

Capital Reporting Company
In the Matter of: Prospect Dining, LLC t/a George 07-25-2012

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DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF: :
 :
Prospect Dining, LLC :
t/a George :
3251 Prospect Street, NW :
Retailer CR : Show Cause
License No. 78058 : Hearing
ANC 2E : (Status)
Case No. 11-AUD-00004 :
Failed to Maintain Books and :
Records :
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July 25, 2012

The Alcoholic Beverage Control

Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Washington, D.C., Ruthanne Miller, Chairperson, presiding.

PRESENT

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
HERMAN JONES, Member
CALVIN NOPHLIN, Member
MIKE SILVERSTEIN, Member

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

2 9:53 a.m.

3 CHAIRPERSON MILLER: The next case on our
4 calendar is a show cause hearing. It is Case No. 11-
5 AUD- 00004, George, 3251 Prospect Street, N.W., License
6 No. 78058, in ANC 2E. For the record there are two
7 other case numbers that go with this case. That is 11-
8 AUD- 00004A and 11-AUD-00004B.

9 Okay. So I see the parties have come to the
10 table. Would you introduce yourselves for the record,
11 please?

12 MR. SUNG: Ki Jun Sung, member of Prospect
13 Dining, LLC.

14 CHAIRPERSON MILLER: Are you a managing
15 member?

16 MR. SUNG: Yes.

17 CHAIRPERSON MILLER: Okay. And --

18 MS. PHILLIPS: Louise Phillips, assistant
19 attorney general for the District of Columbia. And I
20 thought -- I may have heard incorrectly, but I thought
21 you said this was a show cause hearing. It's a show
22 cause hearing status according to my calendar.

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1 CHAIRPERSON MILLER: I had it so I'm sorry if
2 I said that. It is a show cause status hearing. And
3 therefore, Mr. -- is -- are you Mr. Sung or Mr. Chung?

4 MR. SUNG: Sung, S-U-N.

5 CHAIRPERSON MILLER: Sung. Okay, then. Did
6 you receive notice of this hearing?

7 MR. SUNG: Yes.

8 CHAIRPERSON MILLER: And did you read it?

9 MR. SUNG: Yes.

10 CHAIRPERSON MILLER: Did you understand it?

11 MR. SUNG: Yes.

12 CHAIRPERSON MILLER: And do you waive our
13 reading the notice into the record?

14 MR. SUNG: Yes, I will.

15 CHAIRPERSON MILLER: Okay. Fine. Okay. Are
16 there any preliminary matters in this case?

17 MS. PHILLIPS: Yes, Madam Chair and Board
18 members, there are. This is an unresolved case because
19 the District got two cases confused that were virtually
20 identical. They were virtually identical charges. And
21 actually, at the time, opposing counsel for the
22 establishment was the same gentleman. And we both sort

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1 of got those two cases confused.

2 This is George. It has two counts. One was
3 dismissed. One is still open. I think I intimated
4 that we'd had a show cause hearing on this case but it
5 was the other case where we had the show cause hearing,
6 where we resolved -- the Board resolved one count --
7 held the count in advance. Your deputy general counsel
8 alerted me to this mistake and we have subsequently
9 tried to coordinate what to do about resolving this
10 matter in advance of a show cause if possible.

11 So we have an offer in compromise to present
12 to the Board. This case still has at least one charge
13 outstanding. If we need to go show cause, we may do
14 something different with that. But what was said on
15 the record at that time was a mistake and that's what
16 we're here to clear up today. And Mr. Sung indicated
17 that he would handle this hearing without counsel.

18 At this time we -- the offer in compromise
19 would be -- and it was difficult to fashion because
20 this was a difficult report and there were three
21 reports involved. But we notice -- the District notices
22 that within the reports, A and B, a remedy has already

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1 -- one remedy has already been fashioned. And that's
2 the last sentence of both A and B reports, "This matter
3 will be referred to the District of Columbia Office of
4 Tax and Revenue for an appropriate action."

