

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF: :

Unlicensed Establishment, :
 1400 North Capitol :
 Street, N.W. : Cease and Desist
 Case #N/A : Hearing

(Respondent Requested :
 Hearing on Board Order :
 No. 2022-127) :

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Wednesday
April 20, 2022

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

ALSO PRESENT:

- SARAH FASHBAUGH, DC ABRA Staff
- PHILIP MUSOLINO, Respondent's Counsel
- RAJ DUA, Respondent
- SANJEEV PREET, Respondent

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

2 11:27 a.m.

3 CHAIRPERSON ANDERSON: The next case
4 in our calendar, it's a cease and desist hearing,
5 Case Number -- there's no case number, but this
6 is the Unlicensed Establishment, 1400 North
7 Capitol Street, Northwest.

8 And the respondent requested a hearing
9 on Board Order Number 2022-127.

10 Ms. Fashbaugh, can you please elevate
11 the rights of the parties in this case? I think
12 it's the parties in this case.

13 MS. FASHBAUGH: Please standby. Also,
14 Tap 99 is still not present.

15 CHAIRPERSON ANDERSON: Thank you.

16 MS. FASHBAUGH: Philip Musolino, your
17 rights have been elevated. Sanjeev Preet, your
18 rights have been elevated. Raj Dua, your rights
19 have been elevated. Leopold Harris, your rights
20 have been elevated.

21 And the investigator is currently not
22 present. I will ping him.

23 CHAIRPERSON ANDERSON: All right,
24 thank you. I'm not sure if Willie (phonetic) is
25 the investigator, but I will let you know. Thank

1 you. All right, good morning everyone.

2 Can I have the parties identify
3 themselves for the record? Let' start with Mr.
4 Musolino.

5 MR. MUSOLINO: Good morning, my name
6 is Philip Musolino, M-U-S-O-L-I-N-O. I'm counsel
7 for the respondents, 1400, and Mr. Preet, P-R-E-
8 E-T, and Mr. Dua, D-U-A. Both Mr. Preet and Mr.
9 Dua are here.

10 CHAIRPERSON ANDERSON: All right,
11 thank you. Mr. Dua, can you just spell and state
12 your name for the record and your relationship to
13 this case, please?

14 (No audible response.)

15 CHAIRPERSON ANDERSON: You're on mute,
16 sir.

17 MR. DUA: Sorry, my name is Raj Dua
18 and I represent 1400 LLC as a member.

19 CHAIRPERSON ANDERSON: Good morning,
20 sir. Mr. --

21 MR. DUA: Good morning. Thank you.

22 CHAIRPERSON ANDERSON: Mr. Preet?

23 MR. PREET: Good morning, Chairperson,
24 I'm Sanjeev Preet on behalf of 1400 LLC. I'm a
25 member of 1400 LLC.

1 CHAIRPERSON ANDERSON: All right,
2 thank you. Good morning.

3 MR. PREET: Good morning.

4 CHAIRPERSON ANDERSON: All right.
5 We're here today at the request of Philip
6 Musolino, Esquire, on behalf of Mr. Dua and Mr.
7 Preet, and 1400 Northwest, LLC.

8 Mr. Musolino filed a request for a
9 hearing on the board's cease and desist order
10 issued on March 2, 2022. I'm going to review the
11 series of events that got us to where we are
12 today regarding this matter.

13 On March 2, 2022 the board reviewed an
14 investigative report written by Investigator
15 Trevor Prout who documented observations made at
16 an unlicensed establishment operating at 1400
17 North Capitol Street, Northwest.

18 These observations confirm that the
19 unlicensed establishment permitted the sales,
20 service, and consumption of alcoholic beverages
21 without a board-approved ABC license.

22 Further review of Investigator Prout's
23 report, the board issued a cease and desist
24 order, Board Order Number 2022-088. Subsequent
25 to the issuance and service of Board Order Number

1 2022-088, ABRA investigators continued to monitor
2 the operations of the unlicensed establishment
3 and to respond to complaints from the ANC and
4 members of the neighborhood.

