

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF: :

:

Foggy Bottom Grocery, :

LLC, :

t/a FoBoGro :

2140 F Street NW : Fact Finding

Retailer B - ANC 2A : Hearing

License No. 82431 :

:

(Transfer Application) :

Wednesday
September 19, 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

ALSO PRESENT:

RICHARD BIANCO, Applicant's Counsel
CATHY MARTENS, Applicant

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

2 2:24 p.m.

3 CHAIRPERSON ANDERSON: The next case
4 is a Fact-Finding Hearing, FoBoGro, License No.
5 82431, which is a transfer application.

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

8 MR. BIANCO: Good afternoon, Mr. Chair
9 and Members of the Board. Richard Bianco on
10 behalf of the applicant, Cathy Martens, who is
11 sitting to my left.

12 CHAIRPERSON ANDERSON: Good afternoon,
13 Mr. Bianco.

14 MS. MARTENS: Hi, I'm Cathy Martens.
15 Nice to see you all again.

16 CHAIRPERSON ANDERSON: Good afternoon,
17 Ms. Martens. There is a sign-in sheet, so if you
18 all would sign-in, please, sign-in.

19 MS. MARTENS: We have done that, Mr.
20 Chairman.

21 CHAIRPERSON ANDERSON: Okay. Thank
22 you. This is a -- there are some concerns. It's

1 my understanding that the applicant was
2 interested in if the Board so desired to enter
3 into some type of Consent Order. So can you
4 provide some information about what it is that--

5 MR. BIANCO: Sure. There has been --

6 CHAIRPERSON ANDERSON: Yes.

7 MR. BIANCO: -- there has been concern
8 raised in connection with today's scheduled Fact-
9 Finding. And as a result of the concerns that
10 had been raised, he have been working with ABRA
11 legal staff to try and develop an appropriate
12 order that might allay some of the Board's
13 concerns as to the issues that were supposed to
14 be discussed in today's Fact-Finding.

15 And really the order of events was:
16 I put together a Consent Order, a proposed
17 Consent Order, I'm sorry, for legal staff and
18 ultimately the Board's consideration. And we got
19 some feedback and we are working on appropriate
20 terms, really right up until my ride over here
21 when we were trying to get a sense of what would
22 put the Board at ease in order to allow this

1 license transfer to go forward.

2 And I don't want to declare victory
3 too early, but I think we have at least gotten to
4 a point where we have terms that the Board will
5 find palatable for purposes of allowing this
6 transfer to go forward and letting this
7 establishment, essentially, move on with its
8 business life.

9 CHAIRPERSON ANDERSON: So what -- tell
10 me what role, if any, are -- role, active,
11 passive, what role would -- if the Board was to
12 agree to this Consent Order, so what would be Ms.
13 Martens' role in this establishment?

14 MR. BIANCO: Well, she would be the
15 owner, the operator, runner of the day-to-day
16 operations, essentially, be in charge of the
17 entirety of the process and work there on a day-
18 to-day basis.

19 MS. MARTENS: Which I have been doing.

20 MR. BIANCO: And she would be
21 completely responsible for everything. One of
22 the issues, as I understood it, is the Board's

1 concern about absentee owners. And she would
2 certainly not be that. And one of the terms that
3 we discussed even was some period of time in
4 which she would agree to not have anybody else
5 running or managing the establishment in any way,
6 shape or form and she would be completely
7 responsible for it.

8 So it's my hope that that specific
9 term would satisfy the Board that the person who
10 owns the establishment is the person that would
11 be responsible for the day-to-day operations of
12 the establishment. There would be
13 accountability, knowledge of who is in charge,
14 all of the things that the Board looks for.

