaluate the establishment's compliance with the District's social-distancing requirements. This evaluation shall include an assessment of Respondent's compliance with Mayor's Order 2020-075 and Mayor's Order 2020-080, and in
accordance with 23 DCMR 810.2.

No. 5, queues. While the District of Columbia remains subject to Mayor's Order 2020-067 and Mayor's Order 2020-075, in accordance with 23 DCMR Section 810.2(m), Respondent shall require patrons to wait outside at least six feet apart until they are ready to be seated. Queueing indoors shall not be permitted.

Item 6, egress. Respondent shall not prevent egress from the establishment. Respondent shall not lock doors during business hours or when patrons are inside of the establishment.

Item 7, masks. While the District of Columbia remains subject to Mayor's Order 2020-080, in accordance with 23 DCMR Section 810.2(s) and (t), except when eating or drinking while seated during the public health emergency, Respondent shall require that all owners and employees of the establishment wear a mask or face covering while present on the licensed premises, regardless of whether they are on duty. Respondent shall also require patrons during the public health emergency to wear masks or face coverings prior to entering or while waiting in line outside of the licensed premises, and while traveling to use the restroom or until they are seated and
eating or drinking.

Item 8, music. While the District of Columbia remains subject to Mayor's Order 2020-067 and Mayor's Order 2020-075, and in accordance with 23 DCMR Section 810.2(n), Respondent shall only offer recorded or background music that is played at a conversational level, that is not heard in the homes of the District's residents. A DJ shall not be permitted.

And No. 9, operating hours. Respondent shall restrict its operations, excluding carryout and delivery, and the sales, service, or consumption of alcoholic beverages, both indoors and outdoors, for on-premises consumption to the hours between 8:00 a.m. and midnight during every day of the week while the District of Columbia remains subject to Mayor's Order 2020-067 and Mayor's Order 2020-075, in accordance with 23 DCMR Section 810.2(k).

Those are the terms of the OIC. As stated before, I do not believe that is sufficient. And so, my recommendation to the Board is that the Board reject this OIC.

Is there a second?

MEMBER SHORT: Mr. Chairman, I second.

CHAIRPERSON ANDERSON: Mr. Short has seconded the motion.
I will now do a roll call vote on the motion that is before us that has been properly seconded by Mr. Short.

Mr. Short?

MEMBER SHORT: Mr. Short, I agree.

CHAIRPERSON ANDERSON: Mr. Cato?

MEMBER CATO: I agree.

CHAIRPERSON ANDERSON: Ms. Wahabzadah?

MEMBER WAHABZADAH: Rema Wahabzadah, I agree.

CHAIRPERSON ANDERSON: Ms. Crockett?

MEMBER CROCKETT: Rafi Crockett, I agree.

CHAIRPERSON ANDERSON: Ms. Hansen?

MEMBER HANSEN: Jeni Hansen, I agree.

CHAIRPERSON ANDERSON: Mr. Grandis?

MEMBER GRANDIS: Ed Grandis, I agree.

CHAIRPERSON ANDERSON: And Mr. Anderson, I agree.

The Board, therefore, votes 7-0-0 to reject the terms of the OIC. The parties should be prepared to have a full hearing. We can have this hearing next Wednesday to discuss this matter. But that's the decision of the Board.

MS. KRUPKE: Thank you. The District will be ready for a hearing next Wednesday.
CHAIRPERSON ANDERSON: Yes. All right.

Thank you. That would be good.

All right.

MR. ROUNTREE: Does that mean --

CHAIRPERSON ANDERSON: Yes, Mr. Rountree?

MR. ROUNTREE: Am I allowed to speak?

CHAIRPERSON ANDERSON: Yes, sir. You can speak, sir.

MR. ROUNTREE: As far as some of the things that were addressed in this, as far as the interfering, the guard, the security guard that we had, that we had on duty has been terminated. We hired a whole new security team. He explained to me that, when the investigator came in, he was -- he didn't see the credentials being displayed. As I have said, you know, I explained to him, you know, that was no excuse. And I did fire him. I also fired the General Manager that was handling, you know, my restaurant. I now handle it, all that stuff, personally.

And so, I've made a whole bunch of changes in there to ensure that we are in compliance and to make sure that we are walking the walk. We've been inspected almost every day since then, and, you know, we have been in compliance. So, I just wanted to say
that, and just to let you know, you know, what we have been doing. So, we've been -- we're now aware and understanding, fully understand, what the Mayor's Order is, and any confusion, I've gotten that down.

We also have regular training for our new staff that comes on, and the security team also enforces compliance not only of customers, but of our staff as well, to ensure that we're doing the right thing.

So, you know, I just wanted to, you know, I just wanted to let you know that.

CHAIRPERSON ANDERSON: I want to thank you, Mr. Rountree, for the reference to the representation that you have made. You can further explore that when we have a hearing. And I believe that when we have this hearing next week, you can explain your position, explain what changes you have made to address this issue. And the Board will make a decision. I mean, we will make a decision next Wednesday when we have this hearing.

If the parties want to negotiate terms, that is up to them, but we're going to have a hearing next Wednesday. And you will get a decision at the end of the hearing what decision. So, there will be no wait. So, when we have our hearing on Wednesday,
a decision will be made that day what are the terms of
the Board, what terms, if any, the Board will impose.

And the Board might state that, okay, you
can open up immediately, or the Board might impose an
additional term. I don't know what the Board will,
but I'll assure you that, once we have our hearing on
Wednesday, our decision will be made that day and you
will know for sure what your operating status will be.

But I believe it's the Board's view -- and
we can't, as I've stated to the Board members, we
can't negotiate the terms. It's an up-or-down vote.
We don't know what it is. It's presented to us, and
we are independent. And so, therefore, based on the
presentation that was made, we made a decision because
the ultimate decision rests with us. People can come
to the Board with recommendations, and ultimately, we
accept or reject them. The Board did not believe that
this was sufficient. And so, therefore, when we have
our hearing on Wednesday, we will make a decision on
what is it that we believe is appropriate, based on
the facts.

And I said before, I appreciate the
representation that you made. And at a hearing, you
can further expound on the changes, if any, that you
have made to address the public health emergency.
Okay?

MR. ROUNTREE: Okay.

CHAIRPERSON ANDERSON: Thank you, sir.  All right.  So, that case is over.

(Whereupon, at 11:17 a.m., the hearing was concluded.)
CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: District Soul Food

Before: DCABRA

Date: 10-21-20

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

[Signature]
Court Reporter