5 On March 30, 2022 the board reviewed
6 a second investigative report, this one authored
7 by Investigator Earl Jones, and issued a second
8 cease and desist order, Board Order Number 2022-
9 137.

10 Mr. Musolino on behalf of 1400 LLC
11 then requested a hearing on the cease and desist
12 order, which brings us here today.

13 Mr. Musolino, please tell the board
14 why you're requesting this hearing, whether
15 you're challenging the cease and desist order,
16 and if not, what steps are you and your clients
17 taking to address the behavior associated with
18 1400 North Capitol Street, Northwest?

19 MR. MUSOLINO: Thank you, Mr.
20 Chairperson and members of the board. I
21 appreciate you setting up the hearing promptly
22 and giving us an opportunity to present our
23 position.

24 As a technical matter, on page 2 of
25 the cease and desist order, it identifies Mr.

1 Preet and Mr. Dua as owners.

2 They're not owners, the LLC, 1400 LLC
3 is the owner, and if the board is interested, we
4 can submit for the record what we've identified
5 as Exhibit 1, which is a copy of the deed to 1400
6 LLC, and not to Mr. Preet and Mr. Dua.

7 As I said, that's a technical matter.
8 But we would ask that the cease and desist order
9 be clarified to accurately reflect what the
10 status and title on the record is.

11 More importantly, Mr. Chairperson, the
12 cease and desist order was directed to the owner
13 and to its individual members, the conduct that's
14 identified by the investigator and which we do
15 not quarrel with as a matter of fact-finding at
16 this stage.

17 This conduct was conducted pursuant --
18 by tenants pursuant to a commercial lease into
19 which the owner 1400 LLC entered in in September
20 of 2021 to.

21 Promptly upon my client receiving
22 notification -- let me just say, my client then
23 tried to insist that the defendants were
24 individuals and not an LLC, in securing what was
25 required by the lease, namely licenses and

1 permits, in order for them to proceed with the,
2 as I understand it, a hookah bar.

3 That was a business model presented to
4 my client, so we would include among our exhibits
5 our Exhibit Number 3, which is evidence that my
6 client referred these independent defendants to
7 an experienced lawyer in this particular field to
8 assist them in securing the liquor license
9 they've needed for the business model.

10 Notwithstanding, apparently the
11 tenants failed to do so, three individual
12 tenants, upon receiving notice of the complaints
13 my clients engaged counsel and we issued what was
14 required under the lease, three distinct notices
15 to cure, which would be our Exhibit 4 A, B, and
16 C.

17 Those notices were issued by me and
18 served on each of the individual defendants as of
19 an issuance date of March 18, 2022, and those, as
20 I said, would be Exhibits 4 A, B, and C. They
21 would rely on paragraphs 9 and 11 in particular
22 in the lease. Paragraph 11 of the lease requires
23 tenants to comply with all applicable local
24 ordinances or regulations, and which we point out
25 in our notice they have failed to comply with.

1 Following the expiration to cure
2 period, in what we understand is a failure to
3 cure because there is no self-help eviction in
4 the District of Columbia for commercial
5 properties as well as residential properties, we
6 initiated a lawsuit on behalf of 1400 LLC against
7 the three individual defendants.

8 The filing date of that lawsuit was
9 April 18, 2022. It would've been our Exhibit 5.
10 That's in the Superior Court, Landlord Tenant
11 Division.

12 Scheduling in Landlord Tenant Division
13 these days is a little slower than it has been in
14 the past, but the exhibit includes the summons,
15 which in turn includes the initial return date of
16 June 24, 2022 at 9:00 a.m., at which point we
17 expect to ask if we don't resolve this matter
18 with these tenants earlier, we expect to ask for
19 a judgment for possession.

20 Mr. Chairperson and members of the
21 board, let me say that this does not foreclose us
22 from filing earlier a motion for summary
23 judgment, but the procedural rules in Landlord
24 Tenant Court are not the same as they are in the
25 Civil Division, so while the motion could be

1 filed supported by affidavits -- which we
2 understand the Office of Attorney General may be
3 gathering as we speak -- there's no guarantee
4 that we could have the motion heard prior to the
5 return date on June 24, 2022. That would be a
6 matter between us and the clerks to set something
7 up a little earlier.