5 So that's one remedy that the -- that the
6 investigator or the Board has determined will already
7 be done. This offer in compromise considers two other
8 remedies in addition. In this particular case, we --
9 the parties have agreed upon a fine of \$3000, which is
10 what's indicated in the statute for the first -- for
11 one quarter of non-compliance.

12 And while the report reads that there may be
13 more quarters, none of them were adjudicated
14 previously. And so we can't charge them for four
15 quarters in my -- in the District's opinion when none
16 of them had been adjudicated previously and the errors
17 were not caught when each quarterly statement was
18 filed.

19 So the District is looking at the remedy
20 supplied in the law, which is so long that I have to
21 find the first page of it so I can cite it for the
22 record -- 25-113(j) (3) (C) (i). And that recommends a

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1 fine not to exceed \$3000. And this offer in compromise
2 is for the full amount. And the second part of the
3 remedy is ABRA monitoring, which the District believes
4 is the most important part of any OIC of a matter such
5 as this.

6 CHAIRPERSON MILLER: Could you give us a
7 minute?

8 MS. PHILLIPS: I could indeed.

9 CHAIRPERSON MILLER: Ms. Phillips, did you --
10 I'm sorry, we interrupted you. Did you have more to
11 say on that?

12 MS. PHILLIPS: No, I did not.

13 CHAIRPERSON MILLER: Okay. Mr. Alberti may
14 have a question for you but I just don't --

15 MS. PHILLIPS: You turned away.

16 CHAIRPERSON MILLER: I'm sorry.

17 MS. PHILLIPS: I can't hear you, Ms. -- Madam
18 Chair.

19 CHAIRPERSON MILLER: Oh, really?

20 MS. PHILLIPS: I'm sorry.

21 CHAIRPERSON MILLER: Okay. Nobody told me.
22 Okay. I want to make sure you didn't have anything

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1 more to add before we have the questions.

2 MS. PHILLIPS: That's -- yeah. I heard that
3 part. I didn't hear the latter part.

4 CHAIRPERSON MILLER: That was it.

5 MS. PHILLIPS: Oh, okay.

6 MR. ALBERTI: I have a question for you.

7 MS. PHILLIPS: Thank you, Mr. Alberti.

8 MR. ALBERTI: And this has to do with the two
9 days -- two days that are (inaudible) from a previous
10 case. Did you say there are two days? No?

11 MS. PHILLIPS: Yes. What happened is that we
12 had a status. And we hadn't reached an offer in
13 compromise. Then we had a show cause, which we
14 continued in this case.

15 MR. ALBERTI: Right.

16 MS. PHILLIPS: And when we came back for the
17 show -- when we -- then we came back for another show
18 case. That's when I made the mistake.

19 MR. ALBERTI: Yeah, that's not what I'm
20 talking about.

21 MS. PHILLIPS: Well, okay.

22 MR. ALBERTI: What's the --

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1 MS. PHILLIPS: But I don't understand what
2 you're saying.

3 MR. ALBERTI: Could you repeat the OIC for
4 this? Maybe I was --

5 MS. PHILLIPS: I can indeed.

6 MR. ALBERTI: Okay.

7 MS. PHILLIPS: I can indeed.

8 MR. ALBERTI: This is for my benefit. I'm
9 sorry.

10 MS. PHILLIPS: The first part of the offer in
11 compromise, which is not necessary for agreement, is
12 the fact that within the body of the report, A and B,
13 this matter will be referred to the District of
14 Columbia Office of Tax and Revenue, OTR with -- for
15 appropriate action. That's not part of the OIC because
16 that is already within the report. But it's important
17 to bring up because it is a remedy.

18 The second part of the OIC is a \$3000 fine.
19 And I drew it from 25-113(j)(1)(C)(i) --

20 MR. ALBERTI: Okay.

21 MS. PHILLIPS: -- which indicates that for
22 one quarter of non-compliance, the penalty shall not

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1 exceed \$3000. And so the penalty is the maximum
2 penalty. And while the report intimates at non-
3 compliance it's a little more -- if more than one
4 quarter, it's more difficult to assess a fine when
5 those matters had not been previously adjudicated.