15 CHAIRPERSON ANDERSON: Do you have --
16 what provision -- what number that address that,
17 what you just raised?

18 MR. BIANCO: Actually, none of them.
19 That was the new term that I was discussing on
20 the way over here.

21 CHAIRPERSON ANDERSON: So what's that?
22 What's the term?

1 MR. BIANCO: Which would be
2 specifically that for some finite period of time,
3 Ms. Martens would agree not to transfer
4 management responsibilities in any way, shape or
5 form to any person other than herself. And
6 although I don't think we reached a final
7 agreement on the exact amount of time, the number
8 that we were throwing around was a period of
9 three years, which is, as the Board knows, a
10 licensure period and seems like a reasonable time
11 to do that and also gives the Board the option at
12 renewal to extend that term if the Board sees fit
13 to do that. Okay?

14 CHAIRPERSON ANDERSON: And has Ms.
15 Martens -- what has been Ms. Martens involvement
16 in the operation of this business, if any?

17 MR. BIANCO: Well, to date since the
18 filing of her application, she has been working
19 in the business and managing it for the present
20 owners for several reasons. One of which being
21 the contemplated transfer, so she could be
22 completely up to speed and ready to hit the

1 ground running when it comes time for day one
2 with Cathy Martens as the owner.

3 So and that's only been since July the
4 27th, unless I'm mistaken. I wasn't involved in
5 the filing of the application, but came into this
6 at some point thereafter.

7 CHAIRPERSON ANDERSON: Now, you are
8 aware that there are some current concerns with
9 the license and that the Board would not be --
10 would not necessarily agree to any type of order
11 until whatever concerns that are -- currently
12 outstanding concerns that are there with the
13 previous owner, that those issues would have to
14 be addressed to the satisfaction of the Board
15 prior to the Board moving forward with a transfer
16 of the license.

17 Because as you are aware, once the
18 license is transferred, whatever history -- this
19 is the -- it's a new license, then the history is
20 lost, there's no history.

21 So is that clear to you that even if
22 the Board was to consider this, that whatever

1 outstanding issues that are there currently with
2 the license would have to be satisfied, would
3 have to be addressed to the satisfaction of the
4 Board?

5 MR. BIANCO: We realize that. It was
6 part of the discussion that we had. I don't
7 represent the current licensee.

8 CHAIRPERSON ANDERSON: I am aware of
9 that, Mr. Bianco. I'm just -- but I'm just
10 saying to you that as someone who is trying to
11 buy a business, and I'm saying to you that the
12 Board has some concerns with the current owner
13 and so before we are going to -- and since we
14 have to approve it, then those other issues have
15 to be satisfactory to the Board before the Board
16 is going to move over to a new owner.

17 MR. BIANCO: Of course, we understand
18 that. It's my understanding from conversations
19 with Mr. Grandis that there is an OIC on the
20 table. It has not yet been agreed to. It has
21 not yet been approved, but we get that it is the
22 Board's position that before the transfer will be

1 approved, the outstanding Show Cause would have
2 to be resolved. We get that.

3 CHAIRPERSON ANDERSON: Now, are you --
4 I don't know if you know, but are -- is -- are
5 yourself and Ms. Martens aware of some of the
6 previous concerns with this establishment and has
7 -- does -- and do you know whether or not Ms.
8 Martens was involved in any of those
9 transactions?

10 MR. BIANCO: First of all, she was
11 not. She was not involved in the business in any
12 way, shape or form at the time of the violations,
13 the violation, I think, one still alleged
14 violation took place. She just wasn't there.
15 She wasn't involved, wasn't working.

16 And one of the -- or some of the
17 things that we tried to address in our proposed
18 Consent Order is safeguard measures to ensure
19 that IDs are checked appropriately and there are
20 several provisions that deal with camera
21 positioning, aiming, ability to see faces of
22 patrons and a technological requirement that the

1 register prompt whomever is working, at the time,
2 to check the ID of any patron who is purchasing
3 alcohol regardless of their age.

4 And those are all terms that we have
5 discussed and accepted. And currently, it's my
6 understanding that Ms. Martens has already setup
7 her register to prompt whomever is working to
8 check IDs on every alcohol purchase, not just
9 people that seem like they may not be of age.

