

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 Lucky 7, LLC : Case #15-CMP-00928  
8 t/a Lucky 7 Liquors :  
9 2314 Rhode Island Avenue NE :  
10 License #90270 :  
11 Retailer A :  
12 ANC 5C :  
13 Operating After Hours :

14 - - - - -X

15 Wednesday, July 13, 2016

16  
17 Whereupon, the above-referenced matter  
18 came on for hearing at the Alcoholic Beverage  
19 Control Board, Reeves Center, 2000 14th Street,  
20 N.W., Suite 400S, Washington, D.C. 20009.

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2 BOARD MEMBERS PRESENT

3 NICK ALBERTI, BOARD MEMBER

4 RUTHANNE MILLER, BOARD MEMBER

5 JAMES SHORT, BOARD MEMBER

6 MIKE SILVERSTEIN, BOARD MEMBER

7

8 ALSO PRESENT:

9 ZACHARY SHAPIRO

10 WENDELL ROBINSON

11

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

2 STATUS

3 Case #15-CMP-00928, Lucky 7 Liquors,  
4 license #90270. Will the parties please approach  
5 and identify themselves for the record?

6 MR. SHAPIRO: Thank you, Zachary Shapiro on  
7 behalf of the District of Columbia.

8 MR. ROBINSON: Good afternoon, Wendell  
9 Robinson on behalf of Lucky 7.

10 CHAIRPERSON ANDERSON: Is your client here  
11 Mr. Shapiro?

12 MR. SHAPIRO: My client is not here. I'm a  
13 bit surprised. Maybe something came up. Her  
14 husband is here, he explained the situation to  
15 me. She is the only witness that can refute the  
16 allegations in the complaint.

17 CHAIRPERSON ANDERSON: So, what are you  
18 suggesting that we do?

19 MR. SHAPIRO: I'm asking you to continue it  
20 [inaudible 1:03.] I'm not going to consent or  
21 object to it, I'll defer it to the Board's  
22 discretion. Obviously, the continuance is

1 requested at a late juncture, but I understand  
2 Mr. Robinson's position.

3 MR. ALBERTI: Can we get an explanation as to  
4 why and then I think we --

5 CHAIRPERSON ANDERSON: Mr. Robinson just gave  
6 an explanation, I guess it's not necessarily, but  
7 he gave an explanation.

8 MR. ALBERTI: Well, you know, I would like to  
9 hear more details because, I mean, at this late  
10 juncture, I mean, I think it would be only -- I  
11 don't think it's too much to ask at this late  
12 time to ask the reason why we're being asked to  
13 continue.

14 MR. ROBINSON: Can you give me a moment to  
15 think, please?

16 CHAIRPERSON ANDERSON: Sure, Mr. Robinson.

17 MR. ROBINSON: I have no representation to  
18 make because I have no representations to make to  
19 the Board except to advise you that I was just  
20 advised two minutes ago by my client's husband  
21 that he informed her that she would be in today's  
22 hearing and he would like this [inaudible 2:28]

1 explain.

2 MR. ALBERTI: It's not my wish to hear from  
3 him.

4 MS. MILLER: I would.

5 CHAIRPERSON ANDERSON: I, all right --

6 MR. ALBERTI: Is he going to go under oath?

7 MR. ROBINSON: Pardon me?

8 MR. ALBERTI: Is he going to go under oath?

9 CHAIRPERSON ANDERSON: All right.

10 MR. ALBERTI: I'm just asking, it's your  
11 decision, Mr. Chair, I'm just asking.

12 MR. ROBINSON: I haven't asked him if he  
13 would come up and testify and no, he is not my  
14 client, he is my client's husband.

15 MR. ALBERTI: I understand.

16 MS. MILLER: Mr. Chair?

17 CHAIRPERSON ANDERSON: Yes, Ms. Miller.

18 MS. MILLER: I just would want to pursue it a  
19 little bit further because we'll be deciding  
20 whether or not there's good cause to continue the  
21 case, and so we really haven't heard the cause,  
22 all we've heard is she couldn't make it.