8 In the interim, my client has had
9 discussion with one of the three tenants, and
10 this particular tenant has advised us that the
11 problem isn't with her or with another colleague
12 of hers, it's -- of the three, with one
13 particular tenant who, the tenant who my client
14 was speaking, advised was engaged in the conduct
15 about which this matter revolves.

16 So we have as an example of the
17 communications she forwarded to my client,
18 Exhibit Number 6, which was an exchange of text
19 messages between the tenants, in which their
20 dispute among themselves exemplified, let's say
21 that, and there's some language in the text
22 messages suggesting that it's a severe dispute
23 between them, as we're given to understand.

24 Two of the tenants change the lock on
25 the premises to prevent the third tenant from

1 engaging in the conduct about which this matter
2 revolves.

3 And this text message appears to
4 address the tenant's, shall we say, vociferous
5 disagreement with excluding him from the site.

6 And Exhibit Number 7 would be a
7 photograph of a drill through the lock that was
8 placed on the premises presumably to gain access
9 to the premises against the wishes of the two
10 partner tenants.

11 So, my point for taking the
12 chairperson's time is two-fold. As I've said,
13 one is to correct the cease and desist order by
14 excluding as owners the individual names of Mr.
15 Dua and Mr. Preet, and more importantly to inform
16 the board that my clients are doing everything
17 they can conceivably do under the law of the
18 District of Columbia to ensure that the
19 misconduct that's identified in the reports is
20 terminated as quickly as possible.

21 And to that end, my client had one
22 more phone discussion yesterday and sent out an
23 email this morning with the, if you will, the
24 corroborating tenant, asking at least that tenant
25 and one of her partners to surrender the key that

1 she has in her possession.

2 There's also a key to a lock that was
3 denying us access to the premises, and to agree
4 to surrender their rights to possession of the
5 premises.

6 At least as of this morning, we
7 haven't received a written confirmation that at
8 least two of the tenants are agreeing to
9 surrender their rights to possession. So that's
10 the status, Mr. Chairperson and members of the
11 board.

12 Our request is that the cease and
13 desist order be on the basis of these
14 representations and these exhibits, be discharged
15 without prejudice pending my clients' continuing
16 efforts to resecure possession, and interrupt and
17 end this particular tenant's non-compliance.

18 CHAIRPERSON ANDERSON: So you're
19 asking for us to lift the cease and desist? Is
20 that what you're asking, Mr. Musolino?

21 MR. MUSOLINO: My request, whether it
22 be lifted and discharged without prejudice
23 obviously to renewal if the board receives
24 information that suggests that my client isn't
25 carrying through with the steps he's taken so

1 far, although I can assure the board, Mr.
2 Chairperson and each of its members, that we
3 intend to proceed with our suit for possession if
4 we don't secure it by voluntary consent, and
5 we'll engage in no negotiations of any kind with
6 these tenants that would allow them to remain in
7 possession.

8 CHAIRPERSON ANDERSON: And the reason
9 why I'm asking the question is that if we were to
10 -- because they're unlicensed, the only party
11 that we are aware of is the owner of the
12 building, and I appreciate the fact that you have
13 requested the hearing on behalf of the owner to
14 say that you received this and that you are
15 making steps to remove the tenant who is creating
16 this nuisance, but I'm not sure why the board
17 would want to -- at least as a procedural matter,
18 I'm not sure why the board would lift the cease
19 and desist order because your tenant, as long as
20 they are still in -- at least this is what I'm
21 thinking -- as long as they are still in
22 possession of the keys, they could continue to
23 have parties.

24 MR. MUSOLINO: Well, I don't disagree
25 with that at all. As a determination that it's -

1 - since we don't necessarily control the space
2 because we can't self-help evict, it's certainly
3 true that the recalcitrant tenant could abuse the
4 space, notwithstanding every effort we take until
5 we get a formal eviction order.

