

IN THE MATTER OF: :
 :
 :
 Brother Burger Bar, LLC :
 t/a Felicity Lounge :
 707 H Street NE : Summary Suspension
 Retailer CR - ANC 6C : Hearing
 License No. 112502 :
 Case # 20-CMP-00106 :
 :
 (ABC Board Closure - :
 October 2, 2020) :

Wednesday
October 7, 2020

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, IT Specialist
 SHAHZEB ASIM, DC OAG
 JESSICA KRUPKE, DC OAG
 MARTHA JENKINS, ABRA General Counsel
 DOMINIQUE JONES, Licensee
 FRED MOOSALLY, ABRA Director

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

10:45 a.m.

CHAIRPERSON ANDERSON: Good morning, everyone. As chairperson of the Alcoholic Beverage Control Board for the District of Columbia, I would like to welcome you to a regular scheduled meeting of the District of Columbia Alcoholic Beverage Control Board. Today is October 7th, 2020.

This meeting's being conducted pursuant to guidance made available by the District of Columbia's Office of Open Government regarding electronic meetings held by public bodies during a public health emergency.

Pursuant to this guidance, notice of today's meeting was provided 48 hours in advance of the meeting on ABRA's website and on the District's central meeting calendar. The notice included the time, date, agenda, and call in or login information for public participation.

This electronic meeting is being hosted by a WebEx account provided by the District of Columbia government. Please address any questions or complaints to the OOG at 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 who are also
4 participating electronically pursuant to Mayor's
5 Order 2020-054. Please respond when I announce
6 your name.

7 Mr. James Short?

8 Please unmute yourself, Mr. Short.

9 MEMBER SHORT: Mr. James Short,
10 present.

11 CHAIRPERSON ANDERSON: Thank you. Mr.
12 Bobby Cato?

13 MEMBER CATO: Bobby Cato, present.

14 CHAIRPERSON ANDERSON: Ms. Rema
15 Wahabzadah?

16 MEMBER WAHABZADAH: Rema Wahabzadah,
17 present.

18 CHAIRPERSON ANDERSON: Ms. Rafi
19 Crockett?

20 MEMBER CROCKETT: Rafi Crockett,
21 present.

22 CHAIRPERSON ANDERSON: Ms. Jeni
23 Hansen?

24 MEMBER HANSEN: Jeni Hansen, present.

25 CHAIRPERSON ANDERSON: Mr. Ed Grandis?

1 MEMBER GRANDIS: Ed Grandis, present.

2 CHAIRPERSON ANDERSON: I will also ask
3 that all Board members mute themselves please and
4 a reminder, just unmute yourself when you need to
5 speak. If you're not speaking, please mute
6 yourself.

7 All right, the Board has seven members
8 in attendance for the conduct of business today,
9 and that constitutes a quorum. Before we get
10 underway with today's hearing calendar, I need to
11 make a few instructions very clear so that the
12 conduct of these hearings is understood by
13 everyone.

14 We have one hearing scheduled for
15 today. Once this case is called, I will take a
16 moment for our IT specialist to elevate the
17 rights up for each party to enable their camera
18 and microphone. Then and only then will you have
19 the ability to enable your equipment. If your
20 case has not been heard, you will remain mute,
21 and your camera will be disabled.

22 At the conclusion of your case, the
23 parties will have the option to leave. If the
24 party chooses to stay, all cameras and
25 microphones for the concluded case will be

1 disabled.

2 Should you have any questions or
3 require technical assistance during the hearing,
4 please submit them using the question and answer
5 feature or email Simone, S-I-M-O-N-E.A-N-D-R-E-W-
6 S2@dc.gov.

7 Our first order of business today is
8 a Summary Suspension Hearing, Case Number
9 20CMP00106.

10 Ms. Andrews, could you please elevate
11 the parties for this case, please?

12 MS. ANDREWS: Sure, stand by. Ms.
13 Krupke, you are now a panelist. Ms. Dominique
14 Jones, you're now a panelist. And Ms. Asim, you
15 are now a panelist.

