

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

IN THE MATTER OF: :
: :
Addis Ethiopian Restaurant, LLC :
t/a Addis Ethiopian Restaurant :
707 H Street NE, : Show
Retailer CR - ANC 6C : Cause
License No. 97534 : Hearing
Case #17-CMP-00665 :
: :
(No ABC Manager on Duty, Failed :
to Provide Invoices for :
Purchased Alcoholic Beverages, :
Purchased Alcohol from an off- :
premises retailer, Failed to :
Obtain Importation Permits, :
Violation of Settlement Agreement):

Wednesday
June 13, 2018

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Donovan W. Anderson, presiding.

PRESENT:

- DONOVAN W. ANDERSON, Chairperson
- NICK ALBERTI, Member
- BOBBY CATO, JR., Member
- DONALD ISAAC, SR., Member
- MIKE SILVERSTEIN, Member
- JAMES SHORT, Member
- REMA WAHABZADAH, Member

ALSO PRESENT:

WALTER ADAMS, DC OAG

DMAZ LUMUKANDA, Licensee's Counsel

SOLOMON YESUF, Licensee

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

11:08 a.m.

CHAIRPERSON ANDERSON: All right. We are back on the record. Our next case is a Show Cause Hearing, Case No. 17-CMP-00665, Addis Ethiopian Restaurant, License No. 97534.

Will the parties, please, approach and identify themselves for the record, please?

MR. ADAMS: Good morning, Mr. Chairman and Members of the Board. Walter Adams representing the District of Columbia.

CHAIRPERSON ANDERSON: Good morning, Mr. Adams.

MR. LUMUKANDA: Good morning, Chairman Anderson. Dmaz Lumukanda.

MEMBER SILVERSTEIN: Could you, please, speak a little louder?

MR. LUMUKANDA: Absolutely. Good morning, Chairman Anderson, Members of the Board. Dmaz Lumukanda on behalf of the licensee, Addis Ethiopian Restaurant.

CHAIRPERSON ANDERSON: Good morning,

1 Mr. Lumukanda.

2 MR. YESUF: Good morning. My name is
3 Solomon Yesuf. I'm a new manager for the Addis
4 Ethiopian Restaurant.

5 CHAIRPERSON ANDERSON: I did not hear
6 your last name, sir. Maybe you can also spell it
7 for the record, too, please?

8 MR. YESUF: Solomon Yesuf, yeah.

9 CHAIRPERSON ANDERSON: Just also spell
10 your name for the record, please.

11 MR. YESUF: Sorry?

12 CHAIRPERSON ANDERSON: Spell your
13 name, please, sir.

14 MR. YESUF: Solomon, S-O-L-O-M-O-N, Y-
15 E-S-U-F.

16 CHAIRPERSON ANDERSON: All right.
17 Hold on a minute. Hold on a minute. Hold on a
18 minute. I know I recognize that face in the
19 audience and are you an interpreter, sir?

20 INTERPRETER: Yes, sir.

21 CHAIRPERSON ANDERSON: Sir, you have
22 done this more than enough times, if I call a

1 case and you are here to interpret a case, sir,
2 you need to -- when I call the case, you need to
3 come up.

4 INTERPRETER: Sorry.

5 CHAIRPERSON ANDERSON: So you need to
6 come up. And I don't need to tell you this every
7 time, sir. And I'm going to say this, I'll put
8 it on the record, you are an interpreter, sir. I
9 want to make sure that you interpret these
10 proceedings, that what I say you interpret it and
11 not have conversation. So I just want to make
12 sure.

13 Okay. So if we are paying for an
14 interpreter, I want to make sure that you are
15 here and doing the job that we pay you to do. So
16 I need you to raise your -- what language is
17 this, sir?

18 INTERPRETER: Amharic.

19 CHAIRPERSON ANDERSON: Can you stand,
20 please, and raise your right hand?

21 Do you swear or affirm to faithfully
22 translate these proceedings from English to

1 Amharic and then from Amharic to English?

2 INTERPRETER: Yes, sir.

3 CHAIRPERSON ANDERSON: Have a seat,
4 sir, please.

5 All right. I would like -- can you
6 tell him that I would like for him to state and
7 spell his name for the record, please? I'm
8 sorry, or the general manager or whatever, I'm
9 sorry, his position.