6 I agree with that, but suggest, Mr.
7 Chairperson, that since the cease and desist
8 order isn't directed to the tenant at the moment,
9 it's directed to us, that there's no procedural
10 obstacle to treating it as it being dischargeable
11 because our clients have taken the only steps
12 that are available to it in the interim.

13 As an alternative, Mr. Chairperson, if
14 the board were inclined to continue the hearing
15 to a date after our return date in Landlord
16 Tenant Court at least for a status, if that
17 addresses the concern that you've raised, we
18 might consider something like that.

19 CHAIRPERSON ANDERSON: All right,
20 thank you, Mr. Musolino. Any questions by any
21 board members?

22 (No audible response.)

23 CHAIRPERSON ANDERSON: All right, no
24 questions by any board members. What I then will
25 do, Mr. Musolino, I'm not sure what I will -- the

1 board will take this matter under advisement and
2 make a decision, and so let me -- I'm going to
3 bring this matter to closure.

4 Any further recommendation you'd like
5 to make?

6 MR. MUSOLINO: No. Let me ask, Mr.
7 Chairperson. Would the board consider having us
8 admit into evidence the exhibits I've identified,
9 or is that unnecessary at this stage?

10 CHAIRPERSON ANDERSON: Your
11 representation -- I know that we have the
12 documents that you reference. They are in the
13 record. They were provided to the agency, and so
14 we do have those documents, and so yeah, we have
15 those documents and so we'll consider them. So
16 let me ask with that question again.

17 Just to clarify the point, you're
18 saying that the actual owner of the building --
19 who's the actual owner of the building again,
20 sir?

21 MR. MUSOLINO: 1400 LLC, Your Honor.

22 CHAIRPERSON ANDERSON: Okay. We'll
23 make that correction to the record that 1400 LLC
24 and remove Mr. Preet and Mr. Dua as owners of the
25 building, whatever follow-up decision that we

1 will issue. We will make that correction.

2 So what I'm going to do then, I'm not
3 prepared -- the board, we need to consider your
4 representation and then we'll make a decision
5 whether or not we'll continue the cease and
6 desist or based on the representation you make,
7 whether or not we will let that. All right, so -
8 -

9 MEMBER GRANDIS: Mr. Chairman, I'm
10 sorry to interrupt, but may I ask a question for
11 clarification?

12 CHAIRPERSON ANDERSON: I did ask if
13 any board members had questions. Go ahead, sir.

14 MEMBER GRANDIS: Yeah. I was slow at
15 the switch, I apologize. Mr. Chairman, I believe
16 based on the record today, that the so-called
17 tenants do not have an ABC license? Am I correct
18 on that?

19 CHAIRPERSON ANDERSON: That is
20 correct, sir.

21 MEMBER GRANDIS: And therefore, this
22 board doesn't have any legal ability through our
23 regulations to have a cease and desist with the
24 so-called tenants?

25 CHAIRPERSON ANDERSON: Yes, sir.

1 MEMBER GRANDIS: Okay, and therefore
2 the only individual or agency that we have any
3 ability to communicate with is the owner of the
4 building?

5 CHAIRPERSON ANDERSON: That is
6 correct.

7 MEMBER GRANDIS: Okay, I just wanted
8 to make sure that I understood that correctly.
9 So that's the limitations we have, Mr. Musolino.
10 Did I say the name correctly? I --

11 MR. MUSOLINO: No, you did, thank you
12 Mr. Grandis. And let me -- I don't believe
13 there's any evidence that even an application for
14 a license has been made. I may have that wrong
15 but that's my understanding also, so. I --

16 MEMBER GRANDIS: But as the owner of
17 the building, I hear the steps you say you have
18 taken, but I believe we as a board, on the
19 matters that we have legal authority over, we
20 really don't have any tentacles, so to speak,
21 with the so-called tenants.

