

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE AND CANNABIS BOARD
+ + + + +
MEETING

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IN THE MATTER OF:
GF, Inc.
t/a Il Canale
1063-1065 31st Street NW : Protest
Retailer CR - ANC 2E : Hearing (Status)
License No. 83707
Case #19-PRO-00033
(Application to
Renew the License)
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Wednesday
October 25, 2023

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

PRESENT:

- DONOVAN W. ANDERSON, Chairperson
BOBBY CATO, JR., Member
EDWARD S. GRANDIS, Member
JENI HANSEN, Member
JAMES SHORT, JR., Member

ALSO PRESENT:

- JOSE ORELLANA, DC ABCA Staff
STEPHEN O'BRIEN, Licensee Counsel
JOHN UHAR, Protestant

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

2 1:44 p.m.

3 CHAIRPERSON ANDERSON: Good afternoon,
4 everyone. As chairperson of the Alcoholic
5 Beverage and Cannabis Board for the District of
6 Columbia, and in accordance with D.C. Code
7 Section 2-571 of the Open Meetings Act, I'm
8 welcoming you to the regularly scheduled meeting
9 of the Alcoholic Beverage and Cannabis Board.

10 This meeting is being conducted
11 pursuant to guidance made available by the
12 District of Columbia's Office of Open Government
13 regarding electronic meetings held by public
14 bodies. Electronic meetings by the ABC Board are
15 authorized pursuant to Section 2-577(a) of the
16 D.C. Code.

17 Pursuant to the OMA requirements,
18 notice of today's meeting was provided 48 hours
19 in advance of the meeting on ABCA's website and
20 on the District's central meeting calendar. The
21 notice included the time, date, agenda, and call
22 in or login information for public participation.
23 This electronic meeting has been hosted by a
24 Webex account provided by the District of
25 Columbia Government.

1 Please address any questions or
2 complaints to the OOG at opengovoffice@dc.gov.

3 My name is Donovan Anderson. I'm
4 chairperson of the Board. I would like to
5 introduce the other members of the ABC Board who
6 are also participating electronically. Please
7 respond when I announce your name. Mr. James
8 Short?

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

11 CHAIRPERSON ANDERSON: Mr. Bobby Cato?

12 MEMBER CATO: Bobby Cato, present.

13 CHAIRPERSON ANDERSON: Ms. Jeni
14 Henson?

15 MEMBER HANSEN: Jeni Henson, present.

16 CHAIRPERSON ANDERSON: Mr. Edward
17 Grandis.

18 MEMBER GRANDIS: Mr. Grandis.

19 CHAIRPERSON ANDERSON: The Board has
20 five members in attendance for the conduct of
21 business and that constitutes a quorum.

22 Before we get under way with the
23 hearing calendar, I need to make sure the
24 instructions are clear so that the conduct of
25 these hearings are understood by everyone.

1 There are seven cases scheduled for
2 today. Once a case is called, I will take a
3 moment for the IT specialist to elevate the
4 rights to each party to enable their camera and
5 microphone. Then and only then will you have the
6 ability to enable your equipment. If your case
7 has not been heard, you will remain mute and your
8 camera will be disabled.

9 At the conclusion of each case, the
10 parties will have the option to leave. If the
11 parties choose to stay, all cameras and
12 microphones of the concluded case will be
13 disabled.

14 Should you have any questions or
15 require technical assistance during the hearing,
16 please submit them using the question and answer
17 feature.

