

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

Kimberly, Inc.
t/a Mr. Smith's
3104 M Street, NW
Retailer CR - ANC-2E
License No. 864
Case #14-CC-00026

Show Cause
Hearing

(Sale to Minor Violation,
Failed to Take Steps
Necessary to Ascertain Legal
Drinking Age, Interfered with
an Investigation)

December 3, 2014

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 (10:36 a.m.)

3 CHAIRPERSON MILLER: The next case is 14-
4 CC-00026, Mr. Smith's located at 3104 M Street, N.W.,
5 License No. 864, in ANC-2E. Okay. Okay. We are
6 going to recess for 20 minutes and then come back to
7 hear the Mr. Smith's case.

8 (Whereupon, the above-entitled matter went
9 off the record at 10:37 a.m. and resumed at 11:01
10 a.m.)

11 CHAIRPERSON MILLER: Okay. We are back on
12 the record. Before the Board recessed, I had called
13 the case of Mr. Smith's. And so would you identify
14 yourselves for the record, please?

15 MR. HURWITZ: Good morning. My name is
16 Ely Hurwitz. I'm the attorney representing Kimberly,
17 Inc. trading at that time as Mr. Smith's. And with me
18 is --

19 MR. VARRASCO: My name is Ernesto
20 Varrasco, manager, representing Mr. Smith's in
21 Georgetown.

22 MR. RIVERO: Fernando Rivero for the

1 District of Columbia.

2 CHAIRPERSON MILLER: Okay. I see that
3 this is a Show Cause Hearing. Are there any
4 preliminary matters?

5 MR. RIVERO: Yes. Actually, the parties
6 have an Offer in Compromise to present to the Board,
7 at this time.

8 That offer consists of a fine of \$7,000
9 payable in 45 days. And the breakdown is as follows:
10 For Charge 1 a fine of \$3,000. For Charge 2 a fine of
11 \$2,000. For Charge 3 a fine of \$2,000.

12 There is a suspension of five days stayed
13 that applies to Charge 1 and another five day
14 suspension stayed that applies to Charge 2. These are
15 five days stayed for one year pending no further
16 violations.

17 Additionally, so that the Board
18 understands, the licensee is not operating. And the
19 license is in safekeeping.

20 Accordingly, this Offer in Compromise does
21 not contain an element of training its employees,
22 because there are no employees. That consists of --

1 that is the Offer in Compromise. Any questions?

2 CHAIRPERSON MILLER: Yes, Mr. Silverstein?

3 MEMBER SILVERSTEIN: So once again, Mr.

4 Rivero, Charge 1 \$3,000, five days suspended, all

5 stayed. Charge 2 \$2,000, five days suspended, all

6 stayed. Charge 3 \$2,000.

7 MR. RIVERO: That is correct.

8 MEMBER SILVERSTEIN: Thank you, sir.

9 CHAIRPERSON MILLER: Do you know the date
10 that the 45 days brings us to?

11 MR. RIVERO: Well, it would be 45 days
12 from today.

13 CHAIRPERSON MILLER: And we will count it,
14 I just didn't know if you had the date.

15 MR. RIVERO: We didn't have the date on
16 that.

17 CHAIRPERSON MILLER: Okay.

18 MR. RIVERO: But yes, it's 45 days.

19 CHAIRPERSON MILLER: Okay. All right. I
20 think it's the 19th, okay, of January.

21 MR. RIVERO: From today, yes.

22 CHAIRPERSON MILLER: Okay. And a

1 question about the license in safekeeping, no
2 employees. Just for curiosity, is it just -- is this
3 a temporary thing depending on something and then
4 coming back or what?

5 MR. RIVERO: Not really, because the lease
6 has terminated and the business was closed and the
7 license was put in safekeeping.

8 CHAIRPERSON MILLER: I see. The business
9 has been closed. Okay.

10 MR. RIVERO: Yes.

11 CHAIRPERSON MILLER: Okay. Any other
12 questions? Mr. Hurwitz, do you agree to the Offer in
13 Compromise, and I guess I will restate it one more
14 time, of a fine of \$3,000 for the first charge with
15 five days suspension of the license, five days stayed
16 pending no further violations within a year.

17 Charge 2 \$2,000, five days suspension of
18 the license stayed pending no further violations
19 within a year.

20 Charge 3 \$2,000. Total would be \$7,000 to
21 be paid within 45 days, by January 19, 2015.

22 MR. HURWITZ: Yes.

1 CHAIRPERSON MILLER: Yes, okay. And does
2 your client understand that he waives his right to a
3 hearing and to an appeal?

4 MR. HURWITZ: Yes.

5 CHAIRPERSON MILLER: Okay. Okay. If
6 there are no further questions, then I move that we
7 approve this Offer in Compromise that I just
8 articulated. If somebody wants me to articulate it
9 again, I will, but --

10 MEMBER SHORT: Second it.

11 CHAIRPERSON MILLER: Okay. Mr. Short has
12 seconded the motion.

13 All those in favor say aye.

14 ALL: Aye.

15 CHAIRPERSON MILLER: All those opposed?
16 All those abstaining? The motion passes 6-0-0.

17 MR. HURWITZ: Thank you all very much.

18 CHAIRPERSON MILLER: Okay. Thank you.

19 MEMBER ALBERTI: Thank you.

20 MR. VARRASCO: Thank you.

21 CHAIRPERSON MILLER: Okay. That completes
22 that case.

1 (Whereupon, the Show Cause Hearing in the
2 above-entitled matter was concluded at 11:06 a.m.)
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