## DISTRICT OF COLUMBIA

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## ALCOHOLIC BEVERAGE CONTROL BOARD

+ + + + + MEETING

IN THE MATTER OF:

:

DMT Group, LLC, :
t/a Barcode :
1101 17th Street NW :

License #11593 : Summary Suspension

Retailer CT - ANC 2B : Hearing Cases #20-CMP-00117, :

Cases #20-CMP-00117, : #20-CMP-00118 : (Alcoholic Beverage :

Control Board Closure - :
December 10, 2020) :

Wednesday
January 6, 2021

The Alcoholic Beverage Control Board met via WebEx videoconference, Chairperson Donovan W. Anderson presiding.

#### PRESENT:

DONOVAN W. ANDERSON, Chairperson BOBBY CATO, JR., Member RAFI ALIYA CROCKETT, Member EDWARD S. GRANDIS, Member JENI HANSEN, Member JAMES SHORT, JR., Member REMA WAHABZADAH, Member

ALSO PRESENT:

SIMONE ANDREWS, DC ABRA Staff SHAHZEB ASIM, DC OAG STEPHEN O'BRIEN, Licensee's Counsel

### P-R-O-C-E-E-D-I-N-G-S

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CHAIRPERSON ANDERSON: Good afternoon, everyone. We're back on the record. I apologize for the delay.

Welcome to the afternoon session of the ABC Board. We have seven members in attendance today who are participating online. Our seven Board members are Mr. James Short, Mr. Bobby Cato, Ms. Rema Wahabzadah, Ms. Rafi Crockett, Ms. Jeni Hansen, and Mr. Edward Grandis. My name is Donovan Anderson. chairman of the Board. We have seven members who are participating today, and so therefore we do have a quorum that's going on.

Before we get underway with this afternoon's calendar, I need to make a few instructions for which are clear, so that the conduct of these hearings is understood by everyone.

There are 20 cases scheduled for this Once a case is called, I will take a afternoon. moment for our IT specialist to elevate the rights for each party to enable their camera and microphone. Then, and only then, will you have

the ability to engage your equipment. If your case is not heard, you will remain mute, and your camera will be disabled.

If you have any questions or require technical assistance during the hearing, please submit them using the question and answer feature or email Simone at andrews@dc.gov.

All right. Our first order of business today, and I just want to remind everyone, our afternoon schedule, all the cases are scheduled for 1:30. So I do have a calendar that has all the cases. So don't try to figure out when your case is going to be called. I'm going to call, I will call them, because all the cases are scheduled for 1:30.

It's just like when we have them in the morning, we have the roll call at 9:30, and I call all the cases. So all these cases will be called starting at 1:30. And once I get to your case, I will get to your case, okay.

All right. For this afternoon's schedule then, the first case on our calendar is, there's a summary suspension hearing, Case Number 20-CMP-00117 and 20-CMP-00118. And it's Barcode, License Number 11593.

1	And Ms. Andrews, can you please
2	elevate the Government and please elevate the
3	licensee, please.
4	MS. ANDREWS: Sure, standby, Chair.
5	Mr. Asim, your rights have been
6	elevated.
7	Mr. O'Brien, your rights have been
8	elevated. That's all, Mr. Chair.
9	CHAIRPERSON ANDERSON: All right. I
10	would like the parties to introduce themselves
11	for the record I'm sorry, the parties to
12	Mr. O'Brien, are you there? Yes? All right.
13	MR. O'BRIEN: Yes, Mr. Chair, I am
14	here.
15	CHAIRPERSON ANDERSON: Thank you. I
16	would like the parties to introduce themselves
17	for the record starting with the Government.
18	Please state your name and spell your name,
19	please.
20	MR. ASIM: Good afternoon, members of
21	the Board. My name is Shahzeb Asim, S-H-A-H-Z-E-
22	B, and last name, A-S-I-M. And I'm representing
23	the District of Columbia.
24	CHAIRPERSON ANDERSON: Good afternoon,
25	Mr. Asim. Mr. O'Brien please?