1 MR. ALBERTI: Well, may I, may I just --

2 MS. MILLER: Why was --

3 MR. ALBERTI: Ms. Miller, look, I mean it's -  
4 - it's the licensee's responsibility to tell us  
5 why, I mean they've chosen not to give us cause,  
6 they've chosen to remain silent as to why we  
7 should continue this other than they're not  
8 available right now, and they have given us no  
9 reason. I mean, if I got a letter asking for a  
10 continuance with that kind of information from  
11 anyone else, I don't think I'd approve of the  
12 continuance.

13 MR. ROBINSON: Let me just advise the Board  
14 that if I had been advised earlier I would have  
15 filed a motion which I think would have been the  
16 appropriate thing to do, however.

17 MR. SHORT: Would you speak up a little,  
18 please?

19 MR. ROBINSON: Had I known earlier about the  
20 unavailability of my client I would have  
21 certainly filed a motion and contacted counsel to  
22 see if they could [inaudible 4:12] her. As I

1 indicated [inaudible -

2 MS. MILLER: So, Mr. Chair, can I just follow  
3 up?

4 CHAIRPERSON ANDERSON: Go ahead.

5 MS. MILLER: Okay, so my point is, Mr.  
6 Robinson, I don't know, you know unless it's  
7 personal and you don't want to say, or her  
8 husband doesn't want to say, but I'm just  
9 wondering what the good cause is and I don't --  
10 I'm giving you the opportunity, I guess, to tell  
11 us what the good cause is, because all you're  
12 saying is she couldn't make it. Well --

13 MR. ROBINSON: Ms. Miller, let me -- and to  
14 the Board in general -- let me [inaudible  
15 1:04:54] told me was now in federal court. An  
16 attorney's obligation is never to advocate  
17 against your client. I'm not saying what I would  
18 say to advocate against a client because I don't  
19 know the specifics. However, if my client's  
20 husband gets up here and I think, based on what  
21 he tells me he's going to advocate against his  
22 wife, I'm going to [inaudible ] marital

1 privilege. So, I think you know where I am from  
2 that standpoint.

3 CHAIRPERSON ANDERSON: Let me say something,  
4 Mr. Robinson. Let us take a brief break. You  
5 can consult with your client's husband who  
6 provided the information, he can provide you some  
7 background information and then you can make a  
8 motion to the Board based on the representation  
9 from your client whether or not -- why she's not  
10 here today. So, you can have a conversation with  
11 him, you can have a conversation with him, and he  
12 can explain to you why she's not here, you make a  
13 motion and then I'll make a ruling on that, sir.

14 MR. ROBINSON: Yeah. Mr. Chairperson, I will  
15 certainly do as you ask. I'm just letting you  
16 know that when I go out here and talk to him --

17 CHAIRPERSON ANDERSON: And you don't need to  
18 explain that, sir. You can have a conversation  
19 with him and you, based on the conversation with  
20 him, then you now will have sufficient  
21 information to make the appropriate motion.

22 MR. ROBINSON: Thank you.

1 MR. ALBERTI: Can we go to the back and off  
2 the record and discuss this?

3 CHAIRPERSON ANDERSON: Well, I guess this  
4 case hasn't really, well --

5 MR. ALBERTI: He's going to be out there for  
6 a while, all right I would like to go back and  
7 discuss this.

8 CHAIRPERSON ANDERSON: [inaudible 06:44].  
9 We're going to go back to go discuss this case  
10 and I need to read something. So, then I'm not  
11 going back to read nothing, so you guys can go  
12 back and do whatever you want to do, I'm sitting  
13 right here. You don't need to -- no, Mr. Short  
14 that's not necessary. I'm riding this thing out,  
15 so, we're in a recess until Mr. Robinson comes  
16 back. If they wish to join they can, if they are  
17 inclined to join.

18 [Off the record 1:48 p.m.]

19 [On the record 1:50 p.m.]

