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11:28 a.m.

CHAIRPERSON MILLER: Okay. The last case on the morning calendar is Case No. 11-CMP-00321, Yegna, located at 1920 9th Street NW, License No. 74241, in ANC 1C.

MR. RIVERO: Good morning, Board Members, Fernando Rivero for the District of Columbia.

CHAIRPERSON MILLER: Okay.

MR. ROBINSON: Good morning, Wendell Robinson on behalf of Yegna.

CHAIRPERSON MILLER: I'm sorry. Could you -- I missed your name.

MR. ROBINSON: Wendell Robinson.

CHAIRPERSON MILLER: Robinson. Okay, Mr. Robinson, good morning.

MR. ROBINSON: Good morning.

CHAIRPERSON MILLER: Okay.

MS. ALEMAYEHU: Asefu Alemayehu, owner of Yegna.

CHAIRPERSON MILLER: Could you

1 also, I'm sorry --

2 MS. TAFARI: Tabotu Tafari, I'm  
3 the translator.

4 CHAIRPERSON MILLER: -- you are  
5 the translator, okay.

6 Take a seat. It's, actually,  
7 easier for us to hear when you are closer to  
8 the microphone.

9 What are you -- what's your name,  
10 the translator?

11 MS. TAFARI: T-A-B-O-T-U, Tabotu.

12 CHAIRPERSON MILLER: Okay. What  
13 language?

14 MS. TAFARI: Amharic and English.  
15 Amharic.

16 CHAIRPERSON MILLER: Amharic,  
17 okay.

18 I need to swear you in as an  
19 interpreter. Okay?

20 Would you raise your right hand,  
21 please? Okay.

22 Do you solemnly affirm that you

1 will faithfully and accurately interpret the  
2 proceedings in this matter from Amharic into  
3 English and from English into Amharic, to the  
4 best of your ability?

5 MS. TAFARI: Yes.

6 CHAIRPERSON MILLER: Okay, thank  
7 you.

8 And, the owner is Ms. Alemayehu.

9 CHAIRPERSON MILLER: Mr. Rivero?

10 MR. RIVERO: I have a procedural  
11 matter, if I may, please, Madam Chairman.

12 CHAIRPERSON MILLER: Okay.

13 MR. ROBINSON: I'm going to  
14 request a continuance of this hearing.

15 CHAIRPERSON MILLER: This is a  
16 Show Cause hearing. Okay. You are requesting  
17 a continuance, why?

18 MR. ROBINSON: The reason for the  
19 continuance is --

20 MEMBER ALBERTI: Did we have  
21 introductions?

22 CHAIRPERSON MILLER: We did.

1 MEMBER ALBERTI: Okay.

2 CHAIRPERSON MILLER: He's Mr.  
3 Robinson.

4 MR. ROBINSON: -- one, I do not  
5 believe that within the past two weeks, three  
6 weeks, when I spoke with my client, she didn't  
7 understand me.

8 I've been trial for most of last  
9 week, and my trial terminated yesterday.

10 During those times when I was  
11 speaking with my client, she indicated she  
12 could understand me. Also, I was concerned by  
13 the look of bewilderment and thought she  
14 misheard.

15 I had arranged, prior to this  
16 meeting, to have -- I hired an Amharic  
17 interpreter, not this interpreter, to come to  
18 my office to just prep my client for today's  
19 hearing.

20 I could not make it, but my  
21 associate in the office met with my client,  
22 and he retained the Amharic interpreter.

1                   When my client -- my client was  
2 explained what we had discussed previously,  
3 she indicated this is the first time she's  
4 ever heard of it. The crucial point, of  
5 course, is she was only aware that she could  
6 lose her license and not be able to reapply  
7 for five years last night. That's what my  
8 associate told me.

9                   So, it became pretty clear that  
10 she didn't understand me, although I asked my  
11 client, I said, are you understanding me? I  
12 think I really need to get an interpreter.

13                   She said I don't think you do, I  
14 understand you perfectly. But, it's pretty  
15 clear she did not.

16                   And so, it was pretty clear to me  
17 then that all of the discussions we had she  
18 probably didn't understand most of it, because  
19 she's not fluent in English.

20                   It was probably a mistake on my  
21 part not to follow my first intuition,  
22 thinking she understood me.

1 CHAIRPERSON MILLER: All right.

2 MR. ROBINSON: But, it's pretty  
3 clear she did not.

4 So, I've advised Counsel of what I  
5 intended to do, and I apologize for it being  
6 so late. But, I will say this, that but for  
7 the meeting last night we probably would have  
8 gone forward on the hearing, and probably  
9 would have been ill-prepared and not advised  
10 of what the consequences were.

