



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

2 1:41 p.m.

3 CHAIRPERSON ANDERSON: Good afternoon  
4 everyone, and welcome to the ABC Board. This  
5 afternoon's hearing consists of, this afternoon's  
6 calendar consists of four cases. I want to  
7 introduce the members of the Board who are  
8 participating here today electronically.

9 My name is Donovan Anderson, I'm  
10 Chairman of the Board. Joining us today is Mr.  
11 James Short, Ms. Rafi Crockett, Mr. Edward  
12 Grandis, Ms. Jeni Hansen, and Mr. Bobby Cato. We  
13 do have six members here today, and so we do have  
14 a quorum to conduct business.

15 Before we get underway with today's  
16 hearing calendar, I need to make a few  
17 instructions very clear so that the conduct of  
18 these hearings is understood by everyone.

19 There are four cases scheduled for  
20 today on this afternoon's calendar. Once your  
21 case is called, I will take a moment for our IT  
22 specialist to elevate the rights for each party  
23 to enable their camera and microphone. Then and  
24 only then will you have the ability to engage  
25 your equipment.

1           If your case has not been heard, you  
2 will remain mute and your camera will be  
3 disabled. Should you have any questions or  
4 require technical assistance during the hearing,  
5 please submit them using the question and answer  
6 feature, or email [simone.andrews2@dc.gov](mailto:simone.andrews2@dc.gov).

7           Our first order of business for the  
8 afternoon is, it's a Summary Suspension Hearing  
9 for Case # 20-CMP-00116. Ms. Andrews, can you  
10 please elevate the rights of Mr. Richard Bianco,  
11 who's the attorney representing the licensee and  
12 Mr. Stephen Ortiz, who is the attorney  
13 representing the Government.

14           And if there are any other parties  
15 regarding this matter, please elevate their  
16 rights too. Thank you.

17           MS. ANDREWS: Mr. Ortiz, your rights  
18 have been elevated. Mr. Bianco, I'm not sure  
19 what device you are using. I cannot elevate your  
20 rights, but I can unmute you. Could you please  
21 announce yourself?

22           MR. BIANCO: Can you hear me?

23           MS. ANDREWS: Yes, we can hear you.

24           CHAIRPERSON ANDERSON: Mr. Bianco, is  
25 the licensee joining us today? Mr. Bianco?

1 MR. BIANCO: (Audio interference).

2 CHAIRPERSON ANDERSON: Mr. Bianco?

3 MR. BIANCO: Sir?

4 CHAIRPERSON ANDERSON: Is the licensee

5 --

6 MR. BIANCO: Hello?

7 CHAIRPERSON ANDERSON: -- here today?

8 Can you hear me, Mr. Bianco?

9 MR. BIANCO: Yes, Mr. Anderson. I  
10 hear you. Can you hear me?

11 CHAIRPERSON ANDERSON: Yes, I can hear  
12 you.

13 MR. BIANCO: Okay.

14 CHAIRPERSON ANDERSON: Is the licensee  
15 joining us today?

16 MR. BIANCO: (Audio interference)

17 CHAIRPERSON ANDERSON: I'm sorry?

18 MR. BIANCO: The licensee is not  
19 joining.

20 CHAIRPERSON ANDERSON: Is there any --  
21 your connection, at least to me, is not clear.

22 MR. BIANCO: Okay.

23 CHAIRPERSON ANDERSON: So is there  
24 something else you can do to make sure that we  
25 can get a clear connection from you, sir?

1 MR. BIANCO: I will (audio  
2 interference).

3 MS. ANDREWS: Mr. Chair, he's going to  
4 log out and log back in. And when I see him pop  
5 in, I'll elevate his rights. Okay?

6 CHAIRPERSON ANDERSON: Thank you.

7 MS. ANDREWS: Okay, Mr. Chair, he's  
8 back in and I just elevated his rights. Mr.  
9 Bianco, can you unmute your line, please?