10 MR. YESUF: My name is Solomon Yesuf.

11 CHAIRPERSON ANDERSON: And can you
12 spell your name for the record, please, sir?

13 MR. YESUF: S-O-L-O-M-O-N Y-E-S-U-F.

14 CHAIRPERSON ANDERSON: Now, Mr. Dmaz?

15 MR. LUMUKANDA: Yes, sir.

16 CHAIRPERSON ANDERSON: What is your
17 role here today, sir?

18 MR. LUMUKANDA: I'm the agent for --

19 CHAIRPERSON ANDERSON: You're the
20 agent?

21 MR. LUMUKANDA: -- the manager and the
22 owner.

1 CHAIRPERSON ANDERSON: Have you
2 provided the Agency with an appearance letter?

3 MR. LUMUKANDA: Yes, sir.

4 CHAIRPERSON ANDERSON: Oh, so the
5 Agency has that?

6 MR. LUMUKANDA: Yes, and also to
7 Attorney Adams as well.

8 CHAIRPERSON ANDERSON: Okay.

9 MEMBER ALBERTI: Do we have --

10 CHAIRPERSON ANDERSON: What is --

11 MEMBER ALBERTI: -- authorization from
12 the owner?

13 CHAIRPERSON ANDERSON: Hold on, hold
14 on. What is it that you have, Mr. Adams?

15 MR. ADAMS: I believe earlier I
16 received an email, but I don't have a copy with
17 me.

18 CHAIRPERSON ANDERSON: What did you
19 receive, Mr. Adams, tell me.

20 MR. ADAMS: I received an email, I
21 believe, probably a month or two ago from Mr.
22 Lumukanda stating that he was representing the

1 establishment.

2 CHAIRPERSON ANDERSON: And so -- and
3 that -- and from the Government's perspective, is
4 that sufficient for the Government to enter in --
5 to proceed with this hearing today?

6 MR. ADAMS: Well, I prefer that if the
7 Board has a copy of his appearance form, I would
8 at least ask the Board to confirm whether they
9 have that in their records.

10 CHAIRPERSON ANDERSON: I don't know
11 what the Board has.

12 MEMBER ALBERTI: So may I express a
13 concern? So Mr. Lumukanda is not an officer of
14 the Court, correct? He is not a lawyer?

15 MR. ADAMS: Officer of the Court?

16 MEMBER ALBERTI: He is not licensed as
17 a lawyer, right? Am I correct?

18 MR. LUMUKANDA: That's correct,
19 absolutely.

20 MEMBER ALBERTI: You're not licensed?

21 MR. ADAMS: I did not know that.

22 MEMBER ALBERTI: So --

1 MR. ADAMS: I was not aware of that.

2 MEMBER ALBERTI: All right. So my
3 concern is that we don't have authorization from
4 the licensee here.

5 CHAIRPERSON ANDERSON: Now, hold on a
6 minute, Mr. Alberti. I don't know, Mr. Alberti,
7 so I --

8 MEMBER ALBERTI: I just said that's my
9 concern.

10 CHAIRPERSON ANDERSON: -- was told --

11 MEMBER ALBERTI: That's all.

12 CHAIRPERSON ANDERSON: -- but I don't
13 know that, so I'm asking him, because I don't
14 know. This is the first time, so what
15 information, sir, did you provide the Agency? I
16 just want to make sure, yeah.

17 MR. LUMUKANDA: No, he is not the
18 owner. He is just the manager on duty.

19 CHAIRPERSON ANDERSON: All right. So
20 what information did you provide to the Agency to
21 state that you are representing this
22 establishment and that you have the authority to

1 represent the establishment here, since the owner
2 is not here?

3 MR. LUMUKANDA: I signed a contract
4 with the owner to provide consulting services for
5 these particular matters. I also obtained an
6 ABRA Power of Attorney, the updated ABRA Power of
7 Attorney, which I forwarded over to Attorney
8 Jenkins as well as Attorney Adams.

9 CHAIRPERSON ANDERSON: Okay. So you
10 have provided information to this Agency saying
11 that you have -- you are in this position
12 representing the establishment?

13 MR. LUMUKANDA: That is correct, sir.

14 CHAIRPERSON ANDERSON: All right. All
15 right. So since you have provided that, I will
16 ask the General Counsel to provide it. And if we
17 don't have that, I will make sure that we have
18 that.

