

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 Vap H Street, LLC, : Case # 15-CMP-00908

8 t/a Vapiano :

9 623 H Street Northwest :

10 License #76727 :

11 Retailer CR ANC 2C :

12 Wednesday, March 2, 2016 :

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Wednesday, March 2, 2016

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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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1 CHAIRPERSON:

2 DONOVAN W. ANDERSON, Presiding

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4 BOARD MEMBERS PRESENT:

5 NICK ALBERTI, BOARD MEMBER

6 RUTHANNE MILLER, BOARD MEMBER

7 JAMES SHORT, BOARD MEMBER

8 MIKE SILVERSTEIN, BOARD MEMBER

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10 OTHER PERSONS PRESENT

11 WALTER ADAMS, ANC

12 MARK MATTHEWS Vapiano

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

2 [Time 9:36 a.m.]

3 CHAIRPERSON ANDERSON: I'd like to  
4 welcome you to the regularly scheduled meeting of  
5 the District of Columbia Alcoholic Beverage  
6 Control Board. Please note that this hearing  
7 will be conducted according to the D.C. Official  
8 Code section 2574 of the Open Meetings Act.  
9 Today is March 2, 2016. I would like to  
10 introduce the members of the board with us today.  
11 To my far right is Ruthanne Miller, to my  
12 immediate right is Mr. Nick Alberti, to my far  
13 left is Mr. Mike Silverstein, and to my immediate  
14 left is James Short. My name is Donovan Anderson  
15 and I'm Chairman of the Board. The board has  
16 five members in attendance for the conduct of  
17 business today and that constitutes a quorum.

18 I would like to mention two things before  
19 we get started. First of all, if you have any  
20 electronic devices, pagers, cell phones or such,  
21 please make certain that you've turned off to  
22 avoid any interruption of the proceedings.

1 Secondly, there's a piece of paper on each table.  
2 When you come forward as your case is called,  
3 please take a seat at the table and please sign  
4 in. This is to ensure the correct spelling of  
5 your name for the record. Additionally, when you  
6 introduce yourself for the record, please spell  
7 your name aloud for the court reporter. I would  
8 like to note that the approximate time is 9:37  
9 a.m. and before we start, before we start our  
10 official business today, I would like to say  
11 happy birthday to Ms. Dee Dee Walker who is our  
12 [inaudible 1:30] back there. And I'll say that  
13 she is a trouper. Personally, I do not work on  
14 my birthday, but she is a trouper to be here  
15 today and to be working and I want to thank her  
16 for her service. I thank you Ms. Walker.

17 All right our first case today is we have  
18 a show cause hearing status for Vapiano, License  
19 #76727. Will the parties please approach.

20 MR. ADAMS: Good morning, Mr. Chairman  
21 and members of the board, I'm Walter Adams and  
22 represent the District of Columbia.

1 CHAIRPERSON ANDERSON: Yes, sir.

2 MR. MATTHEWS: Hello, my name is Mark  
3 Matthews. I'm manager at Vapiano's and this is  
4 my colleague -- a manager of Vapiano's also.

5 CHAIRPERSON ANDERSON: Make sure to write  
6 your name on that sheet in front of you, please.

7 Well, this is a pre-preliminary matter we  
8 also wish Dee Dee a happy birthday.

9 CHAIRPERSON ANDERSON: I'm sorry, Mr.  
10 Adams, to take away the fun jar, but I wanted to  
11 beat everyone to the punch since I'm the newest  
12 one here and I really appreciate her service so -

13 MR. ADAMS: That's fine, Mr. Chairman.

14 CHAIRPERSON ANDERSON: It's accepted, I  
15 think.

16 MR. ALBERTI: I think she's embarrassed  
17 enough.

18 CHAIRPERSON ANDERSON: All right. Are  
19 there any preliminary matters?

20 MR. ADAMS: There is, Mr. Chairman. In  
21 this case -- well I guess you'd call it offer in  
22 compromise. There were three charges for the

1 establishment failing to put the proper name on  
2 their front window from posting warning signs and  
3 to fail to post the current legal drinking age at  
4 the establishment, so in this case the  
5 establishment is entitled to written warnings so  
6 for as the offer in compromise we are proposing  
7 that the establishment receives written warnings  
8 for the three charges and that would resolve the  
9 matter. That is their first -- in terms of this  
10 situation it's a first violation but according to  
11 the statute the warnings are mandatory.

12 CHAIRPERSON ANDERSON: I just want to get  
13 some clarification. I'm sorry, sir. Can you  
14 tell us your name again please.

