

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

IN THE MATTER OF: :

Dean & Deluca of :
 Georgetown, Inc., :
 t/a Dean & Deluca :
 3276 M Street NW : Show Cause
 Retailer B - ANC 2E : Hearing (Status)
 License No. 18083 :
 Case #18-CC-00113 :
 :
 (Sale to Minor Violation):

Wednesday,
 April 3, 2019

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
- REMA WAHABZADAH, Member

ALSO PRESENT:

- STEVEN SARGEANT, APPLICANT
- AMY SCHMIDT, DC OAG

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

2 10:08 a.m.

3 CHAIRPERSON ANDERSON: We now move to
4 our Show Cause Hearing Status Calendar and the
5 first case on our Show Cause Hearing (Status)
6 Calendar is Case No. 18-CC-00113, Dean & Deluca,
7 License No. 18083.

8 Would the parties, please, approach
9 and identify themselves for the record, please?

10 MS. SCHMIDT: Good morning. Amy
11 Schmidt, Assistant Attorney General, on behalf of
12 the District of Columbia.

13 CHAIRPERSON ANDERSON: Good morning,
14 Ms. Schmidt.

15 MR. SARGEANT: Steven Sargeant,
16 General Manager for Dean & Deluca.

17 CHAIRPERSON ANDERSON: Good morning,
18 Mr. Sargeant. Do you have a letter of -- have
19 you been here before? And if you have not, do
20 you have a Letter of Authorization?

21 MR. SARGEANT: I have been here
22 before, but I don't have a Letter of

1 Authorization with me.

2 CHAIRPERSON ANDERSON: But have you
3 provided the Agency with a Letter of
4 Authorization to say that you are authorized to
5 represent this establishment here? Do we have
6 that in our record?

7 MR. SARGEANT: I might have years ago.
8 I have been with Dean & Deluca five years. I
9 have been here a couple of times to represent
10 them.

11 CHAIRPERSON ANDERSON: Ms. --

12 MR. SARGEANT: I can't remember if a
13 letter was --

14 CHAIRPERSON ANDERSON: -- Schmidt, is
15 there something here that says that this -- I'm
16 sorry, your last name again, sir?

17 MR. SARGEANT: Sargeant.

18 CHAIRPERSON ANDERSON: That Mr.
19 Sargeant is authorized to represent this
20 establishment?

21 MS. SCHMIDT: The attorney who was
22 assigned to this case just left me a note saying

1 that the manager will accept the OIC, that's all
2 I -- that's the only note I have about this case.

3 CHAIRPERSON ANDERSON: All right. Are
4 you able to provide us with a letter authorizing
5 you to enter into any type of -- to represent
6 this establishment here today?

7 MR. SARGEANT: I could call the lawyer
8 and have him send one in, forwarded to me, and I
9 can get it through my phone and show it to you.

10 CHAIRPERSON ANDERSON: No, I'm just
11 saying when can you? Can you provide us by close
12 of business today?

13 MR. SARGEANT: Oh, yes.

14 CHAIRPERSON ANDERSON: Provide the
15 Agency?

16 MR. SARGEANT: Definitely, definitely,
17 yes.

18 CHAIRPERSON ANDERSON: All right. Are
19 there any preliminary matters in this case?

20 MS. SCHMIDT: Yes. In this case there
21 is -- the fine is a \$30,000 fine to be paid
22 within 120 days and a 30-day suspension with all

1 30 days to be served. And the respondent shall
2 serve five days triggered from Case No. 17-CC-
3 00082.

4 And since the licensee has the license
5 with him today and has represented that all the
6 alcohol is off the shelves, they are asking to
7 start the suspension immediately.

8 CHAIRPERSON ANDERSON: And so what are
9 the suspension days?

10 MS. SCHMIDT: It will be today,
11 starting today, April 3rd until -- I did not do
12 the math. I did not do the math.

13 CHAIRPERSON ANDERSON: I need to know
14 what the days are. So it's going to be --

15 MS. SCHMIDT: Yes.

16 CHAIRPERSON ANDERSON: -- so it's a
17 30 --

18 MS. SCHMIDT: 35 days.

19 CHAIRPERSON ANDERSON: I'm sorry.
20 There is a 35-day suspension starting today. So
21 what are the days?

22 MS. SCHMIDT: April 3rd until, if I may

1 provide them at the -- well, it will be 35 days
2 from today. If I may count at the end of this?

3 CHAIRPERSON ANDERSON: I want to make
4 sure that -- all right. We are going to issue a
5 Board Order, but I need to make sure that
6 everyone knows that the Board will -- I mean, I'm
7 inclined to accept starting today, but what's --
8 so the OIC then is that it's a fine of \$30,000
9 payable within 120 days.

10 That there is a 30-day suspension.

11 MS. SCHMIDT: 35 days.

12 MEMBER SHORT: 35 days.

13 CHAIRPERSON ANDERSON: No. Can --

14 MS. SCHMIDT: I'm sorry.

15 CHAIRPERSON ANDERSON: Can I finish
16 this, please? The OIC from what I'm told is a
17 fine of \$30,000 payable within 120 days. For
18 this case, Case No. 18-CC-00113, there is a 30-
19 day suspension. And as a result of Case No. 18-
20 CC-00113, there is a 5-day suspension that will
21 be served, so that was because of Case No. 17-CC-
22 00082. So a 5-day suspension was triggered from

1 that case.