19 MR. LUMUKANDA: Thank you.

20 CHAIRPERSON ANDERSON: All right. So,
21 Mr. Adams, are there any preliminary matters in
22 this case?

1 MR. ADAMS: Yes, Mr. Chairman, there
2 is a preliminary matter. The parties have
3 discussed this case and would like to make --

4 CHAIRPERSON ANDERSON: Hold on. What
5 I would like you to do, Mr. Adams, we have a
6 translator here.

7 MR. ADAMS: Okay.

8 CHAIRPERSON ANDERSON: And so I want
9 you to -- I want the translator to translate
10 everything that I'm saying.

11 MR. ADAMS: Okay.

12 CHAIRPERSON ANDERSON: I want the
13 translator to translate everything that I'm
14 saying. And since the translator will be
15 translating everything that I'm saying, I'm
16 therefore asking you to slowly state what --
17 where we are, so the translator will translate
18 verbatim everything that is being said, if you
19 get my gist, Mr. Adams. It's not about you.

20 MR. ADAMS: Yes, Mr. Chairman. There
21 is a preliminary matter. The parties have
22 discussed a proposed Offer in Compromise. In the

1 case there are five charges and to solve this
2 case or to resolve this case, the parties propose
3 the following:

4 A brief Board's indulgence. And I
5 will continue.

6 To resolve this case, the parties hope
7 to resolve it for a total fine of \$11,000 to be
8 paid in a period of 90 days. And the license,
9 it's understood by the establishment that the
10 license will be suspended indefinitely until that
11 fine is paid.

12 The Offer in Compromise will break
13 down as follows:

14 For Charge 1, this is a secondary tier
15 offense, their first secondary tier offense, that
16 the fine will be \$2,000.

17 For Charge 2, which is a failure to
18 keep and maintain books and records for a three
19 year period, which would be a third primary tier
20 violation within three years, the parties propose
21 a fine in the amount of \$4,500.

22 And for Charge 3, which is that the

1 establishment purchased alcoholic beverages from
2 an off-premises license when wholesalers were
3 open, that is again a fine in the amount of
4 \$4,500.

5 For Charge 4, which is that the
6 establishment imported alcohol without a
7 transportation permit, and Charge 5 for their
8 failure to comply with the settlement agreement,
9 we are going to propose warnings for both of
10 those charges.

11 So again, in summary, we are
12 suggesting a fine in the amount of \$11,000 to be
13 paid within a period of 90 days.

14 CHAIRPERSON ANDERSON: Thank you, Mr.
15 Adams. All right. Mr. Lumukanda, it's -- the
16 Agency does have -- on April 30th, I believe,
17 that the Agency received information that you are
18 the attorney/agent representing the proceeding
19 and this is just to make sure that we have that
20 information, since the owner is not here, and
21 especially since there is an Offer in Compromise
22 that you are authorized to enter into this

1 agreement.

2 I don't want to have a situation where
3 the owner at some point might say well, I did not
4 authorize that person to do that, so I'm not
5 going to pay the fee. So I just want to clarify
6 with you that's where, as Chair, I am coming
7 from. Okay? All right.

8 So it is my then understanding that
9 there is an Offer in Compromise and the Offer in
10 Compromise is that for Charge 1, there is a fine
11 of \$2,000. For Charge 2, there is a fine of
12 \$4,500. For Charge 3, there is a fine of
13 \$4,5000. For Charge 4 there is a written warning
14 and for Charge 5 there is a written warning, that
15 the fines will be payable in 90 days. If it is
16 not payable in 90 days, the license will be
17 suspended until the fine has been paid.

18 On behalf of your client, sir, is this
19 your understanding of the Offer in Compromise?

20 MR. LUMUKANDA: Yes, sir.

21 CHAIRPERSON ANDERSON: Are you aware
22 that by accepting an Offer in Compromise, that

1 you are giving up your right to a hearing?

2 MR. LUMUKANDA: Yes, sir.

3 CHAIRPERSON ANDERSON: Are you also
4 aware that by giving up your -- by accepting an
5 Offer in Compromise, that you are giving up your
6 right to appeal this matter?

7 MR. LUMUKANDA: Yes, sir.

8 CHAIRPERSON ANDERSON: Okay. Thank
9 you. Prior to making a motion, I just want to
10 find out whether or not any questions by any
11 Board Members?

12 MEMBER ALBERTI: So --

13 CHAIRPERSON ANDERSON: Yes, Mr.
14 Alberti?

15 MEMBER ALBERTI: -- I still -- my
16 concern still stands. That's all we have is, in
17 our files, attorney/agent designation, which is
18 signed by you, Mr. Lumukanda. Is that correct?