18 Our first case this afternoon is Case
19 No. 19-PRO-00033, Il Canale, License No. 83707.

20 Good afternoon, Mr. Orellana, can you
21 please elevate the rights of the licensee and the
22 protestant.

23 MR. ORELLANA: Good afternoon, chair.
24 Stephen O'Brien, your access has been
25 elevated.

1 John Uhar, your access has been
2 elevated. And that appears to be a picture.

3 CHAIRPERSON ANDERSON: Thank you. Mr.
4 Uhar, I can't see you. Do you have a camera you
5 can turn on, sir?

6 MR. UHAR: Sure. Here you go. There
7 you go.

8 CHAIRPERSON ANDERSON: I still can't
9 see you.

10 MR. UHAR: Start my video. Can you
11 see me now?

12 CHAIRPERSON ANDERSON: Yes, sir. I
13 can. Thank you. All right, good afternoon,
14 everyone. This is a protest hearing status. Let
15 me have the parties identify themselves for the
16 record, by spelling and stating their name.

17 Mr. O'Brien?

18 You're on mute, Mr. O'Brien.

19 MR. O'BRIEN: I think I have it now.
20 Stephen O'Brien, counsel for the Licensee. S-T-
21 E-P-H-E-N, O apostrophe B-R-I-E-N.

22 CHAIRPERSON ANDERSON: Good afternoon,
23 Mr. O'Brien. Mr. Uhar, spell and state your name
24 for the record, sir.

25 MR. UHAR: My name is John Uhar, U-H-

1 A-R.

2 CHAIRPERSON ANDERSON: All right, I am
3 aware that there are several motions that were
4 filed. The Board has not had sufficient time to
5 review the motions and so therefore, we're just
6 moving on to have this matter scheduled for a
7 protest and depending on whatever determination
8 that the Board rules on the motions, that will
9 determine where we are.

10 Are there any other preliminary issues
11 on your part, Mr. O'Brien?

12 MR. O'BRIEN: Well, there are two
13 motions pending.

14 CHAIRPERSON ANDERSON: Go ahead, sir.

15 MR. O'BRIEN: I just want to make sure
16 that's clear.

17 CHAIRPERSON ANDERSON: Just generally,
18 and we're not going to make an argument, but I
19 just want to make sure what are the motions that
20 you filed, sir.

21 MR. O'BRIEN: I filed a motion to
22 dismiss the protest. Mr. Uhar's time to respond
23 has not expired yet. So he still has time to
24 answer that. So that's not ripe.

25 Last night, Mr. Uhar filed a motion to

1 -- I'm characterizing it, to suspend the protest
2 hearing, pending investigation of a complaint
3 filed by Mr. Uhar previously. I think I'm
4 characterizing that fairly.

5 I filed an opposition this afternoon
6 and Mr. Uhar filed a reply to opposition within
7 the last hour or so. So I believe that matter is
8 ripe, but I understand the Board has not had an
9 opportunity to digest that yet.

10 The only thing I would ask is if the
11 Board -- I think we have the protest hearing in
12 two weeks now, maybe it's three. I think both the
13 parties would hope to have rulings on the motions
14 prior to the protest hearing in order that we not
15 needlessly, it turns out, if these motions are
16 granted, so as not needlessly prepare for the
17 actual protest hearing.

18 CHAIRPERSON ANDERSON: Thank you. Mr.
19 Uhar, any preliminary matters you want to raise,
20 sir?

21 MR. UHAR: Yes. Let's start at the
22 beginning. You said that the hearing -- that
23 this was posted 48 hours in advance and that's
24 not correct. You posted it yesterday.

25 The second thing is you can't really

1 be moved to a protest until you answer the
2 complaints.

3 And then the third thing is, is are
4 you aware of the complaints? I mean is ABRA,
5 have you seen the complaints and have members of
6 the Board read the complaints? Are you aware of
7 that or are you just relying on your ABRA people
8 under you?

9 CHAIRPERSON ANDERSON: What complaints
10 are you talking about, sir?

11 MR. UHAR: The complaints that I've
12 been filing and refiling since 2019 that ABCA
13 always seems to call a protest. And it finally
14 dawned on me that perhaps you aren't too aware of
15 what's going on with the day to day and reading
16 the evidence.

17 I mean at the last testimony, you knew
18 nothing of hate. And you said you had no police
19 power and you know, I don't think you understand
20 what's going on here.

