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GOVERNMENT OF THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

- - - - -X
IN THE MATTER OF: :
Daniel J. Rogers :
Manager's License : Fact Finding
Application : Hearing
- - - - -X

Wednesday, March 23, 2016

Whereupon, the above-referenced matter
came on for hearing at the Alcoholic Beverage
Control Board, Reeves Center, 2000 14th Street,
N.W., Suite 400S, Washington, D.C. 20009.

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 DANIEL ROGERS

13 MARTHA JENKINS, ESQ.

14 On behalf of ABRA

15 DANETTE WALKER,

16 On behalf of ABRA

17 APRIL RANDALL,

18 On behalf of ABRA

19

20

21

22

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

2

3 CHAIRMAN DONOVAN ANDERSON: Um, uh, we
4 need to do a -- Is, um, Daniel Rogers here?

5 MALE SPEAKER: Yeah.

6 CHAIRMAN DONOVAN ANDERSON: We need to do
7 a fact finding hearing for application for
8 manager's license for Daniel Rogers. And, um, uh,
9 unfortunately, because it's a confidential
10 matter, I need everyone to clear the -- the room,
11 with the exception of Mr. Rogers, or -- unless he
12 has someone with him.

13 (Silence)

14 CHAIRMAN DONOVAN ANDERSON: Uh, Ms.
15 Gephardt, can you -- can you close that door for
16 me, please?

17 (Off-mic speaking)

18 CHAIRMAN DONOVAN ANDERSON: Can you close
19 that door for me, please?

20 MS. CHRISSY GEPHARDT: Yes.

21 CHAIRMAN DONOVAN ANDERSON: Thank you. I
22 know that you're -- that's not your job, but --

1 MS. CHRISSY GEPHARDT: Oh, yeah.

2 CHAIRMAN DONOVAN ANDERSON: -- thank you.

3 MS. CHRISSY GEPHARDT: That's my new job.

4 (Laughter)

5 CHAIRMAN DONOVAN ANDERSON: Um, Mr.

6 Rogers, the -- you have applied for a manager's
7 license, and in reviewing your background, uh,
8 the Board has found -- there are two incidents
9 within your bearings that have given the Board a
10 pause. So I guess you know what's in your -- your
11 -- your background, your criminal background
12 check. So can you give the Board, uh, an
13 explanation, sir?

14 MR. DANIEL ROGERS: Uh, yes. Yes, sir,
15 absolutely. I -- in 2010, I was just shortly out
16 of high school. I was in college. I was trying to
17 help pay for college, and I sold some marijuana.
18 Um, I got caught; I sold some to an undercover
19 officer. I had massive fines, big lawyer costs,
20 um, ended up with a charge on my record that's
21 not going away. Um, then I've learned my lesson.
22 I haven't engaged in any similar conduct since.

1 Uh, in 2012, still young and dumb, I, uh,
2 got a DUI in Pennsylvania, um, while I was on a
3 ski vacation. I, um -- again, lots of big fines,
4 lots of classes, an anklet that I had to wear for
5 a while. I explained to -- to work, um, and I,
6 again, learned my lesson, have not drank and
7 drive since, and I don't intend to.

8 CHAIRMAN DONOVAN ANDERSON: So how do you
9 -- your -- you -- you're aware that having a
10 manager's license, that's a major responsibility.
11 So how is it that you have -- You have done it.
12 So how are you going to prevent someone else from
13 going down the road that you went down by --
14 since you're -- you're -- you're the one going to
15 be in charge of monitoring the drinking habits of
16 someone you're serving liquor?

17 MR. DANIEL ROGERS: Uh, well, it's
18 certainly something that I'm keenly aware of, uh,
19 given my past experience, and also it's something
20 I've grown and learned from. I, um, am really on
21 top of everything. Uh, at work, I'm paying
22 attention to my bar, got something -- paying

1 attention to the -- the guests at the tables. I'm
2 talking to my bartenders; everybody's TIPS
3 certified. Um, uh, uh, just, awareness and having
4 learned.

