

ALSO PRESENT:

LOUISE PHILLIPS, DC OAG

MOHAMMAD LUTFAR RAHMAN, Licensee

FAISAL KHAN, Bengali Interpreter

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

2 10:14 a.m.

3 CHAIRPERSON ANDERSON: Ms. Phillips?

4 MS. PHILLIPS: Good morning, Mr.

5 Chairman.

6 CHAIRPERSON ANDERSON: Are you ready?

7 MS. PHILLIPS: I would like a little
8 more time --

9 CHAIRPERSON ANDERSON: Okay. Fine.

10 MS. PHILLIPS: -- because I have not
11 had an interpreter before, so if I could have
12 five minutes to work with the interpreter?

13 CHAIRPERSON ANDERSON: Okay. That's
14 fine. You can let me know when you are ready.

15 MS. PHILLIPS: So the interpreter
16 knows where he is going with all of this.

17 CHAIRPERSON ANDERSON: Okay.

18 MS. PHILLIPS: It's always helpful.

19 CHAIRPERSON ANDERSON: Fine. All
20 right.

21 MS. PHILLIPS: Thank you, Mr. Chair.

22 CHAIRPERSON ANDERSON: All right. We

1 are in recess until we call our next case.

2 Do you want to continue the --

3 MS. PHILLIPS: Yes.

4 CHAIRPERSON ANDERSON: -- yes, so we
5 are in recess. All right.

6 (Whereupon, the above-entitled matter
7 went off the record at 10:16 a.m. and resumed at
8 10:37 a.m.)

9 CHAIRPERSON ANDERSON: All right. We
10 are back on the record. Our next case is Case
11 No. 18-CIT-00174, India Gate, License No. 95030.

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

14 MS. PHILLIPS: Louise Phillips,
15 Assistant Attorney General for the District of
16 Columbia.

17 CHAIRPERSON ANDERSON: Good after --
18 good morning, Ms. Phillips.

19 INTERPRETER KHAN: Gentlemen, I am an
20 interpreter for this.

21 CHAIRPERSON ANDERSON: I'm aware. So
22 what language is this?

1 INTERPRETER KHAN: This is Bengali, B-
2 E-N-G-A-L-I.

3 CHAIRPERSON ANDERSON: Okay. Can you
4 raise your right hand, please?

5 Do you solemnly swear that you will
6 faithfully and accurately interpret these
7 proceedings in this matter from English into
8 Bengali and from Bengali into English to the best
9 of your ability?

10 INTERPRETER KHAN: I do.

11 CHAIRPERSON ANDERSON: All right. Can
12 you identify yourself for the record, sir.

13 INTERPRETER KHAN: My name is Faisal,
14 that's F, as in Frank, A-I-S-A-L. The last name
15 is Khan, K-H-A-N, as in Nancy.

16 CHAIRPERSON ANDERSON: All right.
17 Thank you. Have a seat. Can you ask him to
18 identify himself for the record, please.

19 INTERPRETER KHAN: Sure. Would you
20 like him to stand up?

21 CHAIRPERSON ANDERSON: No, he doesn't
22 have to.

1 MR. RAHMAN: Mohammad Lutfar Rahman.

2 INTERPRETER KHAN: Would you like me
3 to spell it?

4 CHAIRPERSON ANDERSON: Yes, please.

5 INTERPRETER KHAN: Okay. The first
6 name is Mohammad, that's M-O-H-A-M-M-A-D. Then
7 it is L-U-T, as in Tom, F-A-R. The last name is
8 Rahman, R-A-H-M-A-N, as in Nancy.

9 CHAIRPERSON ANDERSON: Thank you. All
10 right.

11 MS. PHILLIPS: Mr. Chair, if it would
12 help, I can explain sort of what we were doing
13 out in the hall --

14 CHAIRPERSON ANDERSON: Sure.

15 MS. PHILLIPS: -- so that we can --

16 CHAIRPERSON ANDERSON: Well, so -- all
17 right. So are they -- well, I'll just ask. Are
18 there any preliminary matters? And then you can
19 explain what they are.