22 MR. MUSOLINO: I understand that, Mr.
23 Grandis.

24 MEMBER GRANDIS: Thank you.

25 CHAIRPERSON ANDERSON: And so, I've

1 asked you this before, the request that's been
2 made by counsel on behalf of the landlord for the
3 board to lift the cease and desist based on the
4 recommendation because the landlord has stated
5 self-help doesn't exist in D.C., we'll file the
6 proper paperwork, start the eviction proceedings
7 against the tenant.

8 And in this case, it's a little bit
9 different in the sense that normally when it has
10 been brought to the attention of the boards that
11 we have an unlicensed establishment, we'll issue
12 a cease and desist and the party would disappear.
13 But in this particular case, the parties did not
14 disappear, they continued to have events. And --

15 MEMBER GRANDIS: So Mr. Chairman?

16 CHAIRPERSON ANDERSON: Yes, Mr.
17 Grandis?

18 MEMBER GRANDIS: Mr. Musolino, could
19 you give information regarding -- are there any
20 other occupants in that building?

21 MR. MUSOLINO: Yes Mr. Grandis, there
22 is a dollar store on the main floor, and it's
23 been there for a long time, but before my client
24 acquired the building. And they are not the
25 source of any issue so far as we know.

1 MEMBER GRANDIS: Okay, and does that
2 dollar store have a separate entrance from the
3 entrance to go to the -- I guess it would be on
4 the second floor, which is where the activity is
5 occurring?

6 MR. MUSOLINO: I think the answer to
7 that is yes. I'm looking for Mr. Preet and Mr.
8 Dua to nod their heads.

9 MR. PREET: Yes, Mr. Musolino. The
10 entrance to the second and third floor is on the
11 side, it's a separate entrance to go upstairs to
12 the second and third floor. The dollar store is
13 on the main floor, which is to the left of the
14 building.

15 MEMBER GRANDIS: So that door on the
16 side of the building which you have helped us
17 understand goes to the second floor and third
18 floor, are there any other offices or occupants,
19 tenants, residents on the second, third or
20 whatever floors above that?

21 MR. PREET: No sir, these tenants, we
22 gave them a lease for the entire second and third
23 floor. These are the only tenants we have on
24 second and third floor.

25 MEMBER GRANDIS: So they are tenants?

1 You have a lease with them?

2 MR. PREET: We have a lease with them,
3 yes, sir. There is one, yes --

4 (Simultaneous speaking.)

5 MEMBER GRANDIS: Okay. So I was just
6 making sure that I understood the layout of the
7 building. Thank you very much.

8 MR. PREET: Yes sir.

9 CHAIRPERSON ANDERSON: All right, the
10 jurisdiction the board has, the board can enforce
11 its cease and desist order in Superior Court.

12 But as I stated before, the
13 representation that's been made by Mr. Musolino
14 basically stated that the landlord is doing
15 everything that's within its power to try to
16 prevent this action from repeating, and so the
17 board, we'll make a decision whether or not we
18 will lift the cease and desist order, or whether
19 or not we will continue it against the landlord,
20 which is 1400 North Capitol LLC.

21 So we'll correct the record to remove
22 Mr. Dua and Mr. Preet, and have the proper
23 landlord.

24 Now, Mr. Musolino, you provided us
25 with a copy of the -- I think you provided us

1 with a copy of the lease, and you also provided
2 us with a copy of your petition in Landlord and
3 Tenant. What are the names of the tenants on the
4 lease?

5 (Simultaneous speaking)

6 MR. MUSOLINO: Let me just --

7 CHAIRPERSON ANDERSON: I'm sorry,
8 who's speaking? I thought I heard two people
9 speaking. Mr. Preet --

10 MR. PREET: I apologize.

11 CHAIRPERSON ANDERSON: Is it Mr.
12 Musolino or Mr. Preet? Who wants to speak?

13 MR. MUSOLINO: No, let me speak for --
14 let me just say that the LLC is 1400 LLC, 1400
15 North Capitol LLC was the former entity that
16 owned and sold, and so 1400 LLC is correctly
17 identified as the owner in the notice. Just so
18 we don't get confused about the predecessor LLC
19 and my client's LLC.