11 So, I'm asking, and I apologize  
12 for the lateness of it, however, it's very  
13 clear to me that any conversations that I have  
14 with my client I'm going to have interpreter  
15 there.

16 The retained Amharic interpreter  
17 was supposed to be here this morning. I don't  
18 know where she is. She was in my office last  
19 night for an hour.

20 MEMBER SILVERSTEIN: Say that  
21 again, please.

22 MR. ROBINSON: So, I'm asking that

1       you continue this at least until January 9th.  
2       I think that's the date I need to prepare --  
3       I asked for an earlier date, but,  
4       unfortunately, Mr. Rivero is not available,  
5       the subsequent date I was not available, and  
6       the 9th I have a matter, but my associate can  
7       handle that. I will be available for the 9th  
8       of January of 2013, if the Board decides to  
9       continue this.

10                   CHAIRPERSON MILLER: I think Mr.  
11       Silverstein next to you called about the  
12       associate the day before or something.

13                   MR. ROBINSON: Last night, because  
14       I expected my trial to end earlier, on Monday,  
15       I'm sorry, Tuesday, they came back last night  
16       at 4:30.

17                   I had planned a meeting with the  
18       Amharic interpreter and Ms. Asefu at 4:00 in  
19       my office. The interpreter is qualified in  
20       Amharic, and she said she could be there at  
21       4:00.

22                   I called my office and advised my



1        associate, Cheryl Torralba, that I could not  
2        make it, and I advised her. She has been  
3        involved with the case, that I couldn't make  
4        it, and what she should explain to the  
5        interpreter.

6                    And so, when I got to the office  
7        last night at 5:45, Ms. Torralba told me that  
8        Mrs. Asefu had stated in response to the  
9        interpreter that she had first heard that her  
10       license would be revoked and she couldn't  
11       reapply for five years, for other matters.

12                    So, it's very clear that I need to  
13       re-advise her from the very beginning, and  
14       with an interpreter.

15                    CHAIRPERSON MILLER: Mr. Rivero,  
16       do you have a position on the request for  
17       continuance?

18                    MR. RIVERO: We, actually, have no  
19       objection. I don't want to be in the way of  
20       his client understanding. And, I am available  
21       on the 9th.

22                    CHAIRPERSON MILLER: Okay.

1 MR. RIVERO: My witness will be  
2 available as well.

3 CHAIRPERSON MILLER: I understand  
4 that the Board has a space on the calendar  
5 January 9th at 1:30. So, I would now turn to  
6 Board Members to see if they have questions or  
7 concerns about continuing this hearing.

8 MEMBER SILVERSTEIN: Madam Chair?

9 CHAIRPERSON MILLER: Yes.

10 MEMBER SILVERSTEIN: I think that  
11 it's important that we strike a balance here  
12 between fairness and, dare I say, special  
13 privilege. And, I'm trying to be respectful  
14 about this, but there's a pattern of violation  
15 here, it appears. This is not the first  
16 violation. And, if this were to happen to  
17 someone who didn't -- who did speak English,  
18 would they be held to a different standard  
19 than someone who uses the inability to speak  
20 English as a primary language as a shield?

21 And, I don't want to seem harsh,  
22 but I'm very troubled by that, and it is

1       difficult to strike a fairness. We have many  
2       people in our community who do not speak  
3       English, and we should not hold them to a  
4       higher or lower standard. It says equal  
5       justice under the law above the Supreme Court.  
6       It doesn't say in Greek, it doesn't say in  
7       Amharic, it doesn't say in Chinese, but it is  
8       for all of us.

9               And, as we deliberate on this, I  
10       just want to say that I'm very troubled by the  
11       idea that someone could be charged with  
12       violating the law, and would have a different  
13       standard of response and compliance, because  
14       of the inability to speak the language that is  
15       the lingua franca, the language of the law in  
16       the United States.

17               MR. ROBINSON: May I respond?

18               MEMBER SILVERSTEIN: Yes.

19               CHAIRPERSON MILLER: Yes.

20               MEMBER SILVERSTEIN: Yes, sir.

21               MR. ROBINSON: I fully understand  
22       your position. However, not to argue

1 constitutional or anything like that, but I  
2 agree that there must be this even-handed  
3 approach among all parties that appear before  
4 administrative as well as judicial bodies.

5           However, the Due Process Clause  
6 always requires that before a final judgment  
7 is entered that would deprive a person of  
8 their property rights that they must have due  
9 notice and be fully aware of those conditions  
10 of which they can lose their property rights.

