

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
3 ALCOHOLIC BEVERAGE CONTROL BOARD
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6 IN THE MATTER OF: :
7 F&A, Inc., :
8 t/a Anacostia Market : Show Cause
9 1303 Good Hope Road, SE : Hearing
10 License #ABRA-86470 :
11 Retailer Class B :
12 ANC-8A Case #15-CMP-00333 :
13 No ABC Manager on Duty, :
14 Failed to Post License :
15 Conspicuously in the :
16 Establishment :

17 - - - - -X

18 Wednesday, March 23, 2016

19
20 Whereupon, the above-referenced matter
21 came on for hearing at the Alcoholic Beverage
22 Control Board, Reeves Center, 2000 14th Street,

1 N.W., Suite 400S, Washington, D.C. 20009.

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1 CHAIRPERSON:

2 DONOVAN ANDERSON, Presiding

3

4 BOARD MEMBERS:

5 RUTHANNE MILLER

6 NICK ALBERTI

7 MICHAEL SILVERSTEIN

8 JAMES SHORT

9

10 ALSO PRESENT:

11

12 AMY SCHMIDT,

13 On behalf of the District of Columbia

14 EPHREM GIRMAY,

15 On behalf of Anacostia Market

16 MARTHA JENKINS, ESQ.

17 On behalf of ABRA

18 DANETTE WALKER,

19 On behalf of ABRA

20 APRIL RANDALL,

21 On behalf of ABRA

22

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

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3 CHAIRMAN DONOVAN ANDERSON: The next case
4 -- and I'm going to -- I'm intentionally jumping
5 over a couple of cases, so don't be alarmed if
6 you're following the -- the agenda in front of
7 you, and if I'm not calling the case as per the
8 agenda. There is some -- there's -- there's a
9 rhyme to the reason why -- what I'm doing. All
10 right. Or a reason to the rhyme, whatever it is.
11 Uh, anyway.

12 I'm now calling Case #15-CMP-00332,
13 Anacostia Market, License #86470. Will the
14 parties please appear?

15 MS. AMY SCHMIDT: Good morning. Amy
16 Schmidt, Assistant Attorney General, on behalf of
17 the District of Columbia.

18 CHAIRMAN DONOVAN ANDERSON: Good morning.

19 MR. EPHREM GIRMA: Good morning. My name
20 is Ephrem, E-p-h-r-e-m, last name Girmay, G-i-r-
21 m-a-y.

22 CHAIRMAN DONOVAN ANDERSON: And who are

1 you, sir?

2 MR. EPHREM GIRMAY: Ephrem Girmay.

3 CHAIRMAN DONOVAN ANDERSON: No, I'm
4 saying, who are you? What is your role?

5 MR. EPHREM GIRMAY: Oh, uh, uh, I'm the
6 owner.

7 CHAIRMAN DONOVAN ANDERSON: You're the
8 owner of Anacostia Market. Okay. Thank you. All
9 right. Are there any, um, preliminary matters?

10 MS. AMY SCHMIDT: Yes. We have an offer
11 in compromise in this matter, consisting of a
12 \$1,700 -- I'm -- I'm -- yes, \$1,700 fine, payable
13 within 30 days, and this includes an -- an \$850
14 fine for each charge -- um, there are two charges
15 here -- and if the fine is not paid within 30
16 days, the license would be suspended.

17 CHAIRMAN DONOVAN ANDERSON: All right.
18 One minute, please. Mr. Girmay?

19 MR. EPHREM GIRMAY: Yes, sir.

20 CHAIRMAN DONOVAN ANDERSON: All right. I
21 hope I didn't butcher your name.

22 MR. EPHREM GIRMAY: Oh, no problem.

1 CHAIRMAN DONOVAN ANDERSON: Or -- or I --
2 at least I'm close enough.

3 MR. EPHREM GIRMA: Yes.

4 CHAIRMAN DONOVAN ANDERSON: All right.
5 It's my understanding that there is an offer in
6 compromise for a fine of \$1,700, and the -- the
7 \$1,700 fine is broken up in -- \$850 for Charge 1,
8 \$850 for Charge 2, and that the fine will be paid
9 in 30 days. If it's not paid in 30 days, the
10 license will be suspended until it's paid. Is
11 this your understanding, sir, of the offer in
12 compromise with the Government?