20 The names of the tenants on the lease
21 and on the notices and on the landlord tenant
22 suit are Dawit, D-A-W-I-T, middle initial A.,
23 Sermolo, S-E-R-M-O-L-O. Dawit A. Sermolo.

24 Charles A. Diei, I believe it's
25 pronounced. C-H-A-R-L-E-S A -- middle initial

1 A., D-I-E-I.

2 And Yoadan T. Abera. Yoadan is Y-O-A-
3 D-A-N T -- middle initial T., Abera, A-B-E-R-A.

4 CHAIRPERSON ANDERSON: Thank you, Mr.
5 Musolino. All right.

6 MR. PREET: Mr. Anderson? Mr.
7 Musolino, can I add one thing? This is Mr.
8 Preet.

9 CHAIRPERSON ANDERSON: Yes.

10 MR. PREET: Mr. Chairperson, I also
11 wanted to say that since we found out, I have
12 personally have been trying to get ahold of these
13 people, sending emails, text messages. Last
14 weekend, Ms. Abera, Yoadan Abera called and said,
15 look, you know, we changed the locks and we did
16 this. We want to give you the keys back. We
17 understand you're suing us and this and that.

18 I personally went with a family member
19 to the property. I called between 12:30 and 1:00
20 in the morning on Friday night because this one
21 particular individual who's doing it out, of all
22 three, they apparently start the event late at
23 night.

24 I contacted the watch commander, which
25 I have a direct number to the watch commander's

1 phone, he then contacted Captain Hong (phonetic),
2 Captain Hong then contacted the ABRA
3 investigator.

4 I was in contact with the ABRA
5 investigator at 2:45 a.m. personally myself. He
6 called me. I told him that they're planning on
7 opening. Whatever you need, I can even come out
8 there, whatever we can do as a, you know,
9 landlord, we want these people out.

10 Unfortunately the law's in the
11 District, we've never been -- Mr. Chairperson,
12 we've never experienced something like that, and
13 you know, my partner and I represent multiple
14 LLCs in the District. They have proper licensing
15 and everything.

16 And then the second day, I also went
17 there -- I mean, actually communicated with the
18 other tenants and they said yes, these
19 individuals went in and they opened the place,
20 they drilled the lock, they opened at 3:30 in the
21 morning.

22 I did not get a call back from the
23 ABRA investigator. I was available. I told them
24 I'm available 24 hours, I gave them my name.
25 Then on Sunday again, I was told by my tenant

1 downstairs that he hear some noises upstairs in
2 the afternoon.

3 My partner, we went there around 6:00
4 ourselves. By then there was no one there. We
5 wanted to talk to them, I called a watch
6 commander at that time, Lieutenant -- I can't
7 pronounce his last name, and they told me when
8 you get to the property I will send an MP, you
9 know, a police car and they're going to meet you
10 there, but these guys had already gone by that
11 time.

12 So Mr. Chairperson, what I would like
13 to say, my partner and I of 1400 LLC is totally
14 committed to getting these illegal activity out
15 of our building. Right? We're doing everything
16 possible to -- in fact, I've even offered Ms.
17 Abera, like hey, you know, whatever utilities you
18 owe we'll cover it, you don't even have to pay us
19 anything, just give us the key back. There's not
20 going to be any consequences. Even the lease has
21 personal guarantee. I've assured them, we're
22 going to release them of the lease, and that's
23 it.

24 So whatever we can do, Mr. Chairperson
25 and the members of the board, we're doing it

1 ourselves. And I made myself available to the
2 watch commander of the 3D and the ABRA
3 investigators, they have my emails, they have my
4 direct number. I am available, sir, for whatever
5 we need to do.

6 CHAIRPERSON ANDERSON: Thank you for
7 that representation, Mr. Preet.

8 MR. PREET: And also because I do want
9 to, I mean obviously, run a business of owning
10 real estate in the District and directing
11 properties to the correct potential tenants, I
12 don't want 1400 LLC to have a, you know, mark as
13 in, you know, we're doing something -- we're
14 trying to accommodate illegal activities.