20 CHAIRPERSON ANDERSON: Yes, Mr. Robinson?

21 MR. ROBINSON: My client's husband will tell  
22 you what she told him. I, of course, explained

1 the marital privilege. The thing about that is -

2 CHAIRPERSON ANDERSON: Mr. Robinson? I don't  
3 need you to run around the bush. Based on the  
4 information that was told to your client, are you  
5 making a motion for continuance and can you  
6 provide us some reasonable justification why the  
7 Board should consider -- the Board should  
8 continue --

9 MR. ROBINSON: My client -- I've been  
10 informed by my client's husband that he would be  
11 willing to tell the Board that his wife told him  
12 about 45 minutes before coming here she had some  
13 deliveries she had to make and could not make  
14 them, and someone else could not substitute for  
15 her, and so he just told me that out here ten  
16 minutes ago and he just confirmed it and I ask  
17 that the matter be continued until a time that  
18 she can [inaudible 8:34].

19 CHAIRPERSON ANDERSON: If your client's not  
20 here, sir, are you prepared to move forward?

21 MR. ROBINSON: If my client is here?

22 CHAIRPERSON ANDERSON: Is not here. Are you

1 prepared to move forward?

2 MR. ROBINSON: No, because she's the only --  
3 she's the only person that witnessed the alleged  
4 infraction now being in the very beginning before  
5 coming here is whether others who can come in and  
6 testify but I cannot -- we cannot [inaudible  
7 9:08].

8 CHAIRPERSON ANDERSON: If we were to move  
9 forward, is the government prepared to move  
10 forward with the hearing today?

11 MR. SHAPIRO: Yes, Mr. Chair.

12 MR. ROBINSON: Mr. Chairman, may I make a  
13 statement before you get --

14 With respect to this, this is the first time  
15 a continuance has been requested by either side  
16 and the Board does give substantial prior notice  
17 about the hearings so I would ask with respect to  
18 this that the Board, in light of some of the  
19 facial expressions I'm getting back from the  
20 Board members, that you give some due deference  
21 to consider that my client only became aware of  
22 something about this I guess an hour ago and I

1 was only made aware of it ten minutes before, I  
2 would ask you to consider extending one final  
3 opinion on this matter.

4 CHAIRPERSON ANDERSON: What -- what -- what  
5 I'm inclined to do, Mr. Robinson, since you have  
6 not really provided me with good cause to  
7 continue the hearing, the government is prepared  
8 to move forward. What I would be inclined to do  
9 is to allow the government to move forward with  
10 its case and that we'll continue the hearing to  
11 another date for you to present your case.

12 MR. ROBINSON: That's certainly agreeable. I  
13 appreciate that.

14 MR. SHAPIRO: Mr. Chairman, I appreciate that  
15 but I'd rather just continue the case as a whole  
16 as opposed to doing it piecemeal if that is what  
17 you're inclined to do.

18 MR. SILVERSTEIN: The witnesses are here.

19 CHAIRPERSON ANDERSON: I'm aware. Since the  
20 government has taken that position, and this is  
21 the only reason why I'm going to rule this way,  
22 the government has not taken a position on the

1 continuance, so I will grant the continuance.

2 MR. ALBERTI: Do we have a motion? Should  
3 that be given to the Board for a vote?

4 CHAIRPERSON ANDERSON: I don't think it has  
5 to be given to the Board to vote on.

6 MR. ROBINSON: May I ask the Board to give me  
7 five minutes, please? Just five minutes.

8 CHAIRPERSON ANDERSON: Sure.

9 MR. ALBERTI: So what are we waiting for if  
10 this is a continuance?

11 CHAIRPERSON ANDERSON: Maybe they're  
12 discussing another matter.

13 [Off the record 2:00 p.m.]

14 [On the record 2:05 p.m.]