13 MR. EPHREM GIRMA: Uh, uh, with respect,
14 uh, I don't see it as a compromise because
15 particular issue is \$1,000, which is, uh, already
16 paid a year ago, but I can't provide the receipt.
17 So I called the bank; they can't provide me
18 because it's over a year. So that's a thousand
19 dollar. I don't know how I seen it -- I -- I have
20 to pay \$1,700. I was here month ago. The Board
21 tell me I have to pay \$1,000, and I try and get
22 in touch with, uh, attorney, but she wasn't in

1 the office, so -- but \$1,700, uh, she can explain
2 to me, because that was \$1,000 fine.

3 CHAIRMAN DONOVAN ANDERSON: So you're
4 saying that it's not -- You're -- you're not in
5 agreement to pay a \$1,700 fine?

6 MR. EPHREM GIRMAY: I just want to get
7 explanation, because it was \$1,000, so I don't
8 know how it got from 1,000 to 1,700. Uh, I'm here
9 to settle, but it was 1,000 a month ago, but it's
10 1,700 right now. So --

11 MS. AMY SCHMIDT: I spoke to Mr. Girmay
12 this morning. This was not brought up. He just
13 said, "I thought it was 1,000." I said, "No, it
14 was not. It was \$850 per charge." He did not
15 bring up any of this to me this morning when I
16 spoke to him on the phone. And I apologize for
17 the -- to the Board if this is not what I expect
18 -- what I expected it to be.

19 CHAIRMAN DONOVAN ANDERSON: Does the --
20 All right. Do you guys need a couple of minutes
21 to talk about it to let me know if there is an
22 offer in compromise? If you don't agree, then

1 we'll set this matter over for a hearing. So do
2 you want to -- do you -- do you want to -- do you
3 want to --

4 MS. AMY SCHMIDT: Yes.

5 CHAIRMAN DONOVAN ANDERSON: Let -- why
6 don't -- I'll recall this case. You guys can go
7 talk, to let me know if you have an agreement. If
8 you don't have an agreement, then I'll set this
9 for hearing, and when we have a hearing, then you
10 can give your explanation, sir, but this -- this
11 -- today is not the day for an explanation. Uh --

12 MR. EPHREM GIRMA: Thank you.

13 CHAIRMAN DONOVAN ANDERSON: -- but -- I'm
14 sorry. Um, hold on. Today is your day for
15 explanation. So --

16 (Off-mic speaking)

17 CHAIRMAN DONOVAN ANDERSON: -- why don't
18 you two -- I'll -- I'll recall this case. Why
19 don't you two go have a seat, discuss it, let me
20 know when you're ready, and if you -- if there's
21 no agreement, then the Government will present
22 its case, and then you can present your

1 explanation.

2 MR. EPHREM GIRMAY: Thank you, sir.

3 CHAIRMAN DONOVAN ANDERSON: All right.

4 Thank you.

5 (Whereupon, the above-entitled matter was
6 recalled.)

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

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3 CHAIRMAN DONOVAN ANDERSON: All right.
4 I'm going to recall Case #15-CMP-00333, which is
5 a show cause hearing for Anacostia Market,
6 License #86470. Um, will the parties again, um,
7 identify themselves for the record, please?

8 MS. AMY SCHMIDT: Good morning, Amy
9 Schmidt, Assistant Attorney General, on behalf of
10 the District of Columbia.

11 MR. EPHREM GIRMAY: Good morning, uh,
12 this is Ephrem Girmay, uh, owner of Anacostia
13 Market.

14 CHAIRMAN DONOVAN ANDERSON: All right.
15 All right. Um, let me ask the Government again:
16 Um, are there any preliminary matters in this
17 case?

18 MS. AMY SCHMIDT: Yes, there -- yes,
19 there's going to, um -- The Government -- the
20 Government will -- um, is going to have an offer
21 in compromise consisting of a \$1,700 fine,
22 payable within 60 days. We're modifying that one,

1 little portion. Uh, the OIC includes an \$850 fine
2 for each charge, and if it's not paid in --

3 MR. MICHAEL SILVERSTEIN: I'm sorry, how
4 much per?

5 MS. AMY SCHMIDT: Eight hundred fifty per
6 charge, and if it's not paid within 60 days, the
7 license will be suspended.

8 MR. MICHAEL SILVERSTEIN: Thank you.

9 CHAIRMAN DONOVAN ANDERSON: All right.
10 Mr. Grimay? Girmay.

11 MR. EPHREM GIRMAY: Yes, sir.

12 CHAIRMAN DONOVAN ANDERSON: All right.
13 Let's do this one more time. It's my
14 understanding that there is, um, an offer in
15 compromise of a \$1,700 charge and that that --
16 you will pay this fine in 60 days, and if the
17 fine is not paid in 60 days, your license will be
18 suspended. Is this the agreement that you have
19 had with the Government, sir?

