

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

IN THE MATTER OF:

Burger 1931, LLC	Show
t/a Black and Orange	Cause
1931 14th Street, NW	Hearing
Retailer CR - ANC-1B	(Status)
License No. 88273	
Case #14-CMP-00205	

(Failed to File Quarterly
 Statements-4th Quarter 2013)

December 10, 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:

MICHAEL STERN, OAG

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

2 (10:41 a.m.)

3 CHAIRPERSON MILLER: The next case
4 is Case No. 14-CMP-00205, Black and Orange
5 located at 1931 14th Street, N.W., License No.
6 88273, in ANC-1B. Good morning.

7 MR. KLINE: Good morning. There
8 is some background here. I was expecting Mr.
9 Adams for the Government.

10 MR. STERN: Yes, actually --
11 Michael Stern representing the District of
12 Columbia.

13 CHAIRPERSON MILLER: Okay.

14 MR. STERN: This is Mr. Adams'
15 case.

16 MR. KLINE: All right. So --

17 CHAIRPERSON MILLER: We can come
18 back to this. Is Casa Fiesta ready?

19 MR. RIVERO: Yes.

20 CHAIRPERSON MILLER: Yes, okay.
21 We are not waiting for someone now --

22 MR. KLINE: No.

1 CHAIRPERSON MILLER: -- or we are?
2 Oh, okay. Go ahead then. Just have a seat.

3 MR. KLINE: Andrew Kline. I am
4 here representing SRF, LLC, which is not the
5 licensee. However, SRF is a creditor of the
6 licensee and has recently taken over operation
7 of the business and will shortly be filing a
8 transfer application with ABRA to transfer the
9 license.

10 SRF had been an investor/creditor
11 of this business. And it's now a complete
12 mess with respect to the business, including
13 problems with OTR and, obviously, I'm
14 reporting today for -- or the licensee is
15 reporting today for failure to file
16 appropriate reports.

17 We would request that the matter
18 be continued. And in the filing of the
19 transfer application, the transferee, the
20 creditor intends to deal with this violation,
21 and assuming an OIC is accepted by the Board,
22 will pay a fine in connection with approval of

1 the transfer.

2 That's where we are, at this
3 point. The creditor had to step in and take
4 over to keep this business viable. And as I
5 said, we will quickly be filing a transfer
6 application. And you notice that the licensee
7 is not otherwise present.

8 CHAIRPERSON MILLER: Right. So
9 are you saying to postpone the status
10 conference to a date when it is already
11 transferred and then you are agreeing to pay
12 the fine of the previous licensee or the
13 current licensee?

14 MR. KLINE: We are happy to agree
15 today, but I'm not sure that the Board would
16 recognize us as having authority to make that
17 agreement. So what I'm suggesting is that let
18 us file our transfer application, assuming
19 it's in order, then you can either bring us in
20 or do it administratively and we will deal
21 with the pending violation.

22 CHAIRPERSON MILLER: Mr. Stern,

1 are you representing the District on this or
2 no?

3 MR. STERN: Yes.

4 CHAIRPERSON MILLER: Okay. Oh,
5 okay, I thought we were waiting for Mr. Adams.

6 MR. STERN: No, no, no.

7 CHAIRPERSON MILLER: Okay. Go
8 ahead. Good. I would like to hear from you
9 then.

10 MR. STERN: I'm covering the case
11 for Mr. Adams. And actually, we have spoken
12 about this situation.

13 CHAIRPERSON MILLER: Okay. Good.

14 MR. STERN: My understanding -- I
15 don't generally have an issue with what Mr.
16 Kline proposes. My understanding is the Board
17 won't approve a transfer until after the
18 license has been cleared.

19 And I know that in the past there
20 has been some confusion about the transfers
21 going through before things have been paid.
22 So I'm not sure that it works out that they

1 could -- they could certainly file a transfer
2 application, but I'm not sure that it is going
3 to work out that their application is going to
4 be approved and then they pay.

5 CHAIRPERSON MILLER: Okay.

6 MR. STERN: I think that it is
7 more likely that somebody has to pay and then
8 -- or somebody has to contest it and then the
9 license would be transferred.

10 MR. KLINE: We will let the Board
11 decide whether the chicken or the egg comes
12 first.

13 CHAIRPERSON MILLER: Well, you are
14 not authorized to represent Black and Orange
15 in this hearing today though, are you?

16 MR. KLINE: To be clear, we are
17 not authorized to represent Burger 1931, LLC.

18 MR. STERN: Yes.

19 CHAIRPERSON MILLER: Okay.

20 MR. STERN: I think maybe the --
21 to effect both what Mr. Kline wants and to
22 keep things as clear as possible, setting a

1 Show Cause Hearing, if the respondent doesn't
2 show up, there would be a fine who anybody
3 could pay. And then they can file their
4 transfer application.

5 MR. KLINE: That's acceptable.

6 MEMBER ALBERTI: Ms. Miller, I
7 agree with --

8 CHAIRPERSON MILLER: Okay.

9 MEMBER ALBERTI: -- Mr. Stern's
10 scenario. I mean, it stays within the legal
11 framework of how these cases should be
12 handled. And it adheres to the Board's policy
13 and what we do with transfers. It's going to
14 be the cleanest thing. That Show Cause
15 Hearing, I'm expecting, won't take long.

16 MR. STERN: No, I wouldn't expect.

17 MR. KLINE: I would also make that
18 request.

19 CHAIRPERSON MILLER: Okay.

20 MEMBER ALBERTI: So all right.

21 CHAIRPERSON MILLER: Okay. Good.

22 All right.

1 MR. KLINE: We would just ask the
2 Board at that hearing to keep in mind that it
3 is actually an innocent party that will -- we
4 will be resolving whatever punishment is
5 imposed.

6 MEMBER RODRIGUEZ: Okay.

7 MEMBER ALBERTI: Message received
8 loud and clear, Mr. Kline.

9 MR. KLINE: Thank you. Thank you.

10 CHAIRPERSON MILLER: Okay. One
11 minute, I'll give you the date.

12 MEMBER RODRIGUEZ: The license has
13 to be cleared first.

14 MEMBER ALBERTI: Yes, yes. And
15 it's a formality. We will just deal with it.
16 It's a formality. No big deal.

17 MEMBER RODRIGUEZ: Right.

18 MEMBER ALBERTI: It's not rocket
19 science.

20 CHAIRPERSON MILLER: All right.
21 If you will just wait a second, we will give
22 you a date. Okay. All right. The date that

1 we have for you all is February 18, 2015 at
2 10:00 a.m.

3 MR. KLINE: Great.

4 CHAIRPERSON MILLER: Thank you.

5 MR. KLINE: Thank you.

6 CHAIRPERSON MILLER: Have a good
7 holiday.

8 MR. KLINE: You, too.

9 CHAIRPERSON MILLER: Okay.

10 MR. KLINE: All of you have a good
11 holiday.

12 MR. STERN: Thank you.

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

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