5 CHAIRMAN DONOVAN ANDERSON: Questions by
6 the Board members? Yes, Mr. Alberti.

7 MR. NICK ALBERTI: Morning, Mr. Rogers.
8 Uh, so do -- are you currently employed?

9 MR. DANIEL ROGERS: I am.

10 MR. NICK ALBERTI: And where is that?

11 MR. DANIEL ROGERS: Roofers Union.

12 MR. NICK ALBERTI: Pardon?

13 MR. DANIEL ROGERS: Roofers Union in
14 Adams Morgan.

15 MR. NICK ALBERTI: Oh, Roofer's Union.
16 Okay.

17 MR. DANIEL ROGERS: Yes, sir.

18 MR. NICK ALBERTI: And that's where you
19 plan to be a manager?

20 MR. DANIEL ROGERS: Uh --

21 MR. NICK ALBERTI: As a --

22 MR. DANIEL ROGERS: -- I am --

1 MR. NICK ALBERTI: Work as a -- work with
2 -- Yeah. Utilize --

3 MR. DANIEL ROGERS: -- currently employed
4 there --

5 MR. NICK ALBERTI: -- your manager's
6 license?

7 MR. DANIEL ROGERS: -- as the assistant
8 manager. Um, I am not managing by myself because
9 I need someone there with a manager's license
10 with me.

11 MR. NICK ALBERTI: Okay. Right.

12 MR. DANIEL ROGERS: So, um, I'm applying
13 for this so that that, um --

14 MR. NICK ALBERTI: Right. Is your --

15 MR. DANIEL ROGERS: -- is no longer an
16 issue.

17 MR. NICK ALBERTI: Is your -- is your
18 current employer, um, aware of your background?

19 MR. DANIEL ROGERS: Yes, sir.

20 MR. NICK ALBERTI: Great. Thank you. I
21 have no further questions. Thank you.

22 CHAIRMAN DONOVAN ANDERSON: Yes, Mr.

1 Short.

2 MR. DANIEL ROGERS: Thank you.

3 MR. JAMES SHORT: Good morning, Mr.
4 Rogers.

5 MR. DANIEL ROGERS: Good morning.

6 MR. JAMES SHORT: I, um -- I find you to
7 be a very youthful person, and thank you for
8 coming in and -- and, uh, clearing this up for
9 us.

10 MR. DANIEL ROGERS: Yes, sir.

11 MR. JAMES SHORT: Um, as a youthful
12 person, a lot of us had our situations. Once we
13 grew out of those ages, we have to -- we have to
14 -- we become responsible persons, and so you're
15 working in a very responsible position at this
16 time, correct?

17 MR. DANIEL ROGERS: Yes, sir.

18 MR. JAMES SHORT: What would you do if
19 you found somebody that was over serviced, and
20 you were -- and you were working as a manager?

21 MR. DANIEL ROGERS: Um, well, I would
22 pull them aside, talk to them, tell them they had

1 to cut that person off, um, tell them that can't
2 happen again. If I ever observe that issue
3 happening again, I would, uh, speak to my general
4 manager about a larger conversation, uh,
5 regarding their employment.

6 MR. JAMES SHORT: Okay. Now what about
7 that person wanting to get up and leave out of
8 there and head for their car? Would you -- would
9 -- would -- would you -- would you have anything
10 to say to them, or would you feel like, eh,
11 morally, you had something to maybe keep that
12 person from getting behind the wheel, driving?

13 MR. DANIEL ROGERS: I'd tell them my
14 story. I'd tell them how -- how -- you know, how
15 much that messed me up, what I've had to go
16 through for that, and -- and do everything I can
17 to prevent them from making that, uh, poor
18 decision.