20 (No audible response)

21 CHAIRMAN DONOVAN ANDERSON: You
22 understand, by accepting this offer in

1 compromise, that you're giving up your right to a
2 hearing?

3 MR. EPHREM GIRMA: Yes, sir.

4 CHAIRMAN DONOVAN ANDERSON: And you also
5 agree that you are giving up your right to an
6 appeal?

7 MR. EPHREM GIRMA: Yes, sir.

8 CHAIRMAN DONOVAN ANDERSON: All right.
9 Thank you. Um, I know that you are not happy, but
10 that's what offers in compromise are, that you
11 don't have to go to a hearing, you -- and I'm
12 saying this because it appears that you're not
13 quite happy, and I -- I don't want you to believe
14 that you are forced in a corner, but you know
15 when you go to a hearing, you know, you just
16 throw the ball. You don't really know what's
17 going to happen.

18 And so, I -- I -- I've not looked at the
19 -- the fine range, whether or not it's paid or
20 not, but -- and -- and -- and I'm doing this
21 because I know that you -- I -- I see where
22 you're coming from, and I just want to -- I would

1 just want to let you know that I understand where
2 you're coming from, but these are all
3 compromises.

4 MR. EPHREM GIRMAY: Okay. Thank you.

5 CHAIRMAN DONOVAN ANDERSON: Okay?

6 MR. EPHREM GIRMAY: Thank you so much.

7 CHAIRMAN DONOVAN ANDERSON: All right. So
8 I just want you to know that.

9 MR. EPHREM GIRMAY: Thank you.

10 CHAIRMAN DONOVAN ANDERSON: All right. I
11 make a motion, then, that this offer in
12 compromise of \$1,700 -- a \$1,700 fine, payable in
13 60 days, if the fine is not paid in 60 days, the,
14 um, license will be -- will be suspended. Is
15 there a second?

16 MS. RUTHANNE MILLER: Second.

17 CHAIRMAN DONOVAN ANDERSON: Ms. Miller
18 has seconded the motion. Are there any
19 discussions -- Yes, Mr. Alberti?

20 MR. NICK ALBERTI: Yes. Um, I am going to
21 vote against this offer in compromise. Um, Mr.
22 Girmay, um, has a pattern of no ABC manager. This

1 is actually the fourth no ABC manager, um, in his
2 history, um, including one -- a violation of this
3 same nature that occurred 4 months before this
4 violation. Um, Mr. Girmay, um, in, uh -- being
5 reluctant to pay the fine initially, and -- and -
6 - and even at status, signals to me that he
7 really doesn't understand, um, the full weight of
8 his responsibilities as a licensee. So, um, I
9 would rather see this go to hearing, um, and
10 consider a different fine.

11 CHAIRMAN DONOVAN ANDERSON: Any other
12 comments by any other Board members?

13 (No audible response)

14 CHAIRMAN DONOVAN ANDERSON: Hearing none,
15 um, all those in favor say aye.

16 (Chorus of ayes)

17 CHAIRMAN DONOVAN ANDERSON: All those
18 opposed?

19 MR. NICK ALBERTI: Opposed.

20 CHAIRMAN DONOVAN ANDERSON: The matter
21 passed, 4-1, with Mr. Alberti, um, voting
22 against. Thank you, Mr. Girmay. And I -- I said

1 before --

2 MR. EPHREM GIRMAY: Thank you.

3 CHAIRMAN DONOVAN ANDERSON: -- these are
4 all negotiations that we make, and, um, we try to
5 do what's in the best interests of the District
6 of Columbia.

7 MR. EPHREM GIRMAY: Okay.

8 CHAIRMAN DONOVAN ANDERSON: And, um, all
9 I can say, Try to have the appropriate personnel
10 in your business, so, therefore, you don't have
11 to come back down here again.

12 MR. EPHREM GIRMAY: Thank you.

13 CHAIRMAN DONOVAN ANDERSON: All right.

14 MR. EPHREM GIRMAY: Thank you, sir.

15 CHAIRMAN DONOVAN ANDERSON: Thank you,
16 sir. All right.

17 (Whereupon, the above-entitled matter was
18 concluded.)