11           And, we've seen in the criminal  
12 courts, saw defendants coming in asking for a  
13 continuance at the last minute. They don't  
14 like their lawyer, they want to get another  
15 lawyer. The court is inconvenienced, the  
16 parties are inconvenienced, but our system  
17 does that.

18           And, what we want to do and say is  
19 that whenever we enter a final judgment, and  
20 that final judgment deprives someone of  
21 property or a property right, that they cannot  
22 come back and say, I didn't get notice. We

1 need to make sure that none of the procedural  
2 problems would preclude that final judgment  
3 from being overturned.

4 I think it is my fault, Mr.  
5 Silverstein, that I did not follow my first  
6 intuition, and that is, I believed my client,  
7 she tells me that she understands, and then,  
8 unfortunately, I find out, as I always do prep  
9 before hearings, that she didn't, and that's  
10 what has happened here.

11 And so, I ask that -- I apologize  
12 for that, and I ask the Board to exercise  
13 discretion and allow us to come forth on the  
14 9th. We certainly can't raise this argument  
15 to anyone else.

16 CHAIRPERSON MILLER: Mr. Alberti,  
17 did you want to say something here?

18 MEMBER ALBERTI: Yes. I will  
19 approve of the continuance. However, part of  
20 the responsibility here is not just your  
21 responsibility, Mr. Robinson, but your  
22 client's responsibility to be conscientious

1 about the matters of her business. And,  
2 conscientious about understanding and adhering  
3 to the laws that govern her business.

4 What I'm seeing today, and what I  
5 see from the past history, leaves me with the  
6 impression right now that your client isn't  
7 trying very hard, isn't very conscientious.  
8 And, that -- I will leave it at that.

9 MR. ROBINSON: I understand.

10 CHAIRPERSON MILLER: Other  
11 comments?

12 Well, I'd like to make a couple,  
13 and one is, you know, whenever we have Show  
14 Cause Status hearings, and I believe your  
15 client wasn't here, and maybe because she  
16 didn't understand, but we always ask if they  
17 understand the notice, if they understand the  
18 violation, and what it's future is.

19 And so, I think that is very  
20 important, and what I'm hearing you saying is  
21 that, your client really didn't understand.

22 And, I'm in your favor, that's a

1 reason for a continuance, if a licensee really  
2 does not understand the procedures. And,  
3 therefore, would be prejudiced, and it might  
4 not be a fair hearing.

5 And, I think due process and fair  
6 hearings are very important, and in this case  
7 the Government has consented, or has no  
8 objection, and no prejudice to the other side  
9 in delay. Sometimes things happen, you know,  
10 so, in general, you know, we have a schedule  
11 and parties need to adhere to it, but  
12 sometimes things happen that I think can rise  
13 to the level of justifying a continuance.  
14 And, particularly, in this case, where we do  
15 have an opening, I don't believe that the  
16 Board is inconvenienced by this.

17 So, I would be in favor of  
18 granting the continuance in this case.

19 Are there any other comments  
20 before the motion?

21 Not hearing any, then I would move  
22 that we grant the continuance to January 9,

1 2013 at 1:30 p.m.

2 Do I have a second?

3 MEMBER BROOKS: Second.

4 CHAIRPERSON MILLER: Mr. Brooks

5 has seconded the motion.

6 All those in favor say aye.

7 (Ayes.)

8 CHAIRPERSON MILLER: All those

9 opposed?

10 MEMBER JONES: Opposed.

11 CHAIRPERSON MILLER: All those

12 abstaining.

13 MEMBER SILVERSTEIN: Abstain.

14 CHAIRPERSON MILLER: Then the vote

15 is 3:1:1, and the motion passes to grant the

16 continuance at 1:30 p.m.

17 Thank you.

18 MR. ROBINSON: Thank you, Madam

19 Chair.

20 MEMBER SILVERSTEIN: Madam Chair,

21 I'd like to point out, and I would like the

22 Licensee to know and to speak, that this



1 Agency is very concerned about the ability of  
2 people to communicate to us.

3 We do have, in fact, in this room,  
4 an Amharic speaker. If you have questions, if  
5 you have any issues, we comply fully with all  
6 Federal laws that require us, and all local  
7 laws, that require us to reach out to you so  
8 that you can understand those laws.

9 It is not that we want to be  
10 harsh. We want to be inclusive, but if we are  
11 taking 99 steps to you, you have to take that  
12 one step to us.

13 I hope you understand that, and  
14 we'll see you next month.

15 CHAIRPERSON MILLER: Have a happy  
16 holiday.

17 Okay. That concludes our morning  
18 calendar, and so the Board will recess now.

19 (Whereupon, at 11:41 a.m., the  
20 Board recessed, and will return at 1:30 p.m.,  
21 this same day.)

22

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