10 CHAIRPERSON ANDERSON: All right. Any
11 questions by any Board Members? Mr. Alberti?

12 MEMBER ALBERTI: Thank you. And good
13 afternoon.

14 So I'm going to have several questions
15 since -- I mean, aside from this Consent Order, I
16 think we came in with wanting to know a little
17 bit more about Ms. Martens in the background,
18 because there were red flags raised about the
19 ownership. All right? So I have several
20 questions.

21 So, Ms. Martens, you assumed sort of
22 management in July, at the end of July, July

1 27th. Is that correct? Your attorney says
2 that's the date.

3 MS. MARTENS: Yes, sir.

4 MEMBER ALBERTI: Okay.

5 MS. MARTENS: Seth and Chris and I met
6 at that time and I signed a management agreement
7 with them on the 27th.

8 MEMBER ALBERTI: Okay.

9 MR. BIANCO: And just to be clear, it
10 was a management agreement coupled with a
11 purchase agreement with the anticipation --

12 MEMBER ALBERTI: Okay.

13 MR. BIANCO: -- of the transfer.

14 MEMBER ALBERTI: Okay. So how did the
15 transition work? Did you -- how did that
16 transition work? I mean, you -- did you have any
17 involvement in this business like -- I'm don't
18 know the correct wording to express this, but did
19 you have any involvement in the day-to-day
20 activities and management of this business prior
21 to that?

22 MS. MARTENS: No.

1 MEMBER ALBERTI: No. So how did the
2 transition come? Because you don't just walk in
3 and run a business.

4 MS. MARTENS: Well, I will certainly
5 be glad to tell you a little bit about myself.

6 MEMBER ALBERTI: Okay.

7 MS. MARTENS: My parents owned a chain
8 of sporting good stores in California and as
9 children in the '50s and the '60s did, you had to
10 work for your parents, much to our dismay. So I
11 grew up in a retailing family.

12 When I moved to DC, I went to work for
13 Garfinkel's and I was a buyer there until 1982 --

14 MEMBER ALBERTI: Okay.

15 MS. MARTENS: -- when my first son was
16 born. And then I became an executive at Neiman
17 Marcus in Tysons. I was responsible for building
18 that store, hiring the staff and ultimately
19 managing the store until I was hired away by a
20 consortium with Mr. Lerner, who owns, I'm sure
21 you all know who Mr. Lerner is, to do the
22 renovation and redevelopment of Tysons Galleria.

1 And I did do the \$65 million renovation of the
2 galleria.

3 And then I really took my time and
4 talents into the not-for-profit world. I was
5 president of the National Children's Museum and
6 as Chairman Anderson and I have talked, I started
7 DC's first charter school. I was CEO of the Make
8 a Wish Foundation.

9 And in the last 10 years, I have been
10 working with veteran's charities as their chief
11 development officer. And I left that just
12 because of travel. I have two grandchildren now
13 and I certainly know Seth and Chris through many
14 different groups and, you know, the conversation
15 came up hey, Cathy, would you be willing to do
16 this as kind of your retirement?

17 You have a lot of experience doing
18 this. And would you consider it? And we talked
19 and that's kind of how it came to be.

20 MEMBER ALBERTI: Okay. Great.

21 MS. MARTENS: And on the 28th of July,
22 I hit the ground running. There have been marked

1 improvements, in my opinion. Our entire staff,
2 including me, have been trained here at ABRA in
3 checking licenses, new cameras throughout, making
4 sure that we are totally in compliance with the
5 ANC settlement agreement, restocking the store,
6 what I consider to be customer service issues.

7 So I'm spending 40 to 50 hours a week
8 in the store.

9 MEMBER ALBERTI: Um-hum.

10 MS. MARTENS: So that's my cliffnote
11 story.

12 MEMBER ALBERTI: Well, I have to tell
13 you, it's an incredibly impressive résumé.

14 MS. MARTENS: Well, thank you very
15 much.

16 MEMBER ALBERTI: And congratulations
17 on all of that. And you know, I guess the other
18 part is you have answer many of the questions I
19 was going to have, so that's -- I'm impressed
20 that you sort of understood where we were and
21 what might be the questions.

