

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

2 10:36 a.m.

3 CHAIRPERSON ANDERSON: Good morning,
4 everyone. As Chairperson of the Alcoholic
5 Beverage Control Board for the District of
6 Columbia in accordance with D.C. Official Code
7 Section 25764 of the Open Meetings Act, I am
8 welcoming you to an emergency meeting of the
9 Alcoholic Beverage Control Board. This meeting
10 is being conducted pursuant to guidance made
11 available by the District of Columbia's Office of
12 Open Government regarding electronic meetings
13 held by public bodies during the public health
14 emergency.

15 Pursuant to the guidance, notice of
16 today's meeting was provided 48 hours in advance
17 of the meeting on ABRA's website and on the
18 District's central meeting calendar. The notice
19 includes the time, date, agenda, and call-in or
20 log-in information for public participation.
21 This electronic meeting is being hosted by a
22 Webex account provided by the District of
23 Columbia government. Please address any
24 questions or complaints to the OOG at
25 opengovoffice@dc.gov.

1 My name is Donovan Anderson and I'm
2 Chairman of the Board. I would like to introduce
3 the other members of the Board -- ABC Board who
4 are all participating electronically pursuant to
5 Mayor's Order 2020-054. Please respond when I
6 announce your name. Mr. James Short?

7 MEMBER SHORT: Mr. James Short.

8 CHAIRPERSON ANDERSON: Mr. Bobby Cato?

9 MEMBER CATO: Bobby Cato, present.

10 CHAIRPERSON ANDERSON: Ms. Rema
11 Wahabzadah?

12 MEMBER WAHABZADAH: Rema Wahabzadah,
13 present.

14 CHAIRPERSON ANDERSON: Ms. Rafi
15 Crockett?

16 MEMBER CROCKETT: Rafi Crockett,
17 present.

18 CHAIRPERSON ANDERSON: Ms. Jeni
19 Hansen?

20 MEMBER HANSEN: Jeni Hansen, present.

21 CHAIRPERSON ANDERSON: Mr. Ed Grandis?

22 MEMBER GRANDIS: Ed Grandis, present.

23 CHAIRPERSON ANDERSON: The Board has
24 seven members for the attendance -- in attendance
25 for the conduct of business today, and that

1 constitutes a quorum. Our first order of
2 business today, it is a summary suspension
3 hearing, Case No. 20-CMP-00091, Elevate, License
4 No. 100316. Would the parties please introduce
5 themselves for the record starting with the
6 Government.

7 MR. ADAMS: Good morning, Mr. Chairman
8 and members of the Board. I'm Walter Adams. I'm
9 representing the District of Columbia.

10 CHAIRPERSON ANDERSON: Good morning,
11 Mr. Adams.

12 MR. ASFAW: Good morning, Chairman and
13 the Board members. My name is Ermiyas Asfaw.
14 I'm representing Elevate, DC Live, LLC, Elevate.

15 CHAIRPERSON ANDERSON: Good morning,
16 Mr. Asfaw. Are you the owner of the
17 establishment, sir?

18 (No audible response.)

19 CHAIRPERSON ANDERSON: I'm sorry.
20 Yes? I didn't hear your answer, sir.

21 MR. ASFAW: Yes, sir.

22 CHAIRPERSON ANDERSON: Okay.

23 MR. ASFAW: Do you hear now?

24 CHAIRPERSON ANDERSON: Yes. Thank
25 you. Mr. Adams, are there any preliminary

1 matters in this case?

2 MR. ADAMS: There are no preliminary
3 matters in this case, Mr. Chairman. This case --
4 this hearing is before the Board on a summary --
5 for a summary suspension hearing. The parties
6 have discussed this matter and have -- are
7 proposing an offer in compromise to resolve the
8 summary suspension that was issued by the Board
9 on August 14 of this year.

10 CHAIRPERSON ANDERSON: And what is the
11 offer that's been presented?

12 MR. ADAMS: Mr. Chairman, the parties
13 did send to the Board a written proposal, and I'm
14 more than willing to read the terms of that
15 proposal into the record.

