DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

IN THE MATTER OF:

Empire DC, LLC,
t/a Empire Lounge
1909 9th Street NW
License #110702
Retailer CT - ANC 1B
Case #20-CMP-00105

(Alcoholic Beverage
Control Board Closure -
September 30, 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
RICHARD BIANCO, Licensee's Counsel
DESSALEGN NIGUSSIE, Licensee
STEPHEN ORTIZ, DC OAG
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P-R-O-C-E-E-D-I-N-G-S

11:17 a.m.

CHAIRPERSON ANDERSON: Our next case is Case No. 20-CMP -- it's another Summary Suspension hearing -- Case No. 20-CMP-00105, Empire Lounge. Ms. Andrews, can you please elevate the rights of the parties in this case, please?

MS. ANDREWS: Sure, Mr. Chair.

Mr. Ortiz, you are now a panelist.

Mr. Bianco, you are now a panelist.

And, Mr. Nigussie, you are now a panelist.

That's all, Mr. Chairman.

CHAIRPERSON ANDERSON: All right. All right. So, we'll start. This is Empire Lounge, and would the parties introduce themselves for the record, starting with Government?


CHAIRPERSON ANDERSON: Thank you, Mr. Ortiz.

We'll start with the Licensee, and then, (telephonic interference). It appears that the Licensee is represented. So, we'll start with the representative of the Licensee, and then, the Licensee
can introduce himself. Go ahead.

MR. BIANCO: Good morning, Mr. Chair, Members of the Board. Richard Bianco. I represent the Respondent in this case. And with me is --

CHAIRPERSON ANDERSON: Mr. Bianco, I'm sorry, can you spell your name for the record, please?

MR. BIANCO: Sure. My name is Richard Bianco. Last name is spelled B-I-A-N-C-O.

CHAIRPERSON ANDERSON: And let's have the Licensee introduce himself for the record and spell his name, too, please.

MR. NIGUSSIE: Yes, my name is Dessalegn Nigussie. My first name is spelled as D-E-S-S-A-L-E-G-N. And my last name, Nigussie, N-I-G-U-S-S-I-E.

CHAIRPERSON ANDERSON: Thank you, Mr. Nigussie.

All right. Mr. Ortiz, this is a Summary Suspension hearing, and it's the second Summary Suspension hearing that we have had on this case, for this establishment. But are there any preliminary matters in this case today?

MR. ORTIZ: Yes. Board Members, the parties have entered into an Offer in Compromise.
CHAIRPERSON ANDERSON: And what are the (telephonic interference), sir?

MR. ORTIZ: Regarding this Summary Suspension hearing, there are three terms to the Offer in Compromise.

The first one, beginning with suspension, "The ABC license shall be suspended for 60 days, with 45 days to be served and 15 days stayed. The date of the 45-day suspension shall be Friday, October 2nd, 2020 through Monday, November 16th, 2020, which includes time served during the Summary Suspension period. The ABC license suspension shall be lifted at 8:00 a.m. on Tuesday, November 17th, 2020, provided all applicable requirements in this OIC have been satisfied by Respondent."

No. 2. "This matter will be referred to the Office of the Attorney General for possible show cause proceedings."

And No. 3. "The Respondent shall comply with the Board Order 2020-285."

That concludes the Offer in Compromise.

CHAIRPERSON ANDERSON: All right. What I'll ask everyone to do, if you're not speaking, mute your microphone, please. So, if you're not speaking, please mute your microphone.
Mr. Ortiz, as I stated before, we've had another Summary Suspension hearing on this particular case, this establishment, this particular Licensee, and within a short period of time, we're back here. Why is it that this Offer in Compromise that you are providing to the Board, why do you think that this is sufficient to address the issue of why the Board issued its Summary Suspension hearing in the first place? So, why is it that you believe that this offer that you provide to the Board is appropriate to address the issue?

MR. ORTIZ: Well, as you mentioned the previous Summary Suspension, that suspension was for a total of 15 days. As you can see, this one is a total of 60 days, which is at least quadruple what the previous one was. Additionally, the 15 days of suspension that would be stayed for one year further incentivizes the establishment to continue to abide by the Mayor's Order. Additionally, you had that further discipline in the show cause hearing that has been referred to the Office of the Attorney General. And I believe that, with the 60 days being suspended coupled with the show cause hearing that will be had, possibly had later on, that would allow the establishment, and really make the establishment
comply with the Mayor's Order.

CHAIRPERSON ANDERSON: Okay. Thank you, Mr. Ortiz.

Prior to going to the Licensee -- rather, to the Licensee and Mr. Bianco, Mr. Bianco, it's my understanding of the OIC -- and on behalf of your client, is there any representation that you want to make to the Board regarding this Offer in Compromise?

MR. BIANCO: Yes, just briefly. I would note that, for previous issues that this particular establishment had, they were unrepresented, and they have brought me in specifically to deal with this issue. So, I've had the opportunity to go through the Mayor's Order and compliance strategies with them and will continue to do that through the course of my representation.

And the other thing that I would ask the Board to consider is the length of this suspension is long in the context of the public health emergency. Income is limited across the board for all establishments, and serving 45 days, and potentially up to 60 days, of a suspension is, I think, the closest thing that the OAG and I were able to come up with that is not a death sentence for this establishment. It's pretty close. So, this is, from
an economic perspective, a very, very severe
punishment for this establishment. And if the Board
accepts it, we're hopeful that they'll be able to come
back from the suspension, but in the current climate
there's no guarantee.