MR. O'BRIEN: Yes, Stephen O'Brien for 1 2 Respondent Barcode. Barcode is a trade name, DMT Group, LLC, is the entity name. 3 CHAIRPERSON ANDERSON: All right, 4 5 thank you, Mr. O'Brien. All right, this is a summary 6 7 suspension hearing that we have this afternoon 8 regarding Barcode. 9 Mr. Asim, are there any preliminary matters in this case? 10 11 MR. ASIM: Yes, Mr. Chair, parties 12 have an offer in compromise they would like to 13 present to the Board. 14 CHAIRPERSON ANDERSON: Yes, Mr. Asim. 15 What is the, what's the offer in compromise, 16 please? 17 The offer in compromise MR. ASIM: 18 terms are as follows. Number one, suspension, 19 Respondent shall serve a 30-day suspension of its 20 ABC license. The date of the 30-day suspension 21 shall be Friday, December 11th, 2020, through 22 Sunday, January 10th, 2021, which includes time 23 served during summary suspension period. 24 The ABC license suspension shall be 25 lifted at 8:00 a.m. on Monday, January 11th,

2021, provided all other applicable requirements in the OIC have been satisfied by the Respondent.

Number two, fine, Respondent shall pay a \$1,000 fine for the citation previously issued in Case Number 20-CIT-00445 within 90 days.

Number three, masks, accept when eating or drinking while seated during the public health emergency, the Respondent shall require that all owners and employees of the establishment wear a mask or face covering while present on the licensed premises, regardless of whether they are on duty.

The Respondent shall also require patrons during the public health emergency to wear masks or face covering prior to entering or while waiting in line outside of the licensed premises, while traveling to use the restroom, or until they are seated and eating or drinking.

Number four, music and entertainment,
Respondent shall only offer recorded or
background music that is played at a
conversational level while the District of
Columbia remains subject to Mayor's Order
2020-067, Mayor's Order 2020-075, Mayor's Order
2020-080, Mayor's Order 2020-119 and in

accordance with the Board's notice of Eighth Emergency Rulemaking.

Number five, operating hours,
Respondent shall not sell, serve, or permit the
consumption of alcoholic beverages past 10:00
p.m. but may operate for patrons until midnight
during any day of the week while the District of
Columbia remains subject to Mayor's Order 2020119, or Respondent shall not sell, serve, or
permit the consumption of alcoholic beverages
past 12:00 a.m. while the District of Columbia
remains subject to Mayor's Order 2020-067,
Mayor's Order 2020-075, and Mayor's Order 2020079, whichever applies in accordance with the
Board's rulemaking.

Number six, dining activities,
Respondent shall only serve food and alcoholic
beverages to patrons seated at tables while the
District of Columbia remains subject to Mayor's
Order 2020-067, Mayor's Order 2020-075, and
Mayor's Order 2020-119 in accordance with the
Board's rulemaking.

Tables shall be placed so that patrons in different parties are placed at least six feet apart from one another with no more than six

patrons per table. Patrons shall not be permitted to walk around the establishment with food and/or alcoholic beverages.

Number seven, patrons exiting with alcoholic beverages, Respondent shall not permit patrons to exit the establishment with alcoholic beverages except when such beverages are in closed containers and are accompanied by prepared food.

CHAIRPERSON ANDERSON: Mr. Asim, hold on. Do want to - Mr. O'Brien, can you please mute your phone, please?

Go ahead, Mr. Asim.

MR. ASIM: Number eight, bar activities, Respondent shall not seat patrons at indoor or outdoor bars that are being staffed or utilized by a bartender. Patrons shall not be permitted to stand at an indoor or outdoor bar to order food or alcoholic beverages.

Number nine, smoking, Respondent shall not permit hookah smoking or any other form of smoking at the establishment while the District of Columbia remains subject to Mayor's Order 2020-067, Mayor's Order 2020-075, and Mayor's Order 2020-119, in accordance with the Board's

rulemaking.

Number ten, capacity, Respondent shall limit its indoor capacity to no more than 25 percent of the indoor occupancy load on its certificate of occupancy, excluding employees and outdoor seating, while the District of Columbia remains subject to Mayor's Order 2020-119, or 50 percent of the indoor occupancy load on its certificate of occupancy, excluding employees and outdoor seating, while the District of Columbia remains subject to Mayor's Order 2020-075, whichever applies in accordance with the Board's rulemaking.

Number 11, social distancing walkthrough, prior to lifting the suspension of the establishment's alcoholic beverage license, an ABRA investigator shall conduct a walkthrough of the licensed establishment with Respondent to evaluate the establishment's compliance with District's social distance requirements.

The evaluation shall include an assessment of the Respondent's compliance with Mayor's Order 2020-75, Mayor's Order 2020-080, and 23 DCMR-810.2.

Twelve, show cause, the offer in

compromise, upon acceptance by the Board constitutes resolution of the matters encompassed by the above referenced case numbers.

