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

10:09 a.m.

CHAIRPERSON MILLER: Okay, next on the calendar, another Show Cause Status hearing, Case No. 12-CMP-00306, DC 9, located at 1940 9th Street NW, License No. 71156, in ANC 1B.

Good morning.

MR. KLEIN: Good morning, Andrew Klein, on behalf of the Licensee. To my left is Bill Spieler, Principal of the Licensee.

MR. STERN: Michael Stern representing the District of Columbia.

CHAIRPERSON MILLER: Okay. Mr. Klein, did your clients receive notice of the hearing, read it, understand it?

MR. KLEIN: Yes, read it, understand it, and waive any required formal reading.

CHAIRPERSON MILLER: Okay, good. Mr. Stern, are there any preliminary matters in this case?

1 MR. STERN: Yes, there are. The
2 parties have entered into an offer in
3 compromise which we hope the Board will
4 accept. The respondent will pay a fine of
5 \$1,500 for Count 2, regarding Count 2, within
6 30 days, and the Government will dismiss Count
7 1.

8 MR. KLEIN: Clarification.

9 CHAIRPERSON MILLER: Okay.

10 MR. KLEIN: The Licensee will
11 admit liability for violation of 22 DCMR
12 75.9(C).

13 CHAIRPERSON MILLER: Wait a
14 second.

15 MR. KLEIN: With reference to
16 Charge 2, not to DC Code Section 25-723(B)(3).

17 CHAIRPERSON MILLER: I thought
18 that Count 1, which is 25-8236 is being
19 dismissed?

20 MR. KLEIN: Correct.

21 CHAIRPERSON MILLER: But, you --

22 MR. KLEIN: There are two

1 references in Count 2. One is --

2 CHAIRPERSON MILLER: Okay.

3 MR. KLEIN: -- DC Code, Section
4 25-723(B)(3). It's the Licensee's position
5 that if even all the facts were proven that a
6 violation of that would not be made out.

7 The other section that's reference
8 is 23 DCMR Section 75.9(C), which is what the
9 Licensee, as part of an offer in compromise,
10 is willing to admit liability for.

11 CHAIRPERSON MILLER: Okay.

12 MR. STERN: And, that is
13 consistent with Ms. Phillips' notes.

14 CHAIRPERSON MILLER: Okay. But,
15 sir, the Government isn't dismissing the
16 violation under --

17 MR. STERN: No, I don't believe
18 it's necessary.

19 CHAIRPERSON MILLER: Okay.

20 MR. STERN: It's just verbiage in
21 the charge, the charge that's being admitted
22 to. The basis for the charge is the

1 regulatory violation.

2 CHAIRPERSON MILLER: Okay. So --

3 MR. KLEIN: Can you --

4 CHAIRPERSON MILLER: Yes.

5 MEMBER ALBERTI: -- Mr. Stern,
6 just for my information, because I don't fool
7 with this stuff, and I don't have any statutes
8 memorized, can you sort of summarize what
9 those two statutes are that we are talking
10 about here?

11 MR. KLEIN: I will, it will
12 probably be easier.

13 MR. STERN: That would probably be
14 easier.

15 MR. KLEIN: Okay, fine.

16 25-723(B)(3) prohibits service and
17 sale beyond the legal hours. 23 DCMR 75.9(C)
18 goes further, prohibits service and sale, and
19 also prohibits consumption. And, that's the
20 difference.

21 And, looking at the report, if all
22 the facts were proven in the report, then it

1 would seem that there would be a violation of
2 23 DCMR 75.9(C) for permitting consumption,
3 but there doesn't seem to be any evidence of
4 sale or service in the report. So, there
5 would not be, necessarily, a violation of DC
6 Code Section 25-723(B)(3).