CHAIRPERSON ANDERSON: Thank you for your
information, Mr. Bianco. And so, is your client aware
that, by accepting the Offer in Compromise, that
they're giving up their right to a hearing?

MR. BIANCO: That would be yes.

CHAIRPERSON ANDERSON: And is your client
also aware that, by accepting the Offer in Compromise,
that they are giving up their right to appeal this
matter?

MR. BIANCO: Yes.

CHAIRPERSON ANDERSON: Just to make a
statement, Mr. Nigussie, I don't want you to
(telephonic interference) your attorney, but I just
hope that -- I don't know what decision I'm going to
make recommendations with, but I do hope that you
fully comprehend the terms of the OIC, and that if you
accept the OIC, that it's not (telephonic
interference) that you fully understand the terms and
implications of what it means to have this OIC, sir.
(Telephonic interference), so I just thought I'd put
that out there.

Do we have any questions by any Board members?

(No response.)

Hearing no questions from the Board members, in this case I'm going to make a recommendation to the Board that the Board accept the terms of the OIC. And the terms of the OIC are as follows:

Is that, for (telephonic interference), a suspension, that the ABC license shall be suspended for 60 days, with 45 days to be served and 15 days stayed for one year. The date of the 45-day suspension shall be Friday, October 2nd, 2020 through Monday, November 16th, 2020, which includes time served during the Summary Suspension period. The ABC license suspension shall be lifted at 8:00 a.m. on Tuesday, November 17th, 2020, provided that all applicable requirements in this OIC have been satisfied by the Respondent.

No. 2, the show cause. The matter shall be referred to the Office of the Attorney General for a possible show cause hearing.

And No. 3, that the Respondent shall comply with Board Order 2020-085 (sic).
So, those are the terms of the OIC. I'm recommending to the Board that the Board accept this OIC. And is there a second?

MEMBER CROCKETT: Rafi Crockett seconds.

CHAIRPERSON ANDERSON: Ms. Crockett has seconded the motion, and we will have a roll call vote on the motion that was properly seconded by Ms. Crockett.

Mr. Short?

MEMBER SHORT: Mr. Short, I vote no.

CHAIRPERSON ANDERSON: Mr. Cato?

MEMBER CATO: 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 has agreed to accept the terms of the OIC 7-0-0.
Thank you.

Again, I want to implore on the Licensee that we're in a public health emergency.

MEMBER SHORT: Mr. Chairman?

CHAIRPERSON ANDERSON: Yes, Mr. Short?

MEMBER SHORT: I did not vote. I voted against.

CHAIRPERSON ANDERSON: Oh, I'm sorry. I apologize, Mr. Short.

So, the vote was 6-to-1 with Mr. Short in opposition. All right. That's the final vote. I do apologize, Mr. Short.

But I want to say to the Licensee that we're in a public health emergency, and the decision that's made by the Board, it's not punitive. We understand, the Board does understand, and the Board empathizes with all establishments that you need to open to be productive, to continue your livelihood. All the Board is asking all its licensees is that the Mayor has issued some guidance. Comply with the guidance. That's all we're asking. Comply with the guidance.

I mean, there are establishments -- I mean, you could be closed. We are allowing you to be open. We're allowing you to serve food. We all know
that most people make money off our call. So, we know that. But serve food; have people wear masks, and have people be seated.

You're not going to make all the money currently that you used to make, but you're making some. And it's unfortunate that you're now prevented from making a living because you have not complied with, you have not complied with the Board, with the Mayor's Order and a previous order.

We want you to survive. We want to support your business. But all that the Board is asking you to do, sir, is to work with us. Work with us. We are hoping that this emergency or the coronavirus will be something that we look back on.

But, while this is still active, the numbers are increasing, the recommendations that might be coming from Health Department is that you need to close down, and we don't want to do that. So, what we're trying to do is to ensure that the Health Department does not make recommendations to the Mayor that we close these establishments down. And the only way that can occur is if these establishments, your establishments and other establishments, comply with the requirements that are in place. That is all that we're asking.
So, again, I thank the Government, Mr. Bianco, and you, Mr. Nigussie. And I apologize, I'm bad with names, but I'm trying my best.

MR. NIGUSSIE: It's all right.

CHAIRPERSON ANDERSON: We're hoping that we don't have to see you again. I don't like, I tell people I don't like seeing people in these forums because it's never -- you always appear before the Board here when there's a problem.

So, I'm hoping that your business survives. Okay? I hope so. I mean, I know it's a long closure, but I hope your business survives. I want your business to survive. But I just want you to make sure that you comply with these guidelines that are in place, so we can all survive and look forward to the end of this virus. Okay?

MR. NIGUSSIE: All right. Thank you.

CHAIRPERSON ANDERSON: All right. Thank you.

Again, I want to thank the parties for working this out.

And have a great day. Thank you very much.

MR. ORTIZ: Thank you, Board Members.

Have a good day.
CHAIRPERSON ANDERSON: All right. Thank you. Bye-bye.

(Whereupon, at 11:31 a.m., the hearing was concluded.)
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CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Empire Lounge

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.

__________________________
Court Reporter

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