

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

IN THE MATTER OF: :  
 :  
Wharf 5 Hotel East TRS :  
Leaseholder, LLC t/a Canopy: :  
Washington DC/The Wharf :  
975 7th Street SW : Show Cause  
Retailer CH - ANC 6D : Hearing  
License No. 106083 :  
Case #18-251-00117 :  
 :  
(Allowed Establishment to :  
be Used for Unlawful or :  
Disorderly Purposes, :  
Violation of Settlement :  
Agreement (Two Counts), :  
Interfered with an :  
Investigation, Failed to :  
Preserve a Crime Scene) :

Wednesday,  
November 7, 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  
MIKE SILVERSTEIN, Member  
JAMES SHORT, Member

**ALSO PRESENT:**

**MICHAEL ANDERSON, Licensee**

**STEPHEN O'BRIEN, Licensee's Counsel**

**JESSICA GUNZEL, OAG**

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

2 11:08 a.m.

3 CHAIRPERSON ANDERSON: All right.

4 We're back on the record. Our next case is Case  
5 No. 18-251-00117, Canopy Washington DC/The Wharf,  
6 License No. 106083.

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

9 MS. GUNZEL: Good morning. Jessica  
10 Gunzel, Assistant Attorney General, representing  
11 the District of Columbia.

12 CHAIRPERSON ANDERSON: Good morning,  
13 Ms. Gunzel.

14 MS. GUNZEL: Good morning.

15 MR. O'BRIEN: Stephen O'Brien for the  
16 licensee. I'm accompanied by Michael Anderson.  
17 He is the licensee's general manager.

18 CHAIRPERSON ANDERSON: Good morning,  
19 Mr. O'Brien, and good morning, Mr. Anderson. I  
20 won't have a problem remembering that name. Good  
21 morning.

22 Ms. Gunzel, are there any preliminary

1 matters in this case?

2 MS. GUNZEL: Yes. The parties have an  
3 OIC to present to the Board this morning.

4 CHAIRPERSON ANDERSON: And what is  
5 that, ma'am?

6 MS. GUNZEL: For Charge 1, a fine of  
7 \$1,250. For Charge 2, a fine of \$350. For  
8 Charge 3, the charge is dismissed. For Charge 4,  
9 a fine of \$1,250. And for Charge 5, a fine of  
10 \$1,250 making a total fine of \$4,100 to be paid  
11 within 30 days or the license shall be suspended  
12 indefinitely until the fine is paid.

13 CHAIRPERSON ANDERSON: All right. Mr.  
14 O'Brien, it's my understanding that there is an  
15 Offer in Compromise and the Offer in Compromise  
16 is that for Charge 1 there is a fine of \$1,250;  
17 for Charge 2 there is a fine of \$350; Charge 3  
18 will be dismissed; Charge 4 there is a fine of  
19 \$1,250.

20 Was there a Charge 5?

21 MS. GUNZEL: Yes.

22 CHAIRPERSON ANDERSON: And for Charge

1 5 there is a fine of \$1,250. And that all the  
2 fines will be payable in 30 days. If the fine is  
3 not payable in 30 days, the license will be  
4 suspended until the fine has been paid.

5 Is this your understanding, sir, of  
6 the Offer in Compromise?

7 MR. O'BRIEN: No. The fine will be  
8 paid today.

9 CHAIRPERSON ANDERSON: All right. The  
10 fine will be paid today.

11 All right. Is your client aware that  
12 by accepting an Offer in Compromise, that he is  
13 giving up his right to a hearing?

14 MR. O'BRIEN: Yes and he waives the  
15 right to appeal.

16 CHAIRPERSON ANDERSON: All right.

17 MR. O'BRIEN: Thank you very much.

18 CHAIRPERSON ANDERSON: With that said,  
19 I then make a motion that --

20 MR. O'BRIEN: Mr. Chairman?

21 CHAIRPERSON ANDERSON: Yes?

22 MR. O'BRIEN: May I make one

1 statement?