10 MR. BIANCO: Yes. I believe I've  
11 unmuted my line. Is the Board able to hear me?

12 MS. ANDREWS: Yes.

13 CHAIRPERSON ANDERSON: Yes, I can hear  
14 you. Do you have a camera, Mr. Bianco? Or  
15 that's fine. I'm just asking.

16 MR. BIANCO: I do and I'm enabling  
17 that right now.

18 CHAIRPERSON ANDERSON: All right.

19 MR. BIANCO: Hopefully you can see me.

20 CHAIRPERSON ANDERSON: Yes, we can.  
21 Okay. Good afternoon. All right. Good  
22 afternoon everyone. I know that sometimes we  
23 have some technological challenges, but it now  
24 works. All right, can we have the parties  
25 identify themselves for the record, starting with

1 Mr. Ortiz. And spell your name please.

2 MR. ORTIZ: Good morning Board  
3 members. This is Stephen Ortiz on behalf of the  
4 District of Columbia. It's S-T-E-P-H-E-N, O-R-T-  
5 I-Z.

6 CHAIRPERSON ANDERSON: Thank you, Mr.  
7 Ortiz. Mr. Bianco, can you identify yourself for  
8 the record, please?

9 MR. BIANCO: Sure. Richard Bianco on  
10 behalf of the respondent. Last name is spelled  
11 B-I-A-N-C-O.

12 CHAIRPERSON ANDERSON: All right.  
13 Good afternoon Mr. Ortiz. This is a Summary  
14 Suspension Hearing. Are there any preliminary  
15 matters in this case?

16 MR. ORTIZ: Yes. The party's had a  
17 recent offer in compromise we would like to  
18 present to the Board at this time.

19 CHAIRPERSON ANDERSON: And what is  
20 that offer in compromise, sir?

21 MR. ORTIZ: Well the OIC terms are as  
22 follows. Paragraph one --

23 CHAIRPERSON ANDERSON: Mr. Bianco --  
24 I'm sorry, Mr. Ortiz. Can you just preface why  
25 are we here today, please? Preface why we're

1 here before you go to the preliminary matter.

2 MR. ORTIZ: Yes. We are here based on  
3 the Summary Suspension that was issued on the  
4 establishment, to the establishment on December  
5 3rd, based on violation of the Mayors orders that  
6 presenting an imminent danger to the public.

7 CHAIRPERSON ANDERSON: So as a result  
8 of the Summary Suspension Hearing, the Government  
9 then has negotiated with the licensee and they  
10 have an offer in compromise. So what is the  
11 offer that is being presented now?

12 MR. ORTIZ: Yes. The offer in  
13 compromise, as to the terms, are as follows:  
14 Paragraph 1, regarding suspension, the respondent  
15 shall serve a 40 day suspension of his ABC  
16 license. The dates of the 40 day suspension to  
17 be served shall be Friday, December 4th, 2020,  
18 through Wednesday, January 13th, 2021, which  
19 includes time served during the Summary  
20 Suspension period. The ABC license suspension  
21 shall be lifted at 8:00 a.m. on Thursday, January  
22 14th, 2021 provided all other applicable  
23 requirements in this OIC have been by the  
24 respondent.

25 Paragraph 2, masks. Except when

1 eating or drinking while seated, during the  
2 public health emergency, the respondent shall  
3 require that all owners and employees of the  
4 establishment wear a mask or face covering while  
5 present on the licensee's premises, regardless of  
6 whether they are on duty. The respondent shall  
7 also require patrons during the public health  
8 emergency to wear a mask or face coverings prior  
9 to entering or while waiting in line outside the  
10 licensee's premises, while traveling to use the  
11 restroom, or until they are seated and eating or  
12 drinking.

13 Paragraph 3, music and entertainment.

14 Respondent shall not offer live music or  
15 entertainment, including disc jockeys, while the  
16 District of Columbia remains subject to Mayor's  
17 order 2020-067, Mayor's order 2020-075, Mayor's  
18 order 2020-080, Mayor's order 2020-119, and in  
19 accordance with the Board's notice of the eighth  
20 emergency rule making. The respondent shall only  
21 offer recorded or background music that is played  
22 at a conversational level, that is not heard in  
23 the homes of the District residents.