16 CHAIRPERSON ANDERSON: Yes, Mr. Adams.
17 I need you to read the terms into the record,
18 please.

19 MR. ADAMS: Thank you very much, Mr.
20 Chairman. The terms of the offer in compromise
21 are as follows. Number one, that there will be a
22 suspension of the establishment, that the
23 respondent that will serve a 14-day suspension of
24 its ABC license. The date of the 14-day
25 suspension shall be Friday, August 14, 2020

1 through Thursday, August 27, 2020 which includes
2 time served during the summary suspension period.
3 The ABC license suspension shall be lifted at
4 8:00 a.m. on Friday, August 28, provided other
5 requirements in this offer have been satisfied by
6 the respondent.

7 Number two, that respondent shall pay
8 a 1,000-dollar fine for the citation previously
9 issued to the establishment, Case No. 20-CIT-
10 00188 within 90 days. Third requirement is
11 regarding masks. Except when eating or drinking
12 while seated, during the health emergency,
13 respondents shall require that all owners and
14 employees of the establishment where a mask or a
15 face covering while present on the licensed
16 premises regardless of whether they are on duty.
17 Respondent shall also require patrons during the
18 public health emergency to wear masks or face
19 coverings prior to entering or while waiting in
20 line outside of the license establishment, while
21 traveling to use a restroom, or until they are
22 seated and eating or drinking.

23 Fourth, Music Entertainment.

24 Respondent shall not offer live music or
25 entertainment, including disc jockeys, while the

1 District of Columbia remains subject to Mayor's
2 Order 2020-067 and Mayor's Order 2020-075 in
3 accordance with the Board's Notice of Fifth
4 Emergency Rulemaking. The respondent shall only
5 offer recorded or background music that is played
6 at conversational level that is not heard in the
7 homes of District residents.

8 Fifth, Operating Hours. Respondent
9 shall not operate either inside or outside or
10 sell, serve or permit the consumption of
11 alcoholic beverages past midnight during any day
12 of the week while the District of Columbia
13 remains subject to Mayor's Order 2020-067 and
14 Mayor's Order 2020-075 in accordance with the
15 Board's rulemaking.

16 Six, Dining Activities. Respondent
17 shall only serve food and alcoholic beverages to
18 patrons seated at tables while the District of
19 Columbia remains subject to Mayor's Order 2020-
20 067 and Mayor's Order 2020-075 in accordance with
21 the Board's rulemaking. Tables shall be placed
22 so that patrons in different parties are placed
23 at least six feet apart from one another.
24 Respondent shall have a menu in use containing a
25 minimum of three prepared food items available

1 for purchase and shall require patrons to
2 purchase one or more prepared food items per
3 table. Patrons shall not be permitted to walk
4 around the establishment with food or alcoholic
5 beverages.

6 Seven, Bar Activities. Respondent
7 shall not seat patrons at indoor or outdoor bars
8 that are being staffed or utilized by a
9 bartender. Patrons shall not be permitted to
10 stand at an outdoor or indoor bar to order food
11 or alcoholic beverages.

12 Eight, Contract Tracing System.
13 Respondent shall implement a reservation system
14 by phone, online, or onsite and keep customer
15 logs to facilitate contact tracing by DC Health.

16 Nine, Outside Promoters. If respondent uses
17 outside promoters, both respondent and promoters
18 shall comply with all applicable laws and
19 regulations, including Mayor's Order 2020-067,
20 Mayor's Order 2020-075 and the Board's
21 rulemaking.

22 Sparklers. Respondent shall not sell
23 or serve alcoholic beverages with sparklers
24 inside or outside the licensed establishment.

25 Eleven, Social Distancing Walk-through. Prior to

1 lifting the suspension of the establishment's
2 alcoholic beverage license, and investigator
3 shall conduct a walk-through of the licensed
4 establish with respondent to evaluate the
5 establishment's compliance with the District's
6 social distancing requirements.

7 This evaluation shall include an
8 assessment of the respondent's compliance with
9 Mayor's Order 2020-075, Mayor's Order 2020-080,
10 and 23 DCMR Section 810.2. And lastly, Show
11 Cause. This matter will be referred to the
12 Office of the Attorney General for possible Show
13 Cause proceeding.