Number 13, temporary dining restrictions, Respondent shall comply with Mayor's Order 2020-127 which prohibits indoor dining from 10:00 p.m. on December 23rd, 2020, to 5:00 a.m. on January 15th, 2021.

And that concludes the offer in compromise.

CHAIRPERSON ANDERSON: Thank you, Mr. Asim. Just a couple of quick questions, Mr. Asim. This was a summary suspension hearing that there was an incident occurred. And the Agency issued, there was a summary suspension so the establishment is closed.

Is it your position that if the Board accepts this OIC that it would address the emergency that existed?

MR. ASIM: Yes, Mr. Chairman. We believe the OIC terms sufficiently address the issues raised in the summary suspension. For example, the OIC requires that patrons wear masks at all times except when eating or drinking which was one of the problems that ABRA investigators

observed when they visited the establishment.

The OIC terms also include a provision that prohibits smoking while the Mayor's orders are in place which was another thing that the ABRA investigators found on their visit to the establishment.

Another issue that is resolved in the OIC is the capacity of the establishment is limited to the applicable Mayor's orders, whatever they may be at the time. And there is also a term that prevents patrons from exiting with alcoholic beverages, with certain exceptions, which was something else that ABRA investigators had observed on their visit to the establishment.

And furthermore, the social distancing walkthrough, which is required before the establishment can reopen and the suspension is lifted, will ensure that the establishment is compliant with Mayor's orders and the Board's emergency rulemaking.

CHAIRPERSON ANDERSON: All right, thank you, Mr. Asim.

Mr. O'Brien, it is my understanding that there is an offer in compromise that was

read into the record by Ms. Asim. If the Board 1 2 was to accept this offer in compromise, is your 3 Client aware that - but before I move on, the 4 terms that were read into the record by Mr. Asim, 5 is this your understanding of the offer in compromise, sir? 6 7 MR. O'BRIEN: Yes, it is. 8 CHAIRPERSON ANDERSON: All right. 9 Now, is your Client aware that, by accepting an 10 offer in compromise, that they are giving up 11 their right to a hearing? 12 MR. O'BRIEN: Yes, sir. 13 CHAIRPERSON ANDERSON: Is your Client 14 also aware that, by accepting an offer in 15 compromise, that they're giving up their right to 16 appeal this matter? 17 MR. O'BRIEN: Yes, sir. 18 CHAIRPERSON ANDERSON: All right. Are 19 there any questions by any Board members to 20 either Mr. Asim or Mr. O'Brien regarding the OIC 21 that was presented? 22 (No response.) 23 CHAIRPERSON ANDERSON: All right, 24 hearing none, I then make a motion that the offer

in compromise be accepted. Is there a second?

1 MEMBER SHORT: Mr. Short, I second. 2 CHAIRPERSON ANDERSON: Mr. Short has 3 accepted the offer in compromise. And before we have a vote on the offer in compromise, I need 4 5 to, again, read the terms of the offer in compromise into the record. 6 7 The terms of the OIC are as follows. 8 Term Number 1, suspension, Respondent shall serve 9 a 30-day suspension of its ABC license. The date 10 of the 30-day suspension shall be Friday, 11 December 11th, 2020, through Sunday, January 12 10th, 2021, which includes time served during the summary suspension period. 13 14 The ABC license suspension shall be 15 lifted at 8:00 a.m. on Monday, January the 11th, 16 2021, provided all other applicable requirements 17 in the OIC have been satisfied by the Respondent. 18 Term Number 2, fine, Respondent shall 19 pay a \$1,000 fine for the citation previously 20 issued in Case Number 20-CIT-00445 within 90 21 days. 22 Mr. O'Brien, please mute your phone, 23 please. 24 Number three, masks, accept when

eating or drinking while seated during the public

health emergency, the Respondent shall require that all owners and employees of the establishment wear a mask or face covering while present on the licensed premises, regardless of whether they are on duty.

The Respondent shall also require patrons during the public health emergency to wear masks or face covering prior to entering, or while waiting in line outside of the licensed premises, while traveling to use the restroom, or until they are seated and eating or drinking.

entertainment, the Respondent shall only offer recorded or background music that is played at a conversational level while the District of Columbia remains subject to Mayor's Order 2020-067, Mayor's Order 2020-075, Mayor's Order 2020-080, Mayor's Order 2020-119 and in accordance with the Board's notice of Eighth Emergency Rulemaking dated November 24th, 2020, Board rulemaking.