15 We're definitely not doing that.
16 We're not worried about getting the money from
17 them, you know? And we even told them we'll even
18 give them their security deposit back, you know,
19 whatever they want.

20 I mean, and then this particular
21 individual, Mr. Charles Diei, he does not come on
22 the phone, doesn't do anything.

23 I've personally, you know, I told him
24 who the ABC attorneys are who can help them get
25 their licenses, like Mr. Musolino said, they're

1 part of the exhibits, and you know, I've tried to
2 communicate with them as much as possible even
3 though when we do a commercial lease, Mr.
4 Chairperson, this is a triple net lease, the
5 landlord really doesn't get involved --

6 MR. MUSOLINO: Hey, Mr. Preet.

7 MR. PREET: Yeah, sorry.

8 MR. MUSOLINO: I appreciate that. I
9 think you're going --

10 MR. PREET: Yeah.

11 MR. MUSOLINO: Well, let me just say
12 --

13 CHAIRPERSON ANDERSON: Sorry.

14 (Simultaneous speaking.)

15 MR. MUSOLINO: Are you offering --

16 CHAIRPERSON ANDERSON: Hold on. Mr.
17 Preet?

18 MR. PREET: Yes?

19 CHAIRPERSON ANDERSON: Mr. Musolino is
20 assuring you that he's not (audio interference) I
21 appreciate your representation, but sometimes we
22 have -- I'm an attorney and I'm saying this for a
23 reason. Sometimes we have to allow our attorney
24 to represent us, sir.

25 MR. PREET: Got it.

1 MR. MUSOLINO: I just want to clarify
2 Mr. Preet is done, to let you know that he is.
3 When he says --

4 (Simultaneous speaking.)

5 MR. MUSOLINO: So he's clear, when he
6 said he offered to assist them with the license,
7 that offer has long since died a death. That
8 offer is not outstanding. Our position with them
9 is we don't care what they do with --

10 MR. PREET: That was January 7.
11 Sorry.

12 MR. MUSOLINO: All right, so I didn't
13 mean to cut him off, Mr. Chairperson, but I know
14 Mr. Preet is anxious to tell the full story. I
15 don't think the board needs to hear it today to
16 consider our request.

17 CHAIRPERSON ANDERSON: Thank you, Mr.
18 Musolino. I think, as I said before, I
19 appreciate the fact that the landlord is
20 represented on the record what is it that the
21 efforts that they are taking to address the
22 matter, and so I appreciate that it's on our
23 record.

24 There's a court reporter, there's a
25 transcript that will be available for this

1 hearing, as a representation, whatever decision
2 we make, the representation will be there to say
3 that the LLC is complying with -- the LLC
4 requested this hearing, the LLC is doing
5 everything that they can do that's legally
6 permissible to address the issue.

7 And so the board appreciates the
8 representation that Mr. Musolino -- that was
9 made. So I do appreciate that so that was fine,
10 yes.

11 MR. MUSOLINO: Thank you very much,
12 Mr. Chairperson.

13 CHAIRPERSON ANDERSON: All right.

14 MR. PREET: I apologize for
15 overspeaking, Mr. Chairperson. Thank you very
16 much.

17 CHAIRPERSON ANDERSON: Mr. Preet, you
18 did not overspeak. Your attorney is trying to
19 protect you, sir. That's why.

20 MR. PREET: Yes, Your Honor.

21 CHAIRPERSON ANDERSON: That's why.
22 That's about it. It's not a matter of
23 overspeaking, it's that when you have an attorney
24 sometimes the attorney will try to protect the
25 client. And I'll say it that way. Okay?

1 MR. MUSOLINO: Well you know, Mr.
2 Chairperson, he doesn't need protection, but
3 sometimes -- Mr. Preet wants to tell a much
4 larger story than the board needs to hear for
5 this, so maybe some other time we'll have a
6 chance to go into the intricacies of a triple net
7 lease. It's not necessary here.