24 Paragraph 4, operating hours.

25 Respondent shall not sell, serve, or permit the



1 consumption of alcoholic beverages past 10:00  
2 p.m., but may operate for patrons until midnight  
3 during any day of the week, while the District of  
4 Columbia remains subject to Mayor's order 2020-  
5 067, Mayor's order 2020-075, Mayor's order 2020-  
6 080, and Mayor's order 2020-119, in accordance  
7 with the Board's rule making.

8 Paragraph 5, dining activities.

9 Respondent shall serve food and alcoholic  
10 beverages to patrons seated at tables while the  
11 District of Columbia remains subject to Mayor's  
12 order 2020-067, Mayor's order 2020-075, and  
13 Mayor's order 2020-119, in accordance with the  
14 Board's rule making. Tables shall be placed so  
15 that patrons in different parties are placed at  
16 least six feet apart from one another, with no  
17 more than six patrons per table. Respondent  
18 shall have a menu in use containing a minimum of  
19 three prepared food items available for purchase  
20 and shall require patrons to purchase one or more  
21 prepared food items per table. Patrons shall not  
22 be permitted to walk around the establishment  
23 with food and/or alcoholic beverages.

24 Paragraph 6, bar activities.

25 Respondent shall not seat patients at indoor or

1 outdoor bars that are being staffed or utilized  
2 by a bartender. Patrons shall not be permitted  
3 to stand at an indoor or outdoor bar to order  
4 food or alcohol beverages.

5 Paragraph 7, contact tracing system.  
6 Respondent shall implement a reservation system  
7 by phone, online, or onsite, and keep customer  
8 logs to facilitate contract tracing by D.C.  
9 Health.

10 Paragraph 8, capacity. Respondent  
11 shall limit its indoor capacity to no more than  
12 25 percent of the lowest indoor occupancy load,  
13 or seating capacity, on a certificate of  
14 occupancy, excluding employees and outdoor  
15 seating, while the District of Columbia remains  
16 subject to Mayor's order 2020-119, or Mayor's  
17 order 2020-075, whichever applies in accordance  
18 with the Board's rule making.

19 Paragraph 9, social distancing of  
20 walkthrough. Prior to lifting the suspension of  
21 the establishment's alcoholic beverage license,  
22 an ABRA investigator shall conduct a walkthrough  
23 of the licensed establishment with respondent to  
24 evaluate the establishment's compliance with the  
25 District's social distancing requirements. This

1 evaluation shall include an assessment of the  
2 respondent's compliance with Mayor's order 2020-  
3 075, Mayor's order 2020-080, and Chapter 23 of  
4 the DCMR, Section 810.2.

5 Paragraph 10, show cause. This matter  
6 will be referred to the Office of the Attorney  
7 General for possible show cause proceeding.

8 Paragraph 11, temporary dining  
9 restriction. Respondent shall comply with  
10 Mayor's order 2020-127, which prohibits indoor  
11 dining from 10:00 p.m. on December 23rd, 2020, to  
12 5:00 a.m. on January 15, 2021.

13 That concludes the terms of the OIC.

14 CHAIRPERSON ANDERSON: All right.  
15 Thank you, Mr. Ortiz. All right. Okay. Is it  
16 your recommendation to the Board that if the  
17 Board accepts the terms of the OIC, that it will  
18 address the emergency OIC that the establishment  
19 would be scheduled to be reopened tomorrow, but  
20 it says here that if the Board was to accept this  
21 OIC, they would address the emergency?

22 MR. ORTIZ: Yes. It's my assessment  
23 that it would address the emergency. Also, just  
24 for the record, the establishment has already  
25 gone through with part of the OIC. The social

1 distancing walkthrough was, has already occurred.  
2 That occurred on Monday, January 11th at 7:00  
3 p.m.

4 CHAIRPERSON ANDERSON: All right.  
5 Thank you. Mr. Bianco, it's my understanding  
6 that there's an offer in compromise, and Mr.  
7 Ortiz just read the terms of the offer in  
8 compromise in the record. Is this your  
9 understanding, sir, of the offer in compromise?