14 Mr. Chairman, I note that last week,
15 I believe on Saturday, relating to the
16 requirement for a social distance walk-through.
17 It is our understanding that ABRA staff or an
18 ABRA investigator, I believe it's specifically
19 Supervisor Investigator John Fiorentine did
20 conduct a walk-through and determined that the
21 establishment was in compliance the Mayor's
22 Orders and the regulations as stated within the
23 offer in compromise. With that said, Your Honor,
24 that is -- Mr. Chairman, those are the terms of
25 the offer and we submit to the Board for

1 approval.

2 CHAIRPERSON ANDERSON: And Mr. Adams,
3 so you believe that based on the nature of the
4 violation that -- the nature of the infraction
5 that this is an appropriate offer that protects
6 the residents of District of Columbia?

7 MR. ADAMS: Yes. Yes, Mr. Chairman.
8 We believe that the provisions that are stated
9 does protect the residents of the District of
10 Columbia. Essentially what this offer does is
11 that it ensures that the owner or the
12 establishment is aware of all the requirements
13 that are part of the Mayor's Orders adjoined to
14 the pandemic and to continue the operation during
15 this Phase Two period.

16 And furthermore, it ensures that ABRA
17 has made sure that the physical spacing of -- at
18 least in terms of the equipment and tables are
19 already there. So in a nutshell, we do believe
20 that based upon the terms, it addresses the
21 actual problems that were observed prior to the
22 summary suspension and provides a reasonable
23 method to allow this establishment to be able to
24 operate and continue to operate while ensuring
25 that the Board knows and that the owner knows

1 what his requirements are. So I believe that
2 this does satisfies the requirements of ensuring
3 that the public safety is protected.

4 CHAIRPERSON ANDERSON: Thank you, Mr.
5 Adams. Mr. Asfaw, it's my understanding that
6 there is an offer in compromise. Have you seen
7 this offer in compromise? You need to turn your
8 mic -- open your phone, sir.

9 MR. ASFAW: Sorry. It would have
10 feedback. That's why I shut it off right away.
11 Yes, Chairman, I did. Yes, yes, yes.

12 CHAIRPERSON ANDERSON: And do you
13 understand that by accepting an offer in
14 compromise that you're waiving your right to a
15 hearing?

16 MR. ASFAW: Yes, Chairman, yes.

17 CHAIRPERSON ANDERSON: And do you also
18 -- are you also under the understanding that if
19 you accept this offer in compromise that you are
20 also waiving your right to appeal this matter?

21 MR. ASFAW: Yes, Chairman. So
22 technically, me and Mr. Adams already had a
23 discussion about it. Everything that was offered
24 to me seems fair. And of course, the Mayor's
25 Order has to be respected for all of us. And I'm

1 willing to go with the offer, and I don't have
2 any complaint.

3 The only complaint I had, I want the
4 whole Board members to hear me about is that when
5 the report was written, it was extremely
6 exaggerated, especially the fact that it was
7 written the sound was heard two blocks down the
8 road. That was inappropriately written because
9 two blocks down the road from the establishment
10 is 2nd and K, and the investigator actually
11 parked his car on 1st and K. So that makes it
12 half a block.

13 And then also other inappropriate
14 writings were there. I'm just speaking from the
15 honest truth here and that I felt like it was an
16 attack. But the offer that was given to me
17 sounds fair.

18 CHAIRPERSON ANDERSON: All right.
19 Thank you, Mr. Asfaw. Are there any questions by
20 any Board members?

21 (No audible response.)

22 CHAIRPERSON ANDERSON: All right.
23 What I'm going to do is that we're going to move
24 into executive session to discuss the OIC. And
25 what we're going to do, I'm going to say for ten

1 minutes. So it's 10:50. We're going to come
2 back to this public hearing at 11:00 o'clock.

3 So I'm going to close this in a couple
4 of minutes and then we'll come back at 11:00
5 o'clock with a decision. Okay? So I just wanted
6 to let everyone know the process that we'll be
7 following to discuss this OIC. So hold on one
8 minute.