15 MR. MATTHEWS: I'm Mark Matthews.

16 CHAIRPERSON ANDERSON: And who are you,  
17 again?

18 MR. MATTHEWS: I'm assistant general  
19 manager of the Vapiano.

20 CHAIRPERSON ANDERSON: And do you, are  
21 you -- do you have any ownership in the business.

22 MR. MATTHEWS: No, sir.

1           CHAIRPERSON ANDERSON: And do you have  
2 anything that says you are authorized as a  
3 representative with us here this morning?

4           MR. MATTHEWS: I'm sorry -- do I have  
5 any?

6           CHAIRPERSON ANDERSON: Any written permi  
7 -- documentation stating that you are authorized  
8 to represent the business here today?

9           MR. MATTHEWS: No, sir. I don't.

10          CHAIRPERSON ANDERSON: So how were you  
11 selected, and why did you show up here this  
12 morning?

13          MR. MATTHEWS: The general manager asked  
14 me to come and be here today because he wouldn't  
15 be able to make it so I am here as his  
16 replacement.

17          CHAIRPERSON ANDERSON: Are you able to  
18 provide the agency by close of business today  
19 with something in writing stating that you are  
20 authorized to represent the agency and define the  
21 agency?

22          MR. MATTHEWS: Yes, sir.

1           CHAIRPERSON ANDERSON: So, then I need  
2 you to send us -- to have the establishment send  
3 us something today in writing authorizing you to  
4 represent the agency -- the applicant -- I'm  
5 sorry, the licensee. And I would have you speak  
6 to our general counsel and she will give you  
7 further instructions where to have that sent.

8           MR. MATTHEWS: Okay.

9           CHAIRPERSON ANDERSON: Mr. Adams. In  
10 light of this representation do you have any  
11 comments regarding it?

12           In this case the offer in compromise is  
13 only for warnings, not for fines or anything that  
14 obligates the establishment to pay money or to  
15 accept any form of accounting. I don't have any  
16 objections.

17           CHAIRPERSON ANDERSON: Okay, all right,  
18 thank you. All right, the offer in compromise  
19 then is that there is a written warning for the  
20 violation. Now are you aware that -- so a  
21 written warning and this will be in your record  
22 that you've received a written warning and if

1 this occurs again, you will not receive a  
2 warning, you will receive a fine, but are you  
3 aware that by accepting this offer in compromise  
4 that you are waiving your right to a hearing?  
5 And that you -- are you also aware that you are  
6 also waiving your right to appeal this matter.

7 MR. MATTHEWS: Yes.

8 CHAIRPERSON ANDERSON: All right. Hearing  
9 this I make a motion that the offer in compromise  
10 be accepted. Is there a second?

11 MS. MILLER: Second.

12 CHAIRPERSON ANDERSON: Ms. Miller has  
13 seconded the motion. Do we have any discussion  
14 by any board members? Hearing none, Those in  
15 favor say Aye. [chorus of ayes] Those opposed?  
16 None. The matter passes 5-zero-zero. Ms. Walker  
17 will provide you a copy of the document for your  
18 signature, okay? Thank you. And as I said  
19 before, please have the establishment provide us  
20 information and just in the future I hope you  
21 never come back here because the role for  
22 businesses is not to ever come to see us, but if

1 you're going to come or if you're not an owner,  
2 then you need to have a written -- something in  
3 writing that authorizes you to represent the  
4 establishment.

5 MR. MATTHEWS: Your Honor, a question.  
6 Is it okay if I would get that from a CEO.

7 CHAIRPERSON ANDERSON: From an owner of  
8 the business that says that you are authorized to  
9 represent them, so anytime you come in front of  
10 the agency -- anyone can show up and the  
11 establishment. In this particular case it's not  
12 a fine, but the establishment can say, "I don't  
13 know who he is, I didn't authorize him to come  
14 and represent me and I'm not paying the fine  
15 because he was not, he's "just an employee."  
16 He's not authorized to do that and so that's one  
17 of the reasons why we need to make sure -- make  
18 sure that we have something in writing that says  
19 that you are authorized to represent the agency -  
20 - the business and so therefore somewhere down  
21 the line we're not -- no one can say you were not  
22 authorized. And I think also for your own

1 benefit it's also good to have that because folks  
2 can say you're not authorized and you could lose  
3 your job bed who told you to come down and  
4 represent the agency? And I say, "do you have  
5 something in writing?" then that could also be  
6 for your own protection.

7 MR. MATTHEWS: Okay.

8 CHAIRPERSON ANDERSON: Thank you. Have a  
9 good day.

10 (Whereupon the above-entitled matter was  
11 concluded.)