16 That's all, Mr. Chair.

17 CHAIRPERSON ANDERSON: Okay. I see,
18 who is Mr. -- all right, all right. I don't see
19 Mr. Jones. I see that they're on. I don't see
20 Mr. Jones, okay. And I need Mr. -- okay. All
21 right. So I need the parties to introduce
22 themselves for the record and also spell you
23 name, starting with, spell you name and starting
24 with the Government.

25 MR. ASIM: Mr. Chairman, Shahzeb Asim

1 representing the Government, S-H-A-H-Z-E-B, last
2 name, A-S-I-M.

3 CHAIRPERSON ANDERSON: And who else is
4 here on behalf of the Government?

5 MS. KRUPKE: Good morning, Jessica
6 Krupke on behalf of the Government, J-E-S-S-I-C-
7 A, last name Krupke, K-R-U-P-K-E.

8 CHAIRPERSON ANDERSON: So we have the
9 licensee?

10 Is there an issue with licensee?

11 Is there something we can do to have
12 the licensee introduce himself for the record,
13 please?

14 MR. JONES: Hello?

15 CHAIRPERSON ANDERSON: Do you have,
16 Mr. Jones, do you have a camera, sir, for us to
17 see you?

18 MR. JONES: Yes.

19 CHAIRPERSON ANDERSON: Well, so can
20 you please activate your camera, please. Can you
21 introduce yourself for the record please, sir.
22 And spell your name and inform us what's your
23 relationship to this establishment.

24 MR. JONES: Dominique Jones, D-O-M-I-
25 N-I-Q-U-E.

1 CHAIRPERSON ANDERSON: How are you -

2 MR. JONES: Yes, what -

3 CHAIRPERSON ANDERSON: Sir, I asked
4 you to, can you please spell your full name for
5 the record, and also identify yourself for the
6 record please, sir?

7 MR. JONES: Dominique Jones, D-O-M-I-N-I-
8 Q-U-E J-O-N-E-S.

9 CHAIRPERSON ANDERSON: And what's your
10 relationship to the establishment, sir?

11 MR. JONES: I'm one of the owners.

12 CHAIRPERSON ANDERSON: So you're one of
13 the owners of the establishment. Thank you, sir.

14 All right, this is summary suspension
15 hearing. And so who is the lead attorney in this
16 case?

17 MR. ASIM: Mr. Chairman, I'll be the lead
18 attorney.

19 CHAIRPERSON ANDERSON: All right, Mr.
20 Asim. Are there any preliminary matters in this case?

21 MR. ASIM: Yes, Mr. Chairman. As you are
22 aware, the establishment had it's, the Board voted to
23 summarily suspend the establishment's alcoholic
24 beverage license from September 30th. And this went
25 into effect on October 2nd.

1 Since then, the parties have come together
2 to discuss terms of a settlement and have an offer in
3 compromise we'd like to propose to the Board today.

4 CHAIRPERSON ANDERSON: And so can you
5 please tell us sir, what the offer is, please?

6 MR. ASIM: The offer in compromise terms
7 are as follows. Number one, suspension, Respondent
8 agrees to 25-day suspension of its ABC license with 15
9 days served and ten days stayed. The 15 days served
10 suspension shall commence on Friday, October 2nd,
11 2020, through Saturday, October 17th, 2020, which
12 includes time served during the summary suspension
13 period.

14 The ABC license suspension shall be lifted
15 at 8:00 a.m. on Sunday, October 18th, 2020, provided
16 Respondent satisfies all other applicable requirements
17 in this OIC. The additional ten-day suspension shall
18 be stayed for a period of one year beginning on the
19 day of the Board's acceptance of this OIC.

20 If Respondent complies with the terms of
21 this OIC and does not have any additional violations
22 in the year following the Board's acceptance of this
23 OIC, per the requirements of 23 DCMR, Section 808.16,
24 Respondent shall not serve the ten stayed days.