21 And what I would hope to do would --
22 could I send you the copy of the complaints that
23 you could forward to the Board and then you could
24 get back to me? Because these are serious.
25 These are way worse than Charcoal Town and you

1 can't run a government with people not following
2 rules and regulations.

3 I'm an industrial real estate broker.
4 D.C. real estate has been good to me and I take
5 D.C. land records sacrosanct and when I see
6 attorneys and officers of the court going in and
7 fraudulently giving things that are not correct,
8 prima facie evidence, I give it to you. You do
9 nothing, and here I am after spending \$50,000 for
10 attorney fees and you do not -- you still haven't
11 satisfied that.

12 You never gave me the checklist. Your
13 investigative report ignored my complaints and
14 that's it. So you need to follow due process and
15 equal protection. And I'd like to send you the
16 complaints and the other board members because I
17 think once you read them, you'll get a better
18 understanding.

19 CHAIRPERSON ANDERSON: Mr. Uhar, just
20 what I said, for process, sir, when complaints
21 are filed, they go to our Enforcement Division.

22 MR. UHAR: But they don't enforce --

23 CHAIRPERSON ANDERSON: Sir, let me
24 finish. I did not interrupt you, sir.

25 MR. UHAR: That's true. I'm sorry.

1 CHAIRPERSON ANDERSON: All right, when
2 you file complaints they go to our Enforcement
3 Division. Our Enforcement Division will
4 investigate and if the Enforcement Division
5 determines that there are any legal violations,
6 then it comes to the Board for the Board to make
7 a determination.

8 So generally, sir, the Board does not
9 see complaints unless it has been determined by
10 the Enforcement Division that the Board needs to
11 access whether or not some penalty -- whether or
12 not we believe that a regulatory violation has
13 occurred, sir, okay? So that's where we are.

14 But as I've stated before, the Board
15 has received all - the Board has received all of
16 the --

17 MR. UHAR: But you don't know anything
18 about it.

19 CHAIRPERSON ANDERSON: Sir, I don't
20 need to know anything about it because -- what I
21 stated, sir, is that it goes to Enforcement.
22 Enforcement investigates it and Enforcement will
23 present it to the Board for the Board to make a
24 determination.

25 MR. UHAR: Okay, I hate to interrupt

1 you, but what I'm telling you is they haven't.
2 And here's an exhibit right here. Do you see
3 this, this stop work order? The illegal
4 construction and the blocking of my alley? I
5 mean -- gets -- in a heartbeat.

6 CHAIRPERSON ANDERSON: But, Mr. Uhar,
7 a stop work order, that's not an ABRA violation.
8 I mean them blocking your alley, that is another
9 agency. Remember --

10 MR. UHAR: Sir, sir, sir, sir. It was
11 in a fraudulent settlement agreement that he
12 claims. You really need to review the evidence
13 because you are not being -- you are not being
14 served well by your investigators. They have yet
15 to report. They have yet to respond and if you
16 take a look at it more closely with the Board,
17 you'll see that something is being pulled on
18 them.

19 CHAIRPERSON ANDERSON: As I've said,
20 sir, you have filed, they are motions. The Board
21 will make a determination on the motions -- aware
22 our next step. But currently, this matter is
23 scheduled for protest hearing on November 15th at
24 1:30. However, we will make our ruling on the
25 motions that were filed and you will know prior

1 to November 15th whether or not we're going to
2 move forward with this protest hearing. Okay?

3 Any other questions?

4 MR. UHAR: Sure. One question.

5 CHAIRPERSON ANDERSON: Yes, sir.

6 MR. UHAR: The applicant, again, you
7 need to look at the complaints. You're not being
8 served well. These are all valid tier 1
9 complaints for years.