22 But I'm a little -- I'm still, I

1 guess, curious --

2 MS. MARTENS: Sure.

3 MEMBER ALBERTI: -- as to -- you know,
4 given all of the things that you did, why do you
5 want to run FoBoGro or FoBoGrocery? All right.
6 It is a small company. You know, I mean, it's
7 cliental is the university, which is actually
8 probably a good thing. I mean, a desirable thing
9 from -- maybe from your -- from someone with your
10 background in terms of wanting to own a business.

11 But why a small retail business like
12 this? I'm just curious.

13 MS. MARTENS: Because it's a small
14 retail business. I mean again, when I was chief
15 development officer for the USO, I was traveling
16 300 days a year. You know, the old body just
17 can't do that any more.

18 MEMBER ALBERTI: Okay.

19 MS. MARTENS: And FoBo is near my
20 home. I actually have enjoyed it so much, I have
21 loved meeting all these young people's parents
22 when they came to town. I remember when I took

1 my kids to college and, you know, even though it
2 is on a university campus, it's -- I have been
3 amazed how many folks from the IMF and the World
4 Bank and --

5 MEMBER ALBERTI: Right.

6 MS. MARTENS: -- the State Department
7 come in. And you know, the wife has called and
8 said can you bring home a bottle of wine for
9 dinner? You know, it has been great to get to
10 know people in the neighborhood. And I'm just
11 lucky to be, you know, perfectly honest with you.

12 MEMBER ALBERTI: I under -- I hear you
13 and I can understand that perfectly.

14 You know, I really don't have any
15 other questions. Thank you for that explanation.

16 MS. MARTENS: Thank you.

17 CHAIRPERSON ANDERSON: Any other
18 questions by any other Board Members?

19 MEMBER ALBERTI: Can we ask Mr. Bianco
20 to sort of update the draft or the proposal that
21 he has given us?

22 CHAIRPERSON ANDERSON: Well, yeah, he

1 is going to provide that.

2 MEMBER ALBERTI: Okay.

3 CHAIRPERSON ANDERSON: Yeah.

4 MEMBER ALBERTI: I was just -- yeah.

5 CHAIRPERSON ANDERSON: Yeah.

6 MEMBER ALBERTI: Providing an updated
7 proposal.

8 CHAIRPERSON ANDERSON: Yeah, whatever,
9 yeah.

10 MEMBER ALBERTI: Would be great.

11 CHAIRPERSON ANDERSON: If you have
12 some updates, basically, what you already
13 represented today, you can just provide us with
14 that update.

15 And do you have anything else you want
16 to say?

17 MR. BIANCO: No, we are all set.
18 Sometimes I've learned doing this job that less
19 is more. So I'm going to be quiet now and we
20 will let the Board move on with the rest of the
21 case.

22 CHAIRPERSON ANDERSON: Yeah, well, the

1 -- we will take this matter under advisement.
2 But I just want you to -- I just want to just
3 make it clear for the record that the Board is
4 not saying that we are going to approve this
5 Consent Order, but I just want you to be clear
6 that we are not going to make any final decision
7 on this matter until those outstanding issues
8 with the establishment have been addressed to the
9 satisfaction of the Board.

10 MR. BIANCO: Okay. Thanks.

11 CHAIRPERSON ANDERSON: All right.

12 MR. BIANCO: Thank you, Mr. Chairman,
13 Members of the Board, appreciate it. Have a good
14 afternoon.

15 MEMBER ALBERTI: Thanks.

16 CHAIRPERSON ANDERSON: Thank you. All
17 right.

18 MS. MARTENS: Thank you all.

19 MEMBER ALBERTI: All right.

20 CHAIRPERSON ANDERSON: All right.

21 (Whereupon, the Fact-Finding Hearing
22 was concluded at 2:41 p.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: Foggy Bottom Grocery, LLC

Before: Alcoholic Beverage Control Board

Date: 09-19-18

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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