10 MR. BIANCO: Yes.

11 CHAIRPERSON ANDERSON: And has this  
12 information been shared with your client?

13 MR. BIANCO: Yes. My client signed  
14 the offer in compromise.

15 CHAIRPERSON ANDERSON: And is your  
16 client aware that by accepting an offer in  
17 compromise that they're giving up their rights to  
18 a hearing?

19 MR. BIANCO: Yes.

20 CHAIRPERSON ANDERSON: And is your  
21 client also aware that by accepting offer in  
22 compromise that they're giving up their right to  
23 appeal this matter?

24 MR. BIANCO: Yes.

25 CHAIRPERSON ANDERSON: All right. I'm

1 going to make a motion that the offer in  
2 compromise be accepted, and the terms of the  
3 offer in compromise's Term 1, that there's a  
4 suspension, the respondent shall serve a 40 day  
5 suspension of his ABC license. The dates of the  
6 40 day suspension to be served shall be Friday,  
7 December 4th, 2020, through Wednesday, January  
8 13th, 2021, which includes time served during the  
9 Summary Suspension period.

10 The ABC license suspension shall be  
11 lifted at 8:00 a.m. on Thursday, January 14th,  
12 2021, provided all other applicable requirements  
13 in this OIC has been satisfied.

14 Term 2, by the respondent, Term 2,  
15 masks. Except when eating or drinking while  
16 seated during the public health emergency. The  
17 respondent shall require that all owners, and  
18 employees of the establishment wear a mask or  
19 face covering while present on the licensed  
20 premises, regardless of whether they are on duty.

21 The respondent shall also require  
22 patrons during the public health emergency to  
23 wear masks or face coverings prior to entering,  
24 or while waiting in line outside of the licensed  
25 premises while traveling to use the restroom, or

1 until they are seated and eating or drinking.

2 Term 3, music and entertainment.

3 Respondent shall not offer live music or  
4 entertainment, including disc jockeys, while the  
5 District of Columbia remains subject to Mayor's  
6 order 2020-067, Mayor's order 2020-075, Mayor's  
7 order 2020-080, Mayor's order 2020-119, and in  
8 accordance with the District's notice of eighth  
9 emergency rule making, and the Board's rule  
10 making.

11 Respondent shall only offer recorded  
12 or background music that is played at a  
13 conversational level, that is not heard in the  
14 homes of district residents.

15 Number 4, operating hours. Respondent  
16 shall not sell, serve, or permit consumption of  
17 alcoholic beverages past 10:00 p.m. but may  
18 operate for patrons until midnight during any day  
19 of the week while the District of Columbia  
20 remains subject to Mayor's order 2020-067,  
21 Mayor's order 2020-075, Mayor's order 2020-080,  
22 and Mayor's order 2020-119, in accordance with  
23 the Board's rule making.

24 Term 10, dining activities.

25 Respondent shall only serve food and alcoholic

1 beverages to patrons seated at tables while the  
2 District of Columbia remains subject to Mayor's  
3 order 2020-067, Mayor's order 2020-075, and  
4 Mayor's order 2020-119, in accordance with the  
5 Board's rule making.

6 Tables shall be placed so that patrons  
7 in different parties are placed at least six feet  
8 apart from one another, with no more than six  
9 patrons per table. Respondent shall have a menu  
10 in use containing a minimum of three prepared  
11 food items, available for purchase, and shall  
12 require patrons to purchase one or more prepared  
13 food items per table. Patrons shall not be  
14 permitted to walk around the establishment with  
15 food and/or alcoholic beverages.

16 Term six, bar activities. Respondent  
17 shall not seat patrons at the indoor or outdoor  
18 bars that are being staffed or utilized by a  
19 bartender. Respondent shall not be permitted to  
20 stand at an indoor or outdoor bar to order food  
21 or alcoholic beverages.

22 Term seven, contact tracing system.  
23 Respondent shall implement a reservation system  
24 by phone, or online, or onsite, and keep customer  
25 logs to facilitate contact tracing by D.C.