19 MR. JAMES SHORT: Thank you, and we wish
20 you the very best. Thank you, Mr. Chair.

21 MR. DANIEL ROGERS: Thank you.

22 CHAIRMAN DONOVAN ANDERSON: Thank you,

1 Mr. Short. Any other -- Yes, Mr. Silverstein.

2 MR. MICHAEL SILVERSTEIN: Mr. Rogers, uh,
3 I'd like to talk -- I'd like to underscore, uh,
4 the comments of my colleague to my right, and I'd
5 like to tell you a little about Mr. Short, my
6 colleague. He's the only person in this room
7 who's ever had to pull a dead person out of a
8 car. He spent 30-some years as a fireman in this
9 city, saving people.

10 We are the stewards of an industry that
11 provides jobs for almost 60,000 people, that
12 provides \$2.8 billion in revenue in this city,
13 and that's \$280 million dollars to the city
14 itself. So we are -- we're basically to protect
15 the goose that lays the golden egg, and that's
16 why we called you here.

17 Uh, to you, maybe this is just a job, but
18 you're precisely the kind of person that we need
19 to turn around and help us, because you,
20 hopefully, have learned from these things, and
21 you will take his words and mine to heart that if
22 someone is overserved, cab, Uber -- Don't let

1 them drive. Cut them off, don't let them drive,
2 get them back alive.

3 I can't tell you how many times, in my
4 time here, I've had cases where kids didn't come
5 home alive. Young people, like yourself, make
6 mistakes. We do stupid things. And when there's
7 alcohol, alcohol multiplies stupidity. We all
8 know it. We've been there. We've done that. It's
9 fun. Thank God we lived through it. But it's your
10 job now not to do the party, but to be the
11 steward. Good luck, sir.

12 MR. DANIEL ROGERS: Thank you very much,
13 Mr. --

14 CHAIRMAN DONOVAN ANDERSON: Any other
15 questions by any of the Board members?

16 MS. RUTHANNE MILLER: I do.

17 CHAIRMAN DONOVAN ANDERSON: Yes, Ms.
18 Miller.

19 MS. RUTHANNE MILLER: Okay. I just had a
20 few questions. Um --

21 MR. DANIEL ROGERS: Yes, ma'am.

22 MS. RUTHANNE MILLER: -- you know, and I

1 want to acknowledge that, you know, you do have
2 this burden now of carrying a, you know, criminal
3 record with you, um, and -- and since we are
4 dealing with alcohol, we -- we -- we need to
5 scrutinize your application.

6 MR. DANIEL ROGERS: I understand.

7 MS. RUTHANNE MILLER: Um, I was
8 wondering, um, your -- your DUI, was that, um,
9 traumatic at all, uh, separate from the whole
10 police, court, fees? Was your --

11 MR. DANIEL ROGERS: Uh, it was definitely
12 a moment of, um, some self-realization. Uh, I had
13 to come to terms with not just, as you mentioned,
14 having to deal with all this court stuff, but
15 what I was doing, the -- the choices I was
16 making, especially coming after the marijuana
17 charge that we've spoken about, as well. It was
18 really a wake-up sort of moment, where's it's
19 like, you know, "I've got to stop."

20 MS. RUTHANNE MILLER: I -- I mean, um --
21 I mean the -- the driving itself. Do -- do you,
22 um, have a lot of trouble when you were driving

1 under the influence that was -- that you could
2 relate to your patrons that you may be serving,
3 that you can imagine, for them to avoid? The
4 experience itself --

5 MR. DANIEL ROGERS: Um --

6 MS. RUTHANNE MILLER: -- or is that just
7 a blur?

8 MR. DANIEL ROGERS: It wasn't -- it
9 wasn't a blur. I was, uh, on a relatively snowy
10 road. There was a car that braked pretty hard in
11 front of me, coming around a -- a corner, um, and
12 I wasn't expecting it because there was nothing
13 coming in front of him, uh, and I ended up
14 spinning out across the road into, uh, the very
15 large, um, you know, divided highway median. Uh,
16 and, um, definitely, my -- my heart was pounding.
17 I was -- I was very scared.