25 Number two, dining activities, Respondent

1 shall only serve food and alcoholic beverages to
2 patrons seated at tables while the District of
3 Columbia remains subject to Mayor's Order 2020-067,
4 and Mayor's Order 2020-075, and in accordance with 23
5 DCMR, Sections 810.2(b), (d), and (l).

6 Tables shall be placed so that patrons in
7 different parties are placed at least six feet apart
8 from one another with no more than six patrons per
9 table.

10 Patrons shall not be permitted to walk
11 around the establishment with food or alcoholic
12 beverages. Respondent shall require the purchase of
13 one or more prepared food items per table.

14 Number three, bar activities, Respondent
15 shall not seat patrons at indoor or outdoor bars that
16 are being staffed or utilized by a bar tender.
17 Patrons shall not be permitted to stand at an indoor
18 or outdoor bar to order food or alcoholic beverages as
19 required by 23 DCMR, Section 810.2(q).

20 Number four, capacity, Respondent shall
21 limit its indoor capacity to no more than 50 percent
22 of the lowest indoor occupancy load or seating
23 capacity on its certificate of occupancy, excluding
24 employees and outdoor seating, while the District of
25 Columbia remains subject to Mayor's Order 2020-067,

1 and Mayor's Order 2020-075, and in accordance with 23
2 DCMR, Section 810.2(a).

3 Number five, social distancing walk-
4 through, prior to lifting the suspension of the
5 establishment's alcoholic beverage license, an ABRA
6 investigator shall conduct a walk-through of the
7 licensed establishment with the Respondent to evaluate
8 the establishment's compliance with the District's
9 social distancing requirements.

10 This evaluation shall include an
11 assessment of Respondent's compliance with Mayor's
12 Order 2020-075, Mayor's Order 2020-080, and in
13 accordance with 23 DCMR, Section 810.2.

14 Number six, egress. The Respondent shall
15 not prevent egress from the establishment. Respondent
16 shall not lock doors during business hours or when
17 patrons are inside the establishment.

18 Number seven, masks, except when eating or
19 drinking while seated during the public health
20 emergency, Respondent shall require that all owners
21 and employees of the establishment wear a mask or face
22 covering while present on the licensed premises,
23 regardless of whether they are on duty.

24 Respondent shall also require patrons,
25 during the public health emergency, to wear masks or

1 face coverings prior to entering, or while waiting in
2 line outside of the licensed premises, and while
3 traveling to use the restroom, or until they are
4 seated and eating or drinking.

5 Number eight, fine, Respondent shall pay
6 fines in the amount of \$2,000 within 90 days, which
7 includes a \$1,000 fine for the citation issued in Case
8 Number 20-CIT-00434 and a \$1,000 fine for the citation
9 issued in Case Number 20-CIT-00226.

10 Number nine, music, while the District of
11 Columbia remains subject to Mayor's Order 2020-0067,
12 and Mayor's Order 2020-0075, and in accordance with 23
13 DCMR, Section 810.2(n), Respondent shall only offer
14 recorded or background music that is played at a
15 conversational level that is not heard in the homes of
16 District residents.

17 CHAIRPERSON ANDERSON: Hold on Mr. Asim.
18 Mr. Jones, can you please remove your hat please, sir.
19 Thank you, sir.

20 Go ahead, Mr. Asim.

21 MR. ASIM: That concludes the offer in
22 compromise terms.

23 CHAIRPERSON ANDERSON: So it's the
24 position of the Government that, if the Board was to
25 accept this offer in compromise, that it would address

1 the issues that were put in place based on the summary
2 suspension?

3 MR. ASIM: Yes, Mr. Chairman. Some of the
4 issues raised during this summary suspension included
5 patrons, and employees, and owners failing to wear
6 masks, patrons failing to social distance, and the
7 establishment increasing its occupancy well above 50
8 percent of their certificate of occupancy.