1 Health.

2 Eight, capacity. Respondent shall  
3 limit his indoor capacity to no more than 25  
4 percent of the lowest indoor occupancy load, or  
5 seating capacity on the certificate of occupancy,  
6 excluding employees and outdoor seating, while  
7 the District of Columbia remains subject to  
8 Mayor's order 2020-119, or Mayor's order 2020-  
9 075, whichever applies in accordance with the  
10 Board's rule making.

11 Term nine, social distancing  
12 walkthrough. Prior to lifting the suspension of  
13 the establishment's alcoholic beverage license,  
14 and ABRA investigator shall conduct a walkthrough  
15 of the licensed establishment with respondent to  
16 evaluate the establishment's compliance with the  
17 District's social distancing requirements. This  
18 evaluation shall include an assessment of the  
19 respondent's compliance with Mayor's order 2020-  
20 075, Mayor's order 2020-080, and 23 DCMR Section  
21 810.2.

22 Term ten, show cause. This matter  
23 will be referred to the Office of the Attorney  
24 General for possible show cause proceedings.

25 Term 11, temporary dining



1 restrictions. Respondent shall comply with  
2 Mayor's order 2020-127, which prohibits indoor  
3 dining from 10:00 p.m. on December 23rd, 2020, to  
4 5:00 a.m. on January 21st, 2021.

5 Is there a second?

6 MEMBER SHORT: Mr. Short, and I will  
7 second.

8 CHAIRPERSON ANDERSON: Mr. Short has  
9 seconded the motion. We'll now have a roll call,  
10 both on the motion that has been properly  
11 seconded by Mr. Short. Mr. Short?

12 MEMBER SHORT: This is Short. I  
13 agree.

14 CHAIRPERSON ANDERSON: Mr. Cato?

15 MEMBER CATO: Bobby Cato. I agree.

16 CHAIRPERSON ANDERSON: Ms. Crockett?

17 MEMBER CROCKETT: Rafi Crockett. I  
18 agree.

19 CHAIRPERSON ANDERSON: Ms. Hansen?

20 MEMBER HANSEN: Jeni Hansen. I agree.

21 CHAIRPERSON ANDERSON: Mr. Grandis?

22 MEMBER GRANDIS: Edward Grandis  
23 disagrees.

24 CHAIRPERSON ANDERSON: Mr. Anderson,  
25 I agree. The matter passes five to one with Mr.

1 Grandis in opposition.

2 I want to thank the parties for  
3 agreeing, coming together with this offer in  
4 compromise. Mr. Bianco, I know that Term 11 of  
5 the OIC basically stated that there is no indoor  
6 dining as of -- there should be no indoor dining  
7 after -- through January 15th, 2020 -- 2021. I  
8 just want to remind you to remind your client  
9 that the Board will be on our legal agenda today,  
10 there is this -- we're going to vote on the  
11 suspension of on premises sale, consumption, and  
12 consumption notice of tenth emergency rule  
13 making.

14 So we will be voting on that today and  
15 I believe, and I believe the term of that  
16 emergency rule making is that on premises dining  
17 is suspended, I believe through January 21st,  
18 2021. So although the terms of the OIC states  
19 that that emergency expires on the 15th, I just  
20 want to let you know that once I do our legal  
21 agenda today, a subsequent Mayor's order was  
22 issued and that indoor dining will, the Board  
23 will be voting to cut it by notice of the Mayor's  
24 order to extend the suspension of indoor dining,  
25 I believe, through January 21st, 2021.

1                   MR. BIANCO: That's correct, Mr.  
2 Anderson. They're aware. I will be certain to  
3 remind them.

4                   CHAIRPERSON ANDERSON: All right.  
5 Thank you, Mr. Bianco. And thank you, Mr. Ortiz.  
6 And have a good day.

7                   MR. ORTIZ: Thank you, Mr. Anderson.

8                   CHAIRPERSON ANDERSON: All right.

9                   (Whereupon, the above-entitled meeting  
10 went off the record at 2:03 p.m.)

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Before: DCABRA

Date: 01-13-21

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