6 MR. ALBERTI: Uh-huh.

7 MS. PHILLIPS: So I think that places us, in
8 my estimation, under (i), which is a \$3000 fine and
9 ABRA monitoring. In a case such as this, I think that
10 ABRA monitoring is actually the most important part of
11 any --

12 MR. ALBERTI: Uh-huh.

13 MS. PHILLIPS: -- sort of offer in compromise
14 or any result after a show cause hearing. And it's
15 included in the statute and I would have included it
16 had it not been included in the statute.

17 MR. ALBERTI: And that's the extent of the
18 OIC?

19 MS. PHILLIPS: The extent of the OIC is the
20 fine and the monitoring.

21 MR. ALBERTI: Great. Okay, thank you.

22 MS. PHILLIPS: You're welcome.

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1 MR. ALBERTI: I have no further questions.

2 Thank you very much.

3 CHAIRPERSON MILLER: Great. Okay. So just
4 to be clear, the OIC is for \$3000 and continued ABRA
5 monitoring, correct?

6 MS. PHILLIPS: Yes, Madam Chair.

7 CHAIRPERSON MILLER: Okay. So the reference
8 to -- referral to Tax and Revenue was just so that we
9 know that they indeed have been referred?

10 MS. PHILLIPS: Just so that we know that
11 there was a remedy incorporated in reports A and B.

12 CHAIRPERSON MILLER: Okay.

13 MS. PHILLIPS: I think that's important to
14 understand this OIC.

15 CHAIRPERSON MILLER: Okay. Mr. Sung, the
16 government has presented us with an offer in compromise
17 of \$3000 -- oh, let me back up. When is that going to
18 be paid by?

19 MS. PHILLIPS: Oh, I'm sorry, Mr. Sung.
20 Thirty days?

21 MR. SUNG: Sure. I'm sorry.

22 MS. PHILLIPS: Thirty days.

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1 CHAIRPERSON MILLER: Okay. A fine of \$3000
2 to be paid within 30 days and then continued monitoring
3 by ABRA. Is that your understanding of the offer in
4 compromise that you're agreeing to?

5 MR. SUNG: Yes.

6 CHAIRPERSON MILLER: Okay. And do you
7 understand that you waive your right to a hearing by
8 agreeing to an offer in compromise?

9 MR. SUNG: Yes.

10 CHAIRPERSON MILLER: Okay. And is there
11 anything else you want to add?

12 MR. SUNG: No.

13 CHAIRPERSON MILLER: Okay. Any other
14 questions from our Board members?

15 (No audible response.)

16 CHAIRPERSON MILLER: Okay. Then I move that
17 we accept this offer in compromise of \$3000 to be paid
18 within 30 days and that there be continued ABRA
19 monitoring.

20 Do I have a second?

21 BOARD MEMBER: Second.

22 CHAIRPERSON MILLER: Any comments?

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1 (No audible response.)

2 CHAIRPERSON MILLER: All those in favor, say
3 aye?

4 (Chorus of ayes.)

5 CHAIRPERSON MILLER: All those opposed?

6 (No audible response.)

7 CHAIRPERSON MILLER: All those abstaining?

8 (No audible response.)

9 CHAIRPERSON MILLER: Then the vote is 6-0-0
10 to accept the offer in compromise. Okay. That
11 completes this case.

12 (WHEREUPON, at 10:05 a.m., the hearing was
13 concluded.)

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CERTIFICATE OF NOTARY PUBLIC

I, BRADLEY ANGLIN, the officer before whom the foregoing hearing was taken, do hereby certify that the testimony appearing in the foregoing transcript was recorded by me and thereafter reduced to typewriting under my direction; that said transcription is a true record of the testimony given by said parties; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

BRADLEY ANGLIN

Notary Public in and for the

DISTRICT OF COLUMBIA

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1 CERTIFICATE OF TRANSCRIPTION

2

3 I, MIRANDA PENNACHI, hereby certify that I am not
4 the Court Reporter who reported the following
5 proceeding and that I have typed the transcript of this
6 proceeding using the Court Reporter's notes and
7 recordings. The foregoing/attached transcript is a
8 true, correct and complete transcription of said
9 proceeding.