9 So some of these terms address directly
10 the issues. For example, the prohibition of live
11 music will help address one of the issues that was
12 raised during several visits of the establishment
13 where they had live entertainment including a DJ.

14 So another thing that these terms will
15 address is helping enforce some of the social
16 distancing that's mandated by the Mayor's orders,
17 because some of the issues raised included patrons
18 being less than six feet apart and crowding in a small
19 enclosed space.

20 And we believe, with the social distancing
21 walk-through, this will give an ABRA investigator an
22 opportunity to ensure compliance with some of the
23 Mayor's orders dealing with COVID restrictions and
24 social distancing requirements.

25 CHAIRPERSON ANDERSON: All right. Thank

1 you.

2 All right, Mr. Jones, it's my
3 understanding that there is an offer in compromise.
4 And have you reviewed this offer in compromise, sir?

5 MR. JONES: Yes, I have.

6 CHAIRPERSON ANDERSON: Are you aware
7 that by accepting an offer in compromise that you're
8 giving up your right to a hearing?

9 MR. JONES: Yes, I do.

10 CHAIRPERSON ANDERSON: Are you also
11 aware that by accepting an offer in compromise that
12 you're giving up your right to appeal this matter?

13 MR. JONES: Yes, I do.

14 CHAIRPERSON ANDERSON: All right, thank
15 you.

16 Are there any questions by any Board
17 members?

18 All right, hearing none, I make a motion
19 that the Board accept this offer in compromise. Is
20 there a second?

21 MEMBER SHORT: Mr. Short, I second.

22 CHAIRPERSON ANDERSON: All right, Mr.
23 Short has seconded the motion. And before I take a
24 roll call vote, I need to read the terms again of the
25 offer in compromise, so the offer in compromise that's

1 been presented today for the Board's acceptance.

2 In term one, there's a suspension. It
3 basically states that, Respondent agrees to a 25-day
4 suspension of its ABC license with 15 days served and
5 ten days stayed. The 15 days served suspension shall
6 commence on Friday, October 2nd, 2020, through October
7 17th, 2020, which includes time served during the
8 summary suspension period.

9 The ABC license suspension shall be lifted
10 at 8:00 a.m. on Sunday, October 18th, 2020, provided
11 Respondent satisfies all applicable requirements in
12 this OIC. The additional ten suspension days shall be
13 stayed for a period of one year beginning on the day
14 of the Board's acceptance of this OIC.

15
16 If Respondent complies with the terms of
17 this OIC, and does not have any additional violation
18 in the year following the Board's acceptance of the
19 OIC, as per the requirements of 23 DCMR, Section
20 808.16, Respondent shall not serve the ten stayed
21 days.

22 Number two, dining activities, Respondent
23 shall only serve food and alcoholic beverages to
24 patrons seated at tables while the District of
25 Columbia remains subject to Mayor's Order 2020-067,

1 and Mayor's Order 2020-075, and in accordance with 23
2 DCMR, Sections 810.2(b), (d), and (1).

3 Tables shall be placed so that patrons in
4 different parties are placed at least six feet apart
5 from one another with no more than six patrons per
6 table.

7 Patrons shall not be permitted to walk
8 around the establishment with food or alcoholic
9 beverage. Respondent shall require the purchase of
10 one or more prepared food items per table.

11 Number three, bar activities, Respondent
12 shall not seat patrons at indoor or outdoor bars that
13 are being staffed or utilized by a bartender. Patrons
14 shall not be permitted to stand at an indoor or
15 outdoor bar or order food or alcoholic beverages as
16 required by 23 DCMR, Section 810.2(q).

17 Number four, capacity, Respondent shall
18 limit its indoor capacity to no more than 50 percent
19 of the lowest indoor occupancy load or seating
20 capacity on its certificate of occupancy, excluding
21 employees and outdoor seating, while the District of
22 Columbia remains subject to Mayor's Order 2020-067,
23 and Mayor's Order 2020-075, and in accordance with 23
24 DCMR, Section 810.2(a).