15 CHAIRPERSON ANDERSON: We're back on the  
16 record. Where are we? It's -- this is a very  
17 peculiar case and I'll say this for the record, I  
18 was inclined to offer -- I just want the record  
19 to reflect -- that I was inclined to offer a  
20 continuance and the only reason why, as chair, I  
21 would have agreed to do this was because the  
22 government did not take a position. If the

1 government had taken a position to state that  
2 they object to it, I would rule that good cause  
3 has not shown, so I just wanted the record to  
4 reflect what my thinking was. And I also wanted  
5 to be clear to the other Board members, I don't  
6 have a problem if Board members request that we  
7 go and seek legal advice around back, but the  
8 Board members need to be aware that there are  
9 certain things I have to do to -- because of the  
10 open meetings act -- so I need to read something  
11 in the record to say that I'm going back to have  
12 the Board to consult with legal. I just cannot  
13 get up and, without alerting the public what it  
14 is that I'm doing, and that's one of the reasons  
15 why I stayed here because that was not done.  
16 But, I am -- it appears that with this delay that  
17 we've had, and the parties have come up with some  
18 kind of agreement, so what is it that the parties  
19 are putting forth to us?

20 MR. ROBINSON: Thank you. I just want to  
21 thank the Board for giving us this much time to  
22 work it out, but I think that we have reached an

1 agreement, like my client's husband called his  
2 wife on the phone and explained to her and we  
3 have reached a monetary settlement.

4 CHAIRPERSON ANDERSON: I'll wait for the  
5 government to provide that to me and then we'll  
6 move on from there.

7 MR. SHAPIRO: Thank you, Mr. Anderson.  
8 There's an offer in compromise in terms of the  
9 offer in compromise would be a payment of  
10 \$1100.00 within 60 days and if not paid the  
11 license will be suspended. That's the terms of  
12 the offer in compromise.

13 CHAIRPERSON ANDERSON: And why do you believe  
14 that this -- is this fine within the range?

15 MR. SHAPIRO: Yes it is, Mr. Chairman.

16 CHAIRPERSON ANDERSON: Do you know what the  
17 range is?

18 MR. SHAPIRO: I believe the range is between  
19 \$1000 and \$2000 but this is the first primary  
20 tier adjudication.

21 CHAIRPERSON ANDERSON: Okay. Prior to making  
22 any decision, do we have any -- the offer in

1 compromise that's on the table is a fine of \$1100  
2 payable in 60 days and if not payable in 60 days  
3 the license will be suspended. Do we have any  
4 questions just before we move forward? Do we  
5 have any questions by any Board members? Yes,  
6 Ms. Miller.

7 MS. MILLER: Mr. Robinson, does your client  
8 agree to that offer in compromise? I'm not sure  
9 I heard you say that. Does your client agree to  
10 the OIC of \$1100 to be paid within 60 days and if  
11 not paid by then the license will be suspended?

12 MR. ROBINSON: Yes, I spoke with her on the  
13 phone and with the help of her husband  
14 interpreting it was very clear to me that she was  
15 agreeing to pay \$1100 [inaudible 22:53] or if  
16 they aren't paid then the license will be  
17 suspended until paid. So, I'm certain that that  
18 has been communicated and she relayed to me.

19 MS. MILLER: And certainly as her attorney  
20 you're authorized to accept that, is that  
21 correct?

22 MR. ROBINSON: Yes, that's correct. As a

1 matter of fact, if I couldn't reach her, and she  
2 said it to me, then I would have to let the Board  
3 decide whether or not they would give the  
4 contingency.

5 MS. MILLER: Okay, thank you.

6 CHAIRPERSON ANDERSON: Any other questions by  
7 any other Board members? Well, hearing no other  
8 questions by any other Board members, and Mr.  
9 Shapiro you believe if the Board was to accept  
10 this offer in compromise it would be in the best  
11 interest of the residents of the District of  
12 Columbia?

13 MR. SHAPIRO: Yes, Mr. Chairman.

14 CHAIRPERSON ANDERSON: All right, Mr.  
15 Robinson it is my understanding that there si an  
16 offer in compromise of a fine of \$1100 payable  
17 within 60 days and if the fine is not payable in  
18 60 days the license will be suspended until  
19 compliance. Is this your understanding, sir, of  
20 the offer in compromise?