10 CHAIRPERSON ANDERSON: Sir, if this
11 matter goes to a protest hearing, if this matter
12 goes to a protest hearing, then you can --

13 MR. UHAR: How do I get my checklist?

14 CHAIRPERSON ANDERSON: If this matter
15 goes to a protest hearing, sir, I'm not sure what
16 it is that you're speaking of because I'm not
17 aware of that. But if it goes to a protest
18 hearing, you will be allowed to rely on documents
19 and witnesses that were provided, disclosed. You
20 need to do a PIP. A PIP is due seven days prior
21 to the hearing and whatever documents and
22 witnesses that you are relying on, these
23 documents need to be included in the PIP and it
24 needs to be exchanged, provided to Mr. O'Brien,
25 and provided to the Agency.

1 And so if it goes to a protest
2 hearing, all the complaints that you said that
3 you filed, you can include all those complaints
4 in your PIP and then the Board will see that and
5 review that and make a decision based on the
6 evidence that's presented.

7 All that we're doing now is just
8 preliminary -- we're having -- making preliminary
9 determinations. But as I stated before, if this
10 matter goes to a protest hearing, as long as you
11 have disclosed these documents and witnesses
12 seven days before, then the Board will consider
13 it in its determination. Okay?

14 Mr. O'Brien?

15 MR. O'BRIEN: Yes, I think it needs to
16 be emphasized though that the documents, the
17 witnesses must be relevant to the very, very
18 narrow issue on remand which is the extent of, if
19 any, to which -- of which fraudulent
20 representations to other agencies can be
21 approved.

22 This proceeding is very narrowly
23 focused. It's not a total redo of the previous
24 protest.

25 CHAIRPERSON ANDERSON: I think you are

1 correct. If this matter goes to a protest
2 hearing, it's on a discrete issue, but the
3 parties are -- the parties can disclose documents
4 and witnesses, but at the hearing, and we'll
5 determination whether or not whatever documents
6 and witnesses that are disclosed was not
7 irrelevant to the decision that needs to be made
8 by the Agency, by the Board. Thank you.

9 Before I bring closure, Mr. Uhar, do
10 you have any final comments, anything procedural
11 comments you want to make?

12 MR. UHAR: Yes. I think that if you
13 were to investigate the complaints, there would
14 be no need for a protest and it was in my
15 opposition.

16 I do think you need to be brought up
17 to speed on the actual complaints. These are not
18 minor violations. They are violations of
19 settlement agreements and it's all through there
20 and you had it before, but you didn't want to
21 investigate the last time and you don't want to
22 investigate now, so we'll just keep at it. Okay.

23 CHAIRPERSON ANDERSON: All right, as
24 I stated this matter is scheduled for a protest
25 hearing on November 15th at 1:30 p.m. The Board

1 is in receipt of the motions and the Board will
2 review the motions and make a ruling on the
3 motions prior to the hearing.

4 MR. UHAR: Actually, I have one last
5 question.

6 CHAIRPERSON ANDERSON: Yes, sir.

7 MR. UHAR: We still, as you know, what
8 Mr. O'Brien calls a narrowly-tailored remand is
9 actually pretty strong and that's in one of the
10 orders. It's -- they were relying again on false
11 information and I think again the complaints and
12 the remand is pretty serious. You need to look
13 at it and I sent you that in the memorandum so
14 that you can address it a little better.

15 CHAIRPERSON ANDERSON: Thank you. The
16 Board -- we have read the remand. We have read
17 the order from the Court of Appeals and based on
18 our reading of the order from the Court of
19 Appeals, that's one of the reasons why we wrote a
20 Board order for this hearing.

21 MR. UHAR: Yes, and that's why it's on
22 appeal because you have your finger on the scale.

23 CHAIRPERSON ANDERSON: All right.
24 Have a great afternoon.

25 MR. UHAR: You, too.

1 CHAIRPERSON ANDERSON: Thank you very
2 much. Bye-bye.

3 (Whereupon, the above-entitled matter
4 went off the record at 2:02 p.m.)
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In the matter of: Il Canale

Before: DC ABCA

Date: 10-25-23

Place: teleconference

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Court Reporter

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