Operating hours, number five, operating hours, Respondent shall not sell, serve, or permit the consumption of alcoholic beverages past 10:00 p.m. but may operate for

patrons until midnight during any day of the week while the District of Columbia remains subject to Mayor's Order 2020-119, or Respondent shall not sell, serve, or permit the consumption of alcoholic beverages past 12:00 a.m. when the District of Columbia remains subject to Mayor's Order 2020-067, Mayor's Order 2020-075, and Mayor's Order 2020-079, whichever applies in accordance with the Board's rulemaking.

Number six, dining activities,
Respondent shall only serve food and alcoholic
beverages to patrons seated at tables while the
District of Columbia remains subject to Mayor's
Order 2020-067, Mayor's Order 2020-075, and
Mayor's Order 2020-119, in accordance with the
Board's rulemaking.

Tables shall be placed so that patrons in different parties are placed at least six feet apart from one another with no more than six patrons per table. Patrons shall not be permitted to walk around the establishment with food and/or alcoholic beverages.

Number seven, patrons exiting with alcoholic beverages, Respondent shall not permit patrons to exit the establishment with alcoholic

beverages except when such beverages are in closed containers and are accompanied by prepared food.

Number eight, bar activities,
Respondent shall not seat patrons at indoor or
outdoor bars that are being staffed or utilized
by a bartender. Patrons shall not be permitted
to stand at an indoor or outdoor bar to order
food or alcoholic beverages.

Number nine, smoking, Respondent shall not permit hookah smoking or any other form of smoking at the establishment while the District of Columbia remains subject to Mayor's Order 2020-067, Mayor's Order 2020-075, and Mayor's Order 2020-119, in accordance with the Board's rulemaking.

Number ten, capacity, Respondent shall limit its indoor capacity to no more than 25 percent of the indoor occupancy load on its certificate of occupancy, excluding employees and outdoor seating, while the District of Columbia remains subject to Mayor's Order 2020-119, or 50 percent of the indoor occupancy load on its certificate of occupancy, excluding employees and outdoor seating while the District of Columbia

remains subject to Mayor's Order 2020-075, whichever applies in accordance with the Board's rulemaking.

Number 11, social distancing
walkthrough, prior to lifting the suspension of
the establishment's alcoholic beverage license,
and ABRA investigator shall conduct a walkthrough
of the licensed establishment with Respondent to
evaluate the establishment's compliance with
District's social distance requirements.

This evaluation should include an assessment of Respondent's compliance with Mayor's Order 2020-75, Mayor's Order 2020-080, and 23 DCMR, Section 810.2.

Number 12, show cause, this offer in compromise of an acceptance by the Board constitutes resolution of the matters encompassed by the above referenced case numbers.

Number 13, temporary dining restrictions, Respondent shall comply with Mayor's Order 2020-127, dated December 18th, 2020, which prohibits indoor dining from 10:00 p.m. on December 23rd, 2020, to 5:00 a.m. on January 15th, 2021.

That is the term of the OIC that has

1	been properly seconded by Mr. Short. We will now
2	have a roll call vote on the -
3	MR. GRANDIS: (Audio interference.)
4	CHAIRPERSON ANDERSON: Mr. Grandis,
5	can you we will not have a roll call vote on
6	the motion that has been properly seconded by Mr.
7	Short.
8	Mr. Short?
9	MEMBER SHORT: Mr. Short, I agree.
10	CHAIRPERSON ANDERSON: Mr. Cato?
11	MEMBER CROCKETT: Bobby Cato, I agree.
12	CHAIRPERSON ANDERSON: Ms. Wahabzadah?
13	MEMBER WAHABZADAH: Rema Wahabzadah, I
14	agree.
15	CHAIRPERSON ANDERSON: Ms. Crockett?
16	MEMBER CROCKETT: Rafi Crockett, I
17	agree.
18	CHAIRPERSON ANDERSON: Ms. Hansen?
19	MEMBER HANSEN: Jeni Hansen, I agree.
20	CHAIRPERSON ANDERSON: Mr. Grandis?
21	MEMBER GRANDIS: Ed Grandis, I agree.
22	CHAIRPERSON ANDERSON: Mr. Anderson, I
23	agree. The matter passed 7-0-0.
24	I would like to thank the parties for
25	working this matter out for the OIC, and this

1	matter - thank you very much. Have a great day.
2	MR. ASIM: Thank you, Mr. Chair.
3	CHAIRPERSON ANDERSON: Thank you.
4	(Whereupon, the above-entitled matter
5	went off the record at 2:03 p.m.)
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This is to certify that the foregoing transcript

In the matter of: Barcode

Before: DCABRA

Date: 01-06-21

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

Court Reporter

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