21 MR. ROBINSON: Yes, it is.

22 CHAIRPERSON ANDERSON: And have you explained

1 to your client that by accepting that offer in  
2 compromise she is giving up her right to a  
3 hearing?

4 MR. ROBINSON: Yes, your honor.

5 CHAIRPERSON ANDERSON: And you also made it  
6 clear to your client that by accepting this offer  
7 in compromise that she is giving up her right to  
8 appeal this matter?

9 MR. ROBINSON: I didn't tell her about the  
10 right to appeal except I will indicate that, with  
11 respect to prior cases, that was explained to  
12 her. I did not tell her that on the phone. What  
13 I asked her on the phone was, through the  
14 interpreter, "would you agree to a \$1100 payment  
15 within 60 days? If not, you would have to go to  
16 court again. [inaudible 24:49] a judgment  
17 against you." I did not tell her that she would  
18 waive her right to appeal. If, however, you want  
19 me to do that, I will just ask that I step out  
20 and have my client's husband call her back and  
21 I'll just go through the litany.

22 CHAIRPERSON ANDERSON: Then, we'll take a

1 short break, I want it to be clear, sir.

2 MR. ROBINSON: Okay.

3 MR. ALBERTI: Mr. Chairman, since, even  
4 though we're off the record you don't want to  
5 take a break without a motion, I request then  
6 that we officially break to seek legal opinion on  
7 this matter.

8 CHAIRPERSON ANDERSON: All right, Mr.  
9 Robinson, you can go ahead and have a  
10 conversation with your client and as Chairperson  
11 of the Alcoholic Beverage Control Board for the  
12 District of Columbia and in accordance with D.C.  
13 section 405 of the Open Meetings Amendment Act of  
14 2010 I move that the ABC Board hold a closed  
15 meeting for the purpose of seeking legal advice  
16 from our counsel on Lucky 7 on Case #15-CMP-  
17 00928, per section 405 B4 of the Open Meetings  
18 Amendment Act of 2010 and to deliberate upon case  
19 #15-CMP-00928, Lucky 7 Liquors, for the reasons  
20 cited in section 405 B13 of the Open Meetings  
21 Amendment Act of 2010. Is there a second?

22 MR. SHORT: Second.

1 CHAIRPERSON ANDERSON: Mr. Short has seconded  
2 the motion. I will now take a roll call vote on  
3 the motion before us now that it has been  
4 seconded, Ms. Miller?

5 MS. MILLER: I agree.

6 CHAIRPERSON ANDERSON: Mr. Short?

7 MR. SHORT: I agree.

8 CHAIRPERSON ANDERSON: Mr. Alberti?

9 MR. ALBERTI: I agree.

10 CHAIRPERSON ANDERSON: Mr. Silverstein?

11 MR. SILVERSTEIN: I agree.

12 CHAIRPERSON ANDERSON: Mr. Anderson? I  
13 agree. As it appears that the motion has passed  
14 I hereby give notice that the ABC Board will hold  
15 a closed meeting in the ABC Board Conference Room  
16 pursuant to the Open Meetings Amendment Act of  
17 2010. We're in recess for a couple of minutes.

18

19 We're back on the record. The question that  
20 was on the table, Mr. Robinson, is it clear to  
21 your client that by accepting the offer in  
22 compromise she is giving up her right to a

1 hearing?

2 MR. ROBINSON: Yes, and if I could just put  
3 on the record the total rule that one is that I  
4 advised her that she had a right to a hearing and  
5 I advised her at that hearing that she would have  
6 a right to cross examine any government witnesses  
7 that they presented. She also would have the  
8 right to testify on her own behalf or present  
9 some witnesses. I advised her if at the end of  
10 the hearing this Board decided against her, she  
11 would then have the right to appeal that decision  
12 if she so desired to do so, probably within 30 to  
13 45 days.