19 MR. LUMUKANDA: That is correct.

20 MEMBER ALBERTI: Do we have anything
21 in our file signed by the owner?

22 MR. LUMUKANDA: There actually --

1 CHAIRPERSON ANDERSON: Hold on.

2 MEMBER ALBERTI: May I ask?

3 CHAIRPERSON ANDERSON: But from a
4 procedure perspective, Mr. Alberti, we have a
5 form that if someone is going to represent an
6 agent -- if someone is going to represent an
7 establishment, they need to do it in writing.

8 We have written -- we have received.
9 He has informed us that he is the agent
10 representing the agency and I think that is
11 overkill for us to say that we need to have
12 something else from an attorney. Because when --
13 if an attorney shows up as a -- we have --

14 MEMBER ALBERTI: You are absolutely
15 right, Mr. Chairman.

16 CHAIRPERSON ANDERSON: Go ahead, Mr.
17 Alberti.

18 MEMBER ALBERTI: Chairman Anderson --

19 CHAIRPERSON ANDERSON: Yes.

20 MEMBER ALBERTI: -- but Mr. Lumukanda
21 is not a member of the bar.

22 MR. LUMUKANDA: That is correct.

1 MEMBER ALBERTI: All right. So for me
2 personally, I would like to see authorization
3 from the owner designating him as agent. I mean,
4 we have his representation as agent, which we
5 require, and that's one step. But unless I know
6 that the owner and not the manager has designated
7 Mr. Lumukanda as an agent, I still have concerns.

8 CHAIRPERSON ANDERSON: And I am not --
9 I believe that if the -- the role that I have if
10 our General Counsel, if our attorney has advised
11 us that we have the sufficient information to
12 move forward, then I'm going to move forward. So
13 we were advised that we have -- as Chair, I was
14 advised that we have a written -- we have the
15 written documentation in the record that we
16 require and so, therefore, we do have that.

17 And so I do understand what is stated
18 by you, Mr. Alberti, but I believe that we have
19 sufficient information, so we are going to move
20 forward. But I do hear your objection. All
21 right. But any other concerns, comments or
22 concerns by any other Board Members?

1 Hearing none, I then make a motion
2 that the Offer in Compromise of a fine for Charge
3 1 for \$2,000 be accepted. For Charge 2, \$4,500
4 be accepted. For Charge 3 a fine of \$4,500. For
5 Charge 4 a written warning. For Charge 5 a
6 written warning and that the fine will be payable
7 in 90 days. If it's not payable in 90 days, the
8 license will be suspended.

9 Is there a second?

10 MEMBER SILVERSTEIN: Second.

11 MEMBER SHORT: Second.

12 CHAIRPERSON ANDERSON: Mr. Short has
13 seconded the motion.

14 All those in favor say aye.

15 MEMBER SILVERSTEIN: Aye.

16 CHAIRPERSON ANDERSON: Aye.

17 MEMBER SHORT: Aye.

18 MEMBER CATO: Aye.

19 MEMBER ISAAC: Aye.

20 MEMBER WAHABZADAH: Aye.

21 CHAIRPERSON ANDERSON: All those
22 opposed?

1 MEMBER ALBERTI: Opposed.

2 CHAIRPERSON ANDERSON: The matter
3 passes 6-1-0 with Mr. Alberti in opposition.

4 The Board will issue a Board Order and
5 so, therefore, the 90 days will run once you have
6 received the Board Order. Thank you for being
7 here today.

8 And I just -- once this case is over,
9 I take -- if someone -- that if a representation
10 or attorney, I believe that if someone has
11 provided us with the requisite document that we
12 need to say that they are the true representative
13 of the agency, as long as we have something in
14 writing, that's all the Board can do is to take
15 the information that is provided in writing.

16 I know that for all these matters, we
17 know that the owner was served and so the owner
18 has designated someone to represent them today.
19 And we have had the -- we have the proper written
20 designation and so therefore we have to go by
21 that. And I believe that if this is something
22 that the Government has brought to our attention

1 that there is a -- they have discussed this
2 matter with the representative and the Government
3 has also informed us that they have reached a
4 compromise with the owner.

5 And I believe that if the -- well, if
6 at some point that there is some error here, I
7 know that the Government will do what it needs to
8 do to make sure that this is -- that this matter
9 is taken care of. And so I am pleased with where
10 we are today.

11 All right. So I want to thank the
12 parties for being here and reaching an OIC in
13 this matter. Thank you and have a good day.

14 (Whereupon, the Show Cause Hearing was
15 concluded at 11:26 a.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Addis Ethiopian Restaurant, LLC

Before: DC ABRA

Date: 06-13-18

Place: Washington, DC

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Neal R Gross

Court Reporter

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