7 MEMBER ALBERTI: Okay, I got it.

8 MR. KLEIN: Does that make sense?

9 MEMBER ALBERTI: Yes, I got it.

10 Thank you.

11 MR. KLEIN: Okay.

12 MEMBER ALBERTI: I understand.

13 Thank you.

14 CHAIRPERSON MILLER: Okay. Any
15 other questions?

16 Okay. So, I'm going to repeat it
17 to make sure that I have it right.

18 There is OIC which consists of
19 dismissing Count 1, paying fine of \$1,500 for
20 Count 2, but the Licensee does not admit to
21 violation of 25-723(B)(3), which is a part of
22 Count 2. Is that right?

1 MR. KLEIN: Correct, admitting --
2 and part of the OIC is admitting liability to
3 23 DCMR 75.9(C).

4 CHAIRPERSON MILLER: Okay. And,
5 when is the fine going to be paid? Oh, within
6 30 days, correct?

7 MR. KLEIN: Yes.

8 CHAIRPERSON MILLER: Okay. Any
9 questions by Board Members?

10 Okay. Then, I would move that the
11 Board accept this offer in compromise of
12 dismissal of Count 1, a fine of \$1,500 to be
13 paid within 30 days for Count 2, Licensee not
14 admitting to violation of 25-723(B)(3), and
15 admitting to violation of 25 DCMR Section
16 705.9(C).

17 Do I have a second?

18 MEMBER SILVERSTEIN: Mr.
19 Silverstein has seconded the motion.

20 Any comments?

21 All those in favor of the motion
22 say aye.

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(Ayes.)

CHAIRPERSON MILLER: All those
opposed?

All those abstaining?

The motion passes 4:0:0.

MR. KLEIN: Thank you.

CHAIRPERSON MILLER: Thank you.

(Whereupon, the above-entitled
matter was concluded at 10:16 a.m.)