9 MR. ADAMS: Thank you, Mr. Chairman,
10 for the explanation.

11 CHAIRPERSON ANDERSON: All right. So
12 as Chairperson of the Alcoholic Beverage Control
13 Board for the District of Columbia in accordance
14 with D.C. Official Code Section 2574(b) of the
15 Open Meetings Act, I move that ABC Board hold a
16 closed meeting for the purpose of seeking legal
17 advice from our counsel on Case No. 20-CMP-00091,
18 Elevate, pursuant to D.C. Official Code Section
19 2574(b)(4) of the Open Meetings Act and
20 deliberating upon Case No. 20-CMP-00091, Elevate,
21 for the reasons cited in D.C. Official Code
22 Section 2574(b)(13) of the Opening Meetings Act.
23 Is there a second?

24 MEMBER SHORT: Mr. Short. I'll
25 second.

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

5 MEMBER SHORT: Mr. Short. I agree.

6 CHAIRPERSON ANDERSON: Mr. Cato?

7 MEMBER CATO: Bobby Cato. I agree.

8 CHAIRPERSON ANDERSON: Ms. Crockett?

9 MEMBER CROCKETT: Rafi Crockett. I
10 agree.

11 CHAIRPERSON ANDERSON: Ms. Wahabzadah?

12 MEMBER WAHABZADAH: Rema Wahabzadah.

13 I agree.

14 CHAIRPERSON ANDERSON: Ms. Hansen?

15 MEMBER HANSEN: Jeni Hansen. I agree.

16 CHAIRPERSON ANDERSON: Mr. Grandis?

17 MEMBER GRANDIS: Ed Grandis. I agree.

18 CHAIRPERSON ANDERSON: And Mr.

19 Anderson. I agree. As it appears that the
20 motion has passed, I hereby give notice that the
21 ABC Board will recess this proceeding to hold a
22 closed meeting in the ABC Board conference room
23 pursuant to Section 2574(b) of the Open Meetings
24 Act. It is 10:58 a.m., and we'll come back.

25 And this is just for the court

1 reporter. I'll try to come back at 11:00
2 o'clock. If it takes longer for us to discuss
3 this, please bear with us. But just give us till
4 11:00 o'clock for us to come back to this public
5 session to make a decision. All right. Thank
6 you. So see you back on the record at 11:00
7 o'clock. The Board will now move to executive
8 session. Thank you.

9 (Whereupon, the above-entitled matter
10 went off the record at 10:53 a.m. and resumed at
11 11:03 a.m.)

12 CHAIRPERSON ANDERSON: I want to thank
13 the Board members. We've been having hearings
14 through COVID-19, but this is actually the first
15 hearing that we have had where we have switched
16 between the public and -- the executive and
17 public session. And it was smooth this morning,
18 so I want to thank all the Board members and all
19 the parties for being back on for us to close the
20 public, go into executive, and come back to the
21 public session. And it has been without any
22 issues. So I want to thank everyone for their
23 participation in that matter.

24 All right. So the Board went to do
25 executive session to discuss the OIC. And I am

1 going to make a motion to -- this is the OIC.
2 The terms of the OIC that was present is that
3 there was a suspension.

4 It's a long OIC. But there's a 14-day
5 suspension that started on August 14th, 2020 and
6 then through August 27, 2020. The ABC license
7 shall be lifted at 8:00 a.m. on Friday, August
8 28th. The second term of the OIC is that the
9 respondent shall pay a fine of 1,000 dollars for
10 the citation previously issued in Case No. 20-
11 CIT-00188 within 20 days that the licensee will
12 comply with the mask provisions of the Mayor's
13 Order, that the licensee will also -- regarding
14 music and entertainment that the respondent shall
15 not offer -- I'm sorry, the licensee shall not
16 offer live music or entertainment including disc
17 jockey while the District of Columbia remains
18 subject to Mayor's Order 2020-067 which was
19 issued on May 27, 2020, and the Mayor's Order
20 2020-075 which was issued on June 19, 2020 in
21 accordance with the District's Notice of Fifth
22 Emergency Rulemaking.

23 Number five is the operating hours.
24 The respondent shall not operate even inside or
25 outside or sell, serve or permit the consumption

1 of alcoholic beverages past midnight during any
2 day of the week while the District of Columbia
3 remains subject to Mayor's Order 2020-067 and
4 Mayor's Order 2020-075 in accordance with the
5 Board's rulemaking.