18 Um, the, uh, person I was following
19 happened to be an, uh, undercover -- not an
20 undercover, apologies -- um --

21 MALE SPEAKER: Plainclothes?

22 MR. DANIEL ROGERS: -- corrections. No,

1 it -- it was a -- it was a corrections officer
2 that, um, had a -- a baby on board, so he was,
3 uh, especially -- he was a little concerned. He
4 stopped to see if I was okay and then made sure
5 to follow up with his friend that was a police
6 officer and -- and came to -- who then came to
7 the scene, uh, and took me through the process.

8 Uh, so yeah, the -- it -- it sticks with
9 me very clearly. It was -- it was very
10 frightening and it's a -- it's a story I can
11 certainly relate to people as to why it's a bad
12 idea.

13 MS. RUTHANNE MILLER: Okay. Because
14 sometimes I think that it's a bad thing to have
15 on your record, but on the other hand, sometimes
16 it can give you an -- greater appreciation of
17 what the problem is, with respect to overserving
18 or whatever. Um --

19 MR. DANIEL ROGERS: Uh, that was me
20 overserving myself --

21 MS. RUTHANNE MILLER: Mm-hmm. Mm-hmm.

22 MR. DANIEL ROGERS: -- more than -- more

1 than anything. So it wasn't -- it wasn't a bar,
2 but I, um --

3 MS. RUTHANNE MILLER: Right. But I mean,
4 when you're --

5 MR. DANIEL ROGERS: -- certainly can
6 appreciate the effects of, um, excessive
7 intoxication.

8 MS. RUTHANNE MILLER: Okay. Do -- do you
9 know -- and -- and this -- it's a technical
10 question, and, um, if you don't, that's okay. Um,
11 your -- your distribution of marijuana offense,
12 it -- it came with a pretty hefty penalty of 12
13 months, and I know you didn't serve it; it was
14 suspended. But do you know if that's a, um --
15 that was a misdemeanor or -- or a --

16 MR. DANIEL ROGERS: It was a felony.

17 MS. RUTHANNE MILLER: It was a felony.
18 Okay.

19 MR. DANIEL ROGERS: It was. Yes, ma'am.
20 Anywhere from, uh, 2 ounces to 2 pounds, in
21 Virginia, is, um -- is a felony.

22 MS. RUTHANNE MILLER: Okay. Um, and you

1 said that you took a lot of classes?

2 MR. DANIEL ROGERS: Um, I went through
3 the ASAP Program, both for the marijuana charge
4 and then for the DUI, and then also through, um,
5 Fairfax County's, uh, ADS Alcohol and Drug
6 Service Program subsequently.

7 MS. RUTHANNE MILLER: Okay.

8 MR. DANIEL ROGERS: Well, concurrently,
9 rather.

10 MS. RUTHANNE MILLER: And, um, I guess --
11 and my last question is, um, what kind of
12 questions or scrutiny did your current employer
13 give you with respect to your criminal record?

14 MR. DANIEL ROGERS: Um, actually, when I
15 was hired --

16 MS. RUTHANNE MILLER: Mm-hmm.

17 MR. DANIEL ROGERS: -- there -- there was
18 no question about it. There was no scrutiny.
19 There was, um, um -- it -- it was more a
20 conversation that I just had with them down the
21 road, um, just wanting to be up front.

22 MS. RUTHANNE MILLER: So you -- you told

1 them about it from the start, and there wasn't a
2 big discussion about it?

3 MR. DANIEL ROGERS: Correct.

4 MS. RUTHANNE MILLER: Okay. All right.

5 MR. DANIEL ROGERS: I -- I mean, it was
6 certainly something that they looked at, but I --
7 I gave an explanation similar to the one I've
8 given you today, um, and it -- it was, um,
9 something that was understood and that they, uh,
10 realized, um, wouldn't happen again.