25 Number five, social distancing walk-

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

7 This evaluation shall include an
8 assessment of Respondent's compliance with Mayor's
9 Order 2020-75, Mayor's Order 2020-080, and in
10 accordance with 23 DCMR, Section 810.2.

11 Number six, egress, the Respondent shall
12 not prevent egress from the establishment. Respondent
13 shall not lock doors during business hours or when
14 patrons are inside of the establishment.

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

21 Respondent shall also require patrons,
22 during the public health emergency, to wear masks or
23 face coverings prior to entrance, or while waiting in
24 line outside of the licensed premises, and while
25 traveling to use the restroom, or until they are

1 seated and eating or drinking.

2 Number eight, fine, Respondent shall pay
3 fines in the amount of \$2,000 within 90 days, which
4 includes a \$1,000 fine for the citation issued in Case
5 Number 20-CIT-00434 and a \$1,000 fine for the citation
6 issued in Case Number 20-CIT-00226.

7 Number nine, music, while the District of
8 Columbia remains subject to Mayor's Order 2020-0067,
9 issued May 27, 2020, and Mayor's Order 2020-0075,
10 issued June 19th, 2020, and in accordance with 23
11 DCMR, Section 810.2(n), Respondent shall only offer
12 recorded or background music that is played at a
13 conversational level that is not heard in the homes of
14 District residents.

15 That's the terms of the OIC that has been
16 seconded by Mr. Short. We will now have a roll call
17 vote on the motion that has been properly seconded by
18 Mr. Short.

19 Mr. James Short?

20 MEMBER SHORT: Mr. Short, I agree.

21 CHAIRPERSON ANDERSON: Mr. Bobby Cato?

22 MR. CATO: Bobby Cato, I agree.

23 CHAIRPERSON ANDERSON: Ms. Rema

24 Wahabzadah?

25 MEMBER WAHABZADAH: Rema Wahabzadah, I

1 agree.

2 CHAIRPERSON ANDERSON: Ms. Rafi
3 Crockett?

4 MEMBER CROCKETT: Rafi Crockett, I agree.

5 CHAIRPERSON ANDERSON: Ms. Jeni Hansen?

6 MEMBER HANSEN: Jeni Hansen, I agree.

7 CHAIRPERSON ANDERSON: Mr. Ed Grandis?

8 MEMBER GRANDIS: Ed Grandis, I agree.

9 CHAIRPERSON ANDERSON: And Mr.
10 Anderson, I agree.

11 The Board has accepted this OIC 7-0-0. I
12 would like to thank both the Government and the
13 Licensee for working this matter out. And I do hope
14 that this is in the --

15 (Audio interference.)

16 MS. ANDREWS: All parties, please stand
17 by.

18 (Pause.)

19 CHAIRPERSON ANDERSON: I apologize. I'm
20 not sure at what point I had some technical
21 difficulties. So did I announce the vote, that the
22 motion passed 7-0-0?

23 MEMBER CROCKETT: Yes, you did.

24 CHAIRPERSON ANDERSON: All right. Okay,
25 thank you.

1 So I do apologize for my technical
2 difficulties. And so therefore, as I was stating, I
3 just want to thank the Government and the Licensee
4 for agreeing to this OIC. And if any Board member has
5 any other questions or concerns, they can raise that
6 now. If not, I will formally close the hearing.

7 And final comments on this matter by any
8 Board members?

9 All right, hearing none, I want to thank
10 the Government and the Licensee for this matter. And
11 this matter is concluded. Thank you very much for
12 your attendance and your participation. All right.

13 MR. ASIM: Thank you.

14 CHAIRPERSON ANDERSON: Have a good day.

15 MS. KRUPKE: Thank you.

16 (Whereupon, the above-entitled matter
17 went off the record at 11:11 a.m.)
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In the matter of: Felicity Lounge

Before: DCABRA

Date: 10-07-20

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