8 MR. PREET: Well the reason I was
9 saying them, Mr. Musolino, and if I may, Mr.
10 Chairperson, hopefully we will have the right
11 tenant, not now, maybe a year from now or two
12 years from now, who would want to acquire a
13 liquor license to do the business the right way,
14 and that is the only reason I wanted to just
15 talk. That's it. Thank you.

16 MR. MUSOLINO: Thank you for your
17 indulgence, Mr. Chairperson, and to the members
18 of the board.

19 CHAIRPERSON ANDERSON: Thank you. All
20 right. Well, I'm going to take a vote and I'll
21 take a vote and the board will adjourn order
22 whether or not we will lift the cease and desist,
23 or whether or not we will keep it in place until
24 you have advised us that you have now secured
25 possession of the property and the tenant has

1 moved.

2 So, I think that's the decision that
3 the board needs to make, whether or not we will
4 have the cease and desist remain an order or as
5 being requested by you, Mr. Musolino, is to lift
6 it because as presented today, the landlord is
7 doing everything that is within its power to pry
8 it from the business.

9 MR. MUSOLINO: Thank you. Thank you,
10 Mr. Chairperson.

11 CHAIRPERSON ANDERSON: Okay, so as
12 chairperson of the Alcoholic Beverage Control
13 Board for the District of Columbia in accordance
14 with D.C. Official Code Section 2575 of the Open
15 Meetings Act, I move that ABC Board hold a closed
16 meeting for the purpose of seeking legal advice
17 on this, although there's no specific case
18 number, but it's this -- I'm sorry, the
19 unlicensed establishment 1400 North Capitol
20 Street, LLC, pursuant to D.C. Code, Section
21 257B4A of the Open Meetings Act and deliberate
22 upon this unlicensed establishment for the
23 reasons cited in D.C. Official Code Section
24 2575B13 of the Open Meetings Act. Is there a
25 second?

1 MEMBER CROCKETT: Ms. Crockett
2 seconds.

3 CHAIRPERSON ANDERSON: Ms. Crockett
4 seconds the motion. I will now take a roll call
5 vote on the motion before us now. Mr. Short?

6 MEMBER SHORT: Mr. Short, I agree.

7 CHAIRPERSON ANDERSON: Mr. Cato?

8 MEMBER CATO: Bobby Cato, I agree.

9 CHAIRPERSON ANDERSON: Ms. Crockett?

10 MEMBER CROCKETT: Rafi Crockett, I
11 agree.

12 CHAIRPERSON ANDERSON: Ms. Hansen?

13 MEMBER HANSEN: Jeni Hansen, I agree.

14 CHAIRPERSON ANDERSON: Mr. Grandis?

15 MEMBER GRANDIS: Edward Grandis, I
16 agree.

17 CHAIRPERSON ANDERSON: And Mr.
18 Anderson, I agree. The matter passes 6, 0, 0, 1.

19 What we'll do, Mr. Musolino, we will
20 consider the representation that you have made
21 today, and we'll base your decision on whether or
22 not we will lift it -- whether we lift it,
23 whether or not it will remain in place until you
24 have provided us information to say that they,
25 the tenant has been removed from the property.

1 But we'll consider the representation
2 that you made today regarding our next matter --
3 our next process.

4 I want to thank you and on behalf of
5 your client, the landlord, for your
6 representation that were made today. As I stated
7 before, normally when we issue cease and desist
8 orders, that the party disappear.

9 And so we don't hear from them
10 anymore, but this is a particular case that they
11 have continued to have parties in this -- sell
12 and serve alcohol in this location without having
13 the proper license from the ABC Board. So we'll
14 make a decision and let you know what the board's
15 going to do. All right?

16 MR. MUSOLINO: Thank you very much.

17 CHAIRPERSON ANDERSON: Thank you very
18 much. Have a great day then. All right.

19 (Whereupon, the above-entitled matter
20 went off the record at 12:02 p.m.)

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This is to certify that the foregoing transcript

In the matter of: Unlicensed Establishment

Before: DCABRA

Date: 04-20-22

Place: teleconference

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Court Reporter

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