11 MS. RUTHANNE MILLER: Okay. Thank you.

12 CHAIRMAN DONOVAN ANDERSON: There's um --
13 we need to get some clarification because there -
14 - there is -- if you are convicted of a felony, I
15 think there's a 10-year bar, um, for you not to -
16 - and that's not even discretionary. And I -- I
17 think that, probably, when we had our hearing
18 today that, um, we thought that the matter was a
19 misdemeanor, and if it's a misdemeanor, there's a
20 5-year bar, which would not be an issue. So the
21 issue that we need to clarify, from a legal
22 basis, is whether or not -- if it -- as you said,

1 if it's a felony, there is a 10-year bar, and
2 there's really nothing -- the Board doesn't have
3 the discretion to even -- it -- it would be like
4 you couldn't -- you couldn't apply for a license
5 until the 10 years have expired.

6 So what we will do, um -- I thought that
7 I was able to put this up to a vote today, but I
8 can't do that until I get some further
9 information, so what I will have to do is -- We
10 have to take this under advisement --

11 MR. NICK ALBERTI: Mr. Rogers, do you --
12 do you know, when you were sentenced, whether it
13 was sentenced as a felony, or was it reduced? Do
14 you know?

15 MR. DANIEL ROGERS: Uh, unfortunately, it
16 was sentenced as a -- as a felony.

17 MR. NICK ALBERTI: As a felony? Okay.

18 CHAIRMAN DONOVAN ANDERSON: All right. So
19 what I have to do, then, I have to read this
20 because we -- I can't make a decision -- we can't
21 vote on it right now until we find -- I get more
22 clarification from Legal, so as chairman of the

1 Alcoholic Beverage Control Board for the District
2 of Columbia, in accordance with Section 4.5 of
3 the Open Meetings Amendment Act of 2010, I'll
4 move that ABC Board hold a closed meeting for the
5 purpose of seeking legal advice from our counsel
6 on the Daniel Rogers, um, matter, um, per Section
7 4-05(b) (4) of the Open Meetings Amendment Act of
8 2010 and deliberate -- deliberating upon the
9 Daniel Rogers matter for the reasons cited in
10 Section 4-5(b) (13) of the Open Meetings Amendment
11 Act of 2010. Is there a second?

12 MR. JAMES SHORT: Second.

13 CHAIRMAN DONOVAN ANDERSON: Mr. Short has
14 seconded the motion. I will now take a roll-call
15 vote on the motion before us now that has been
16 seconded. Ms. Miller?

17 MS. RUTHANNE MILLER: Agree.

18 CHAIRMAN DONOVAN ANDERSON: Mr. Alberti?

19 MR. NICK ALBERTI: Agree.

20 CHAIRMAN DONOVAN ANDERSON: Mr. Short?

21 MR. JAMES SHORT: I agree.

22 CHAIRMAN DONOVAN ANDERSON: Mr.

1 Silverstein?

2 MR. MICHAEL SILVERSTEIN: I agree.

3 CHAIRMAN DONOVAN ANDERSON: Mr. Anderson,
4 I agree. As it appears that the motion has
5 passed, I hereby give notice that the ABC Board
6 will hold a closed meeting in the ABC Board
7 conference room, pursuant to the Open Meetings
8 Amendment Act of 2010, and issue an order within
9 90 days.

10 Um, as I said before, um, I think part of
11 it was that we were not clear where the
12 conviction is. Um, once we get clarification from
13 Legal, then we'll issue a decision. But as I said
14 before, if the decision is no, it is -- it's
15 because it's not within our discretion; it is
16 what the law says, and we have to comply with the
17 law. Okay?

18 MR. DANIEL ROGERS: I understand.

19 MR. JAMES SHORT: Say one comment.

20 CHAIRMAN DONOVAN ANDERSON: Yes, go -- go
21 ahead, Mr. Short.

22 MR. JAMES SHORT: Are you aware of the --

1 what they call the expungement rules of Virginia?