14 I then asked her if she understood that and  
15 if she was willing to waive those rights and pay  
16 a fine in lieu thereof and whether she understood  
17 that the fine would have to be paid within the  
18 time stated or the license would be suspended.  
19 She said yes. I had her on speaker phone.

20 CHAIRPERSON ANDERSON: And she also agreed  
21 that she's giving up her right to appeal the  
22 matter, is that correct?

1 MR. ROBINSON: That is correct.

2 CHAIRPERSON ANDERSON: Thank you, Mr.  
3 Robinson.

4 MR. ROBINSON: Thank you, sir.

5 CHAIRPERSON ANDERSON: And thank you for  
6 explaining all of that. With that said, I then  
7 make a motion that the fine -- that we accept  
8 this offer in compromise for a fine of \$1100  
9 payable in 60 days, if it's not payable in 60  
10 days, the license will be suspended until there  
11 is brought compliance. Is there a second?

12 MS. MILLER: Second.

13 CHAIRPERSON ANDERSON: Ms. Miller has  
14 seconded the motion. All those in favor --

15 MR. ALBERTI: May I speak to the motion?

16 CHAIRPERSON ANDERSON: Yes, Mr. Alberti.

17 MR. ALBERTI: I think the disregard that this  
18 licensee has shown for this agency, for this  
19 Board, and for the rule of law is troubling and,  
20 to me, astounding. I think that this Board, by  
21 accepting this offer in compromise, I think this  
22 Board would in some way signal they're accepting

1 this behavior, and accepting this behavior in any  
2 manner to any degree I think is -- is -- sets a  
3 troubling precedent and sends a bad message to  
4 the licensee community. I will be voting against  
5 this motion.

6 CHAIRPERSON ANDERSON: Any other comments by  
7 other Board members?

8 MS. MILLER: I just would like to comment  
9 that I wouldn't -- if the vote were put to me I  
10 wouldn't have voted for the continuance, because  
11 I didn't hear good cause; however I do think that  
12 the OIC is in the District's best interests and  
13 the best way to resolve this case.

14 CHAIRPERSON ANDERSON: Any other members --  
15 any other comments by any other members?

16 MR. ALBERTI: I ask for a roll call vote, Mr.  
17 Chairman.

18 CHAIRPERSON ANDERSON: I was about to do that  
19 but I thought that folks had stuff to say.

20 MR. ALBERTI: Okay.

21 CHAIRPERSON ANDERSON: So, I'm giving you  
22 your opportunity to say what you need to say.

1 Those in favor say Aye. [Chorus of ayes]

2 MR. ALBERTI: I asked for a roll call vote.

3 CHAIRPERSON ANDERSON: Ms. Miller?

4 MS. MILLER: Aye.

5 CHAIRPERSON ANDERSON: Opposed? Do you  
6 agree?

7 MS. MILLER: I'm in favor, I agree.

8 CHAIRPERSON ANDERSON: Mr. Alberti?

9 MR. ALBERTI: Opposed.

10 CHAIRPERSON ANDERSON: Mr. Short?

11 MR. SHORT: I agree with the motion.

12 CHAIRPERSON ANDERSON: Mr. Silverstein?

13 MR. SILVERSTEIN: I oppose.

14 CHAIRPERSON ANDERSON: Mr. Anderson? I  
15 agree. It passes 3 to 2. And thank you parties  
16 for settling this matter. As chairman of this  
17 Board I believe we're doing what's in the best  
18 interests of the city. I do not believe that  
19 we're setting any precedents out there. If any  
20 licensee comes here if they do not provide this  
21 forum with respect I will make a ruling  
22 accordingly. Things happen, and I'll rule

1 accordingly. Thank you very much.

2 MR. ROBINSON: Thank you very much Mr.  
3 Chairman.

4 MR. SHAPIRO: Thank you Mr. Chairman.

5 CHAIRPERSON ANDERSON: We're going to have  
6 you sign something, please, sir.

7 (Whereupon, the above-entitled matter was  
8 concluded.)

9