2 CHAIRPERSON ANDERSON: Yes.

3 MR. O'BRIEN: Our entry into this  
4 particular form of disposition is predicated on  
5 the understanding that we have with the  
6 prosecution that because the three primary tier  
7 violations, which are disposed of today, all  
8 arise from the same incident that they shall be  
9 treated as one primary tier violation in the  
10 event, in the unfortunate and the unlikely event  
11 that there is any further matters.

12 CHAIRPERSON ANDERSON: Is that the  
13 understanding, Ms. Gunzel?

14 MS. GUNZEL: Yes.

15 CHAIRPERSON ANDERSON: Since I was  
16 not --

17 MS. GUNZEL: That's our understanding.

18 CHAIRPERSON ANDERSON: Okay. So the  
19 record will reflect that the parties agree that  
20 the charges within this case, at least for  
21 counting process, is -- will be recorded as one  
22 primary tier violation, rather than separate

1 primary tier violations.

2 MEMBER ALBERTI: May I make a comment?

3 CHAIRPERSON ANDERSON: Yes, Mr.

4 Alberti.

5 MEMBER ALBERTI: That is, just for the  
6 record, what is part of our regulations. That is  
7 what is stipulated as part of our regulations in  
8 the counting. I forget what the section is now,  
9 but the section on counting prior violations that  
10 is what is stated in that section. So it's in  
11 our regs already.

12 MR. O'BRIEN: We just wanted --

13 MEMBER ALBERTI: Just FYI.

14 MR. O'BRIEN: -- to get that clear on  
15 the record.

16 MEMBER ALBERTI: I know you wanted it  
17 on the record, but I just, for the record and  
18 everyone's understanding, wanted to put that out  
19 there.

20 CHAIRPERSON ANDERSON: All right.

21 MR. O'BRIEN: And the only other thing  
22 I would add, Mr. Chair -- thank you, Mr. Alberti.

1 The only other thing I would add, Mr. Chair, is  
2 that this episode occurred back in January and  
3 the personnel that managed and operated the staff  
4 for the facility have all been changed --

5 CHAIRPERSON ANDERSON: Thank you.

6 MR. O'BRIEN: -- since then.

7 CHAIRPERSON ANDERSON: Thank you for  
8 that representation, Mr. O'Brien.

9 All right. All right. With that  
10 said, are there any -- before I make any motion  
11 on whether or not this matter should be accepted  
12 or not, do we have any comments by any Board  
13 Members?

14 All right. Hearing none, I make a  
15 motion that the Offer in Compromise of a fine of  
16 \$1,250 for Charge 1, a fine of \$350 for Charge 2,  
17 for Charge 3, that will be dismissed, Charge 4, a  
18 fine of \$1,250, and for Charge 5, there is a fine  
19 of \$1,250 and that the Offer in Compromise will  
20 be accepted. The fine will be paid today. If  
21 the fine is not paid today, the license will be  
22 suspended until the fine has been paid that and



1 that is agreed that these matters will be treated  
2 as, one, a first primary tier violation for this  
3 establishment. Is there a second?

4 MEMBER SHORT: Second.

5 CHAIRPERSON ANDERSON: Mr. Short has  
6 seconded the motion

7 All those in favor say aye.

8 ALL: Aye.

9 CHAIRPERSON ANDERSON: Those opposed?  
10 The matter passes 5-0-0.

11 Thank you very much.

12 MR. O'BRIEN: Thank you.

13 CHAIRPERSON ANDERSON: I thank the  
14 parties for this.

15 MS. GUNZEL: Thank you.

16 (Whereupon, the Show Cause Hearing was  
17 concluded at 11:14 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: Wharf 5 Hotel East TRS Leaseholder

Before: Alcoholic Beverage Control Board

Date: 11-07-18

Place: Washington, DC

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
true and accurate record of the proceedings.

*Neal R Gross*

-----  
Court Reporter

**NEAL R. GROSS**

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