2 MR. DANIEL ROGERS: Um, not intimately.

3 MR. JAMES SHORT: You might -- you might
4 want to check on that, and then come back and see
5 us. Check on those.

6 (Off-mic speaking)

7 MR. DANIEL ROGERS: Okay.

8 MS. RUTHANNE MILLER: Were you 21 when,
9 um -- were you 21 when you were convicted? Do you
10 know? It looked like you were --

11 MR. DANIEL ROGERS: Um, I think only
12 just.

13 MS. RUTHANNE MILLER: Okay. We can check
14 that too. Okay.

15 MR. DANIEL ROGERS: Only -- only just.
16 I'm -- I'm --

17 (Off-mic speaking)

18 MR. DANIEL ROGERS: -- fairly sure I was
19 21, though, so.

20 MS. RUTHANNE MILLER: Okay.

21 (Off-mic speaking)

22 CHAIRMAN DONOVAN ANDERSON: All right.

1 Uh, Mr. Rogers, I know that I -- pursuant to
2 Section 25.301, general qualifications for all
3 applicants, the applicant has not been -- has not
4 been convicted of any felony in the 10 years
5 before filing the application. Um, during today's
6 testimony, um, since you have advised us that you
7 have been convicted of a felony -- and I think
8 that was in 2010?

9 MR. DANIEL ROGERS: Yes, sir.

10 CHAIRMAN DONOVAN ANDERSON: In 2010 --
11 based on the application, I have to move that we
12 cannot grant your vote, and that's my -- that is
13 my vote. Um, is there a second?

14 MR. NICK ALBERTI: Second.

15 CHAIRMAN DONOVAN ANDERSON: Mr. Alberti
16 has seconded the motion. All in favor say aye.

17 (Chorus of ayes)

18 CHAIRMAN DONOVAN ANDERSON: Those
19 opposed?

20 (No audible response)

21 CHAIRMAN DONOVAN ANDERSON: Um, the only
22 thing I can say, Mr. Rogers, I'm not sure if

1 there is anything you can go back to Virginia to
2 see if there's anything they can do with your
3 record, um, and if it's expunged that it didn't
4 exist, I don't know. But unfortunately, um,
5 there's nothing the Board can do.

6 I -- I'll be very honest. I was sitting
7 here about to sign my name on the -- on the -- on
8 the dotted line to approve your license, but
9 based on the disclosure, there's really nothing
10 that the Board can do. And, um, if you are able
11 to work with Virginia to clear your record,
12 you're welcome to come back to the Board and
13 reapply.

14 MR. DANIEL ROGERS: Okay. Thank you.

15 CHAIRMAN DONOVAN ANDERSON: Yes, Mr.
16 Alberti? Go ahead.

17 MR. NICK ALBERTI: Mr. Rogers, I -- and
18 maybe I'm just grasping at straws here, but if
19 you can find out whether or not, because of the
20 suspended, um --

21 MR. DANIEL ROGERS: Sentence?

22 MR. NICK ALBERTI: -- sentence, maybe

1 this -- I don't know how Virginia categorizes it.
2 So if they -- if you think it's a felony, but
3 they technically have categorized it as -- as a
4 misdemeanor, and you can find that out, then you
5 could bring that information back to us, but I --
6 that's -- This was a tough decision for us, and
7 I'm just offering you that in case you want to
8 pursue it and check it out.

9 MR. DANIEL ROGERS: Thank you very much.

10 MR. NICK ALBERTI: Thank you.

11 MR. DANIEL ROGERS: I appreciate that,
12 and I will -- uh, I will into that. You can bet
13 for sure I'll look into that (inaudible).

14 CHAIRMAN DONOVAN ANDERSON: Please do.
15 We'll see you again, I'm quite sure. Check on it.

16 MR. DANIEL ROGERS: Okay. Thank you.

17 MR. NICK ALBERTI: Thank you.

18 CHAIRMAN DONOVAN ANDERSON: Good luck.

19 MR. DANIEL ROGERS: I appreciate it.

20 CHAIRMAN DONOVAN ANDERSON: All right.

21 (Whereupon, the above-entitled matter was
22 concluded.)