10

11

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15 _____
Date

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MIRANDA PENNACHI
Transcriptionist

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| <p style="text-align: center;"><u> </u> \$</p> <p>\$3000 5:9 6:1 8:18 9:1,8 10:4,17 11:1,17</p> <p style="text-align: center;"><u> </u> 0</p> <p>00004 2:5 00004A 2:8</p> <p style="text-align: center;"><u> </u> 1</p> <p>10:05 12:12 11 2:4,7 11-AUD-00004 1:8 11-AUD-00004B 2:8 14th 1:13</p> <p style="text-align: center;"><u> </u> 2</p> <p>2000 1:13 2012 1:11 25 1:11 25-113(j)(1)(C)(i) 8:19 25-113(j)(3)(C)(i) 5:22 2E 1:8 2:6</p> <p style="text-align: center;"><u> </u> 3</p> <p>30 11:2,18 3251 1:6 2:5</p> <p style="text-align: center;"><u> </u> 6</p> <p>6-0-0 12:9</p> <p style="text-align: center;"><u> </u> 7</p> <p>78058 1:7 2:6</p> <p style="text-align: center;"><u> </u> 9</p> | <p>9:53 2:2</p> <p style="text-align: center;"><u> </u> A</p> <p>a.m 2:2 12:12 ABRA 6:3 9:9,10 10:4 11:3,18 abstaining 12:7 accept 11:17 12:10 according 2:22 action 5:4 8:15 13:10,14 actually 3:21 9:10 add 7:1 11:11 addition 5:8 adjudicated 5:13,16 9:5 advance 4:7,10 agreed 5:9 agreeing 11:4,8 agreement 8:11 Alberti 1:16 6:13 7:6,7,8,15,19,22 8:3,6,8,20 9:6,12,17,21 10:1 Alcoholic 1:2,12,13 alerted 4:8 already 4:22 5:1,6 8:16 am 13:9,11 14:3 amount 6:2 ANC 1:8 2:6 ANGLIN 13:3,19 anything 6:22 11:11</p> | <p>appearing 13:5 appropriate 5:4 8:15 assess 9:4 assistant 2:18 attorney 2:19 13:12 AUD 2:5,8 audible 11:15 12:1,6,8 away 6:15 aye 12:3 eyes 12:4</p> <p style="text-align: center;"><u> </u> B</p> <p>believes 6:3 benefit 8:8 Beverage 1:2,12,13 Board 1:2,13 3:17 4:6,12 5:6 11:14,21 body 8:12 Books 1:9 BRADLEY 13:3,19 bring 8:17 BROOKS 1:17 Building 1:13</p> <p style="text-align: center;"><u> </u> C</p> <p>calendar 2:4,22 CALVIN 1:18 case 1:8 2:3,4,7 3:16,18 4:4,5,12 5:8 7:10,14,18 9:9 12:11</p> | <p>cases 3:19 4:1 caught 5:17 cause 1:7 2:4,21,22 3:2 4:4,5,10,13 7:13 9:14 CERTIFICATE 13:1 14:1 certify 13:4 14:3 Chair 3:17 6:18 10:6 Chairperson 1:14,16 2:3,14,17 3:1,5,8,10,12,15 6:6,9,13,16,19,2 1 7:4 10:3,7,12,15 11:1,6,10,13,16, 22 12:2,5,7,9 charge 4:12 5:14 charges 3:20 Chorus 12:4 Chung 3:3 cite 5:21 clear 4:16 10:4 Columbia 1:1 2:19 5:3 8:14 13:21 comments 11:22 complete 14:8 completes 12:11 compliance 9:3 compromise 4:11,18 5:7 6:1 7:13 8:11 9:13 10:16 11:4,8,17 12:10 concluded 12:13</p> |
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