6 Dining -- number six, Dining
7 Activities. Respondent shall only serve food and
8 alcoholic beverages to patrons seated at tables
9 with the District of Columbia remains subject to
10 the Mayor's Order 2020-067 and Mayor's Order
11 2020-075 in accordance with the rulemaking.

12 Respondent shall have a menu in use containing a
13 minimum three prepared food items available for
14 purchase and shall require patrons to purchase
15 one or more prepared food items per table.

16 Patrons shall not be permitted to walk around the
17 establishment with food or alcoholic beverages.

18 Number seven, Bar Activities.

19 Respondent shall not seat patrons at indoor or
20 outdoor bars that are being staffed or utilized
21 by a bartender. Patrons shall not be permitted
22 to stand at an indoor or outdoor bar to order
23 food or alcoholic beverages.

24 Number eight, Contract Tracing.

25 Respondent shall implement a reservation system

1 by phone, online, or onsite and keep customer
2 logs to facilitate contract tracing by DC Health.
3 Number nine, Outside Promoters. If respondent
4 uses outside promoters, both the respondent and
5 promoters shall comply with all applicable laws
6 and regulations, including Mayor's Order 2020-
7 067, Mayor's Order 2020-075 and the Board's
8 rulemaking.

9 Number ten, Sparklers. Respondent
10 shall not sell or serve alcoholic beverages with
11 sparklers inside or outside of the licensed
12 establishment. Number eleven, Social Distancing
13 Walk-through. Prior to lifting the suspension of
14 the establishment's alcoholic beverage license,
15 an ABRA investigator shall conduct a walk-through
16 of the licensed establishment with respondent to
17 evaluate the establishment's compliance with the
18 District's social distancing requirements.

19 This evaluation shall include an
20 assessment of respondent's compliance with the
21 Mayor's Order 2020-075, Mayor's Order 2020-080,
22 and 23 DCMR Section 810.2. And Show Cause. This
23 matter shall be referred to the Office of the
24 Attorney General for a possible Show Cause
25 hearing. Yes, Mr. Adams?

1 MR. ADAMS: Mr. Chairman, in terms of
2 the fine, I believe you read it as the fine was
3 to be paid in 20 days. I believe the --

4 CHAIRPERSON ANDERSON: I apologize.
5 Within 90 days. I apologize. The fine will be
6 paid within 90 days from the date of the
7 acceptance of the OIC. I do apologize. So I'll
8 to correct the record for that. And so I then
9 will make a motion that we second this. I make a
10 motion that the OIC be accepted. Is there a
11 second?

12 MEMBER SHORT: Mr. Short. I second.

13 CHAIRPERSON ANDERSON: Mr. Short has
14 accepted the -- has seconded the motion, and we
15 will now have a roll call vote and a motion that
16 has been properly seconded by Mr. Short. Mr.
17 Short?

18 MEMBER SHORT: Mr. Short. I agree.

19 CHAIRPERSON ANDERSON: Mr. Cato?

20 MEMBER CATO: Bobby Cato. I agree.

21 CHAIRPERSON ANDERSON: Ms. Crockett?

22 MEMBER CROCKETT: Rafi Crockett. I
23 agree.

24 CHAIRPERSON ANDERSON: Ms. Wahabzadah?

25 MEMBER WAHABZADAH: Rema Wahabzadah.

1 I agree.

2 CHAIRPERSON ANDERSON: Ms. Hansen?

3 MEMBER HANSEN: Jeni Hansen. I agree.

4 CHAIRPERSON ANDERSON: Mr. Grandis?

5 MEMBER GRANDIS: Ed Grandis. I agree.

6 CHAIRPERSON ANDERSON: Mr. Anderson.

7 I agree. The matter therefore passes 7-0-0. I
8 would like to thank the parties for their
9 participation today and also thank the Government
10 and you, Mr. Asfaw, for agreeing to an OIC. And
11 I do hope that, as I said, the OIC that based on
12 the Board accepting this offer in compromise, the
13 suspension will be lifted at 8:00 a.m. on this
14 Friday. Thank you very much and have a good day.

15 (Whereupon, the above-entitled matter
16 went off the record at 10:52 a.m.)

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In the matter of: Elevate

Before: DCABRA

Date: 08-26-20

Place: teleconference

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