<p style="text-align: center;">A</p> <p>above-entitled 8:8 abstaining 8:4 accept 3:4 7:11 admit 3:11 4:10 6:20 admitted 4:21 admitting 7:1,2,14 7:15 ALBERTI 1:17 5:5 6:7,9,12 Alcoholic 1:2,12,12 ANC 1:9 2:7 Andrew 1:21 2:9 aye 7:22 Ayes 8:1 a.m 2:2 8:9</p> <hr/> <p style="text-align: center;">B</p> <p>Bar 1:6 basis 4:22 behalf 2:10 believe 4:17 Beverage 1:2,12,12 beyond 5:17 Bill 2:11 Board 1:2,12 3:3 7:9,11 BROOKS 1:17 Building 1:13</p> <hr/> <p style="text-align: center;">C</p> <p>calendar 2:4 case 1:8 2:5,22 Cause 1:6 2:4 Chairperson 1:14 1:16 2:3,14,20 3:9 3:13,17,21 4:2,11 4:14,19 5:2,4 6:14 7:4,8 8:2,7 charge 3:16 4:21 4:21,22 Clarification 3:8 clients 2:15 CN 1:8 Code 3:16 4:3 6:6 Columbia 1:1 2:13</p>	<p>comments 7:20 compromise 3:3 4:9 7:11 concluded 8:9 consistent 4:13 consists 6:18 consumption 5:19 6:2 Control 1:2,12,12 correct 3:20 7:1,6 Count 3:5,5,6,18 4:1 6:19,20,22 7:12,13</p> <hr/> <p style="text-align: center;">D</p> <p>days 3:6 7:6,13 DC 1:6 2:5 3:16 4:3 6:5 DCMR 3:11 4:8 5:17 6:2 7:3,15 December 1:10 difference 5:20 dismiss 3:6 dismissal 7:12 dismissed 3:19 dismissing 4:15 6:19 District 1:1 2:13 DONALD 1:17 D.C 1:13</p> <hr/> <p style="text-align: center;">E</p> <p>easier 5:12,14 entered 3:2 evidence 6:3</p> <hr/> <p style="text-align: center;">F</p> <p>facts 4:5 5:22 favor 7:21 fine 3:4 5:15 6:19 7:5,12 fool 5:6 formal 2:18 further 5:18</p> <hr/> <p style="text-align: center;">G</p> <p>goes 5:18 going 6:16 7:5</p>	<p>good 2:8,9,20 Government 3:6 4:15</p> <hr/> <p style="text-align: center;">H</p> <p>hearing 1:7,13 2:5 2:16 hope 3:3 hours 5:17</p> <hr/> <p style="text-align: center;">I</p> <p>information 5:6</p> <hr/> <p style="text-align: center;">K</p> <p>Klein 1:21 2:9,10 2:15,17 3:8,10,15 3:20,22 4:3 5:3,11 5:15 6:8,11 7:1,7 8:6</p> <hr/> <p style="text-align: center;">L</p> <p>left 2:10 legal 5:17 liability 3:11 4:10 7:2 License 1:8 2:6 Licensee 2:10,11 3:10 4:9 6:20 7:13 Licensee's 4:4 LLC 1:6 located 2:5 looking 5:21</p> <hr/> <p style="text-align: center;">M</p> <p>matter 1:5 8:9 matters 2:22 MEETING 1:3 Member 1:17,17 1:18 5:5 6:7,9,12 7:18 Members 7:9 memorized 5:8 met 1:12 Michael 1:20 2:12 MIKE 1:18 Miller 1:14,16 2:3 2:14,20 3:9,13,17</p>	<p>3:21 4:2,11,14,19 5:2,4 6:14 7:4,8 8:2,7 morning 2:8,9 motion 7:19,21 8:5 move 7:10</p> <hr/> <p style="text-align: center;">N</p> <p>necessarily 6:5 necessary 4:18 NICK 1:17 notes 4:13 notice 2:15 NW 1:7 2:6 N.W 1:13</p> <hr/> <p style="text-align: center;">O</p> <p>offer 3:2 4:9 7:11 Oh 7:5 OIC 6:18 7:2 Okay 2:3,14,20 3:9 4:2,11,14,19 5:2 5:15 6:7,11,14,16 7:4,8,10 opposed 8:3</p> <hr/> <p style="text-align: center;">P</p> <p>paid 7:5,13 part 4:9 6:21 7:2 parties 3:2 passes 8:5 pay 3:4 paying 6:19 permitting 6:2 Phillips 4:13 position 4:4 preliminary 2:22 PRESENT 1:15,19 presiding 1:14 Principal 2:11 probably 5:12,13 prohibits 5:16,18 5:19 proven 4:5 5:22 P-R-O-C-E-E-D-... 2:1</p> <hr/> <p style="text-align: center;">Q</p>	<p>questions 6:15 7:9</p> <hr/> <p style="text-align: center;">R</p> <p>read 2:16,17 reading 2:19 receive 2:15 Reeves 1:13 reference 3:15 4:7 references 4:1 regarding 3:5 regulatory 5:1 repeat 6:16 report 5:21,22 6:4 representing 2:13 required 2:18 respondent 3:4 Retailer 1:8 right 6:17,22 Room 1:13 Ruthanne 1:13,16</p> <hr/> <p style="text-align: center;">S</p> <p>sale 5:17,18 6:4 second 3:14 7:17 seconded 7:19 section 3:16 4:3,7,8 6:6 7:15 sense 6:8 service 5:16,18 6:4 Show 1:6 2:4 Silverstein 1:18 7:18,19 sir 4:15 sort 5:8 Spieler 1:22 2:11 Status 1:8 2:4 statutes 5:7,9 Stern 1:20 2:12,12 2:21 3:1 4:12,17 4:20 5:5,13 Street 1:7,13 2:6 stuff 5:7 summarize 5:8 sure 6:17</p> <hr/> <p style="text-align: center;">T</p> <p>talking 5:9 Thank 6:10,13 8:6</p>
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