2 And so therefore, they have a total
3 then of a 35-day suspension which will start
4 today, April 3, 2019. We will --

5 MS. SCHMIDT: And end on May 7th. The
6 last day will be May 7th.

7 CHAIRPERSON ANDERSON: And end on or
8 about May 7th, but we are going to issue a Board
9 Order, but we will -- in the Board Order it will
10 calculate that May 7th will be the day. And it's
11 my understanding that the license has been turned
12 in today to the Agency.

13 All right. So, Mr. Sargeant, right?

14 MR. SARGEANT: yes.

15 CHAIRPERSON ANDERSON: What I'm going
16 to ask is that, I guess you have turned the
17 license in, so it will appear that you have the
18 authority to do this, because you actually have a
19 copy of the license with you. No, no, I'm sorry,
20 you have the original license that you are
21 turning in to the Agency today.

22 So because you have that, then I'm

1 taking it that you have authority to enter into
2 this agreement. All right. All right.

3 So let me state then what the OIC is.
4 It's a 30-day suspension. I'm sorry. A \$30,000
5 fine payable in 120 days. If the fine is not
6 payable in 120 days, the license will be
7 suspended until the fine has been paid. That's
8 for the 120 days.

9 As a result of this particular case,
10 Case No. 18-CC-00013, there is a 30-day
11 suspension. Because of this infraction, there is
12 an additional 5-day suspension that is triggered
13 by Case No. 17-CC-00082 and so there is a total
14 of 35 days. The suspension will start today.
15 The establishment is providing the Agency with
16 its license today.

17 So is this your understanding, sir, of
18 the Offer in Compromise?

19 MR. SARGEANT: Yes.

20 CHAIRPERSON ANDERSON: Are you aware
21 that by accepting an Offer in Compromise, that
22 you are giving up your right to a hearing?

1 MR. SARGEANT: Yes.

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

6 MR. SARGEANT: Yes.

7 CHAIRPERSON ANDERSON: All right.
8 With that said, are there any questions by any
9 Board Members?

10 With that said, I then make a motion
11 that the Offer in Compromise of a fine of \$30,000
12 payable within 120 days be accepted. That along
13 with the \$30,000 fine that there is a 30-day
14 suspension for this particular case and there is
15 an additional 5-day suspension that is triggered
16 by Case No. 17-CC-00082 for a total of a 35-day
17 suspension that will run starting today and that
18 the licensee is handing over its license to the
19 Agency today.

20 Is there a second?

21 MEMBER SHORT: Second.

22 CHAIRPERSON ANDERSON: Mr. Short has

1 seconded the motion.

2 All those in favor say aye.

3 ALL: Aye.

4 CHAIRPERSON ANDERSON: Those opposed?

5 The matter passes 6-0-0.

6 The Board will issue a Board Order in
7 this matter that will specifically list that
8 suspension. Although you haven't received --
9 well, you are giving us the license today, so it
10 doesn't really matter.

11 So but we will let you -- in the Board
12 Order, we will give you the date when the license
13 will be returned to you. Thank you.

14 The only thing I can say, sir, now
15 that this case is over, one more strike, the next
16 strike, you are going to lose your -- you might
17 lose your -- probably lose your ability to serve
18 license -- to serve alcohol.

19 MR. SARGEANT: Okay.

20 CHAIRPERSON ANDERSON: It's sale to
21 minor, the foolproof way to do this is that no
22 matter how -- what the person looks like, no

1 matter how old they are, they have to provide a
2 license.

3 MR. SARGEANT: Yes.

4 CHAIRPERSON ANDERSON: I was -- you
5 have to provide proof. And I say this to
6 everyone, you go to Costco, I'm not saying that
7 they are the best, they are perfect, but everyone
8 who goes to Costco to buy alcohol has to produce
9 a license, proof how old they are. It doesn't
10 matter whether or not they are 21, 31, 101, if
11 you are buying alcohol, you have to prove that
12 you are old enough. And if you -- so if you guys
13 want to continue serving alcohol, then if you
14 don't comply with the law, then you are going to
15 lose your ability.

16 MR. SARGEANT: All right. Just to let
17 you know, we do have strict policies in place now
18 for carding. So we have taken care of that 100
19 percent. I mean, nobody is perfect, but we have
20 made dramatic changes in the way we operate to
21 make sure that this does not happen again.

22 CHAIRPERSON ANDERSON: And you know

1 that -- well, all right. All right. Have a good
2 day.

3 Well, what's the process? Where does
4 he turn in -- who does he give the license to?
5 Mr. Gordy, at the back of the room, you can hand
6 him the license, sir.

7 MR. SARGEANT: Yes, do you still need
8 the Authorization Letter, even though I'm turning
9 in the license?

10 CHAIRPERSON ANDERSON: I think for the
11 record you can provide -- also provide the Agency
12 with just an Authorization Letter.

13 MR. SARGEANT: Okay.

14 CHAIRPERSON ANDERSON: So by -- do
15 that by close of business today, sir.

16 MR. SARGEANT: Who can I email that
17 to?

18 CHAIRPERSON ANDERSON: You can talk to
19 Mr. Gordy around back. Yeah, talk to Mr. Gordy.
20 All right. Ms. Randall will give you her card
21 and so you can email that to her.

22 And I'll just say in the future

1 whenever you are in the Board, make sure that the
2 Agency has a letter authorizing you to represent
3 them.

4 MR. SARGEANT: Okay.

5 CHAIRPERSON ANDERSON: All right.

6 Thank you.

7 MR. SARGEANT: Thank you.

8 (Whereupon, the Show Cause (Status)

9 Hearing was concluded at 10:19 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: Dean & Deluca

Before: DCABRA

Date: 04-03-19

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.



Court Reporter

NEAL R. GROSS

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