20 MS. PHILLIPS: Okay.

21 CHAIRPERSON ANDERSON: Yes, go ahead.

22 MS. PHILLIPS: The parties do not have

1 an OIC. However, I took the liberty of talking
2 through the interpreter to the owner showing the
3 interpreter the charges in this matter, because
4 from what I understand from speaking personally
5 to the owner and then with Mr. Khan, he does not
6 understand English.

7 So I wanted to make sure that he
8 understood the charges before we even came in
9 here before the Board. And so Mr. Khan explained
10 those to him.

11 So he did receive the notice, because
12 I actually showed his notice to Mr. Khan and Mr.
13 Khan explained to him the nature of the charges.
14 Not reading them, but the nature of them.

15 CHAIRPERSON ANDERSON: Now, all right.
16 So you are contesting the charge in this case,
17 sir? Is that correct?

18 INTERPRETER KHAN: Okay.

19 MR. RAHMAN: Yes, I am on the basis
20 that all this time my accountants have been
21 taking care of things. They were the ones
22 responsible for filing any statements, quarterly

1 or whatever was required. I have a very weak
2 understanding of the English language, therefore,
3 things were being done on my behalf with the
4 accountants.

5 I promise you this will not happen
6 again.

7 CHAIRPERSON ANDERSON: Are there --
8 and I guess from Ms. Phillips and maybe there can
9 be some understanding. It appears that he is
10 saying that -- please, translate. I'm speaking
11 to Ms. Phillips, but --

12 INTERPRETER KHAN: Yes.

13 CHAIRPERSON ANDERSON: -- please,
14 translate everything I'm saying to him.

15 Is it that there is agreement that the
16 document, the filing was not done, but he is
17 asking the Board to say that this is why it was
18 not done?

19 MS. PHILLIPS: The filing was done.
20 It was late by 30 days or more. I have a
21 witness. I also have --

22 CHAIRPERSON ANDERSON: Remember he is

1 translating.

2 MS. PHILLIPS: I know.

3 CHAIRPERSON ANDERSON: All right.

4 MS. PHILLIPS: All right. I also have
5 what the -- Ms. Clark will testify to as to when
6 it was filed. The quarterly statement in this
7 case was due January 30th or 31st, whatever the
8 last day of January is.

9 And according to what the testimony
10 will be, it was not filed until March 1, 2018,
11 which would be one month late.

12 CHAIRPERSON ANDERSON: I'm trying to
13 see if we can agree that, if there is agreement,
14 the filing was late. I'm asking that. I'm not
15 making any -- and if he just would agree that the
16 filing is late, to say that this is my
17 explanation and then for the Board to decide. Do
18 we need -- do we actually need to go through a
19 hearing, because at least I'm not hearing that he
20 is saying that it was filed on time.

21 Is there agreement that it was filed
22 late?

1 MS. PHILLIPS: I have not given --
2 because of the difficulty with the language, I
3 have not asked for a stipulation. If the Board
4 wishes to ask for a stipulation, I'm amenable.

5 He has told me, through his
6 interpreter, that it was the accountant's fault--

7 CHAIRPERSON ANDERSON: Okay.

8 MS. PHILLIPS: -- that it was late.

9 CHAIRPERSON ANDERSON: I mean, I'll
10 give you as much time, because I think this is
11 going to be a very long and complicated hearing.
12 And it appears that there is no disagreement.

13 MS. PHILLIPS: I think that would be
14 best if the Board just ask him if he will admit
15 that his accountant filed it late.

16 CHAIRPERSON ANDERSON: All right.

17 MR. RAHMAN: Yes.

18 CHAIRPERSON ANDERSON: All right. And
19 you can tell me, sir, okay, where we are, we can
20 discuss whether or not there is agreement that
21 the filing was late.

22 MR. RAHMAN: So a few years ago, I was

1 in a situation where I was able to get a lease on
2 a property and the accountant helped me get this
3 property. So there was a liquor license in the
4 name of the restaurant and that liquor license
5 was transferred into my name. Again, the
6 accountant was instrumental in doing that.

7 So now that we have arrived at this
8 position where the accountant who had been
9 responsible, who was responsible for filing
10 quarterly statements, now then came to me and
11 asked me for money. So I told my accountant why
12 should I pay you extra money when you have
13 faulted in your responsibility?

14 So now I am suffering losses because
15 there is also I'm losing business. There is
16 another restaurant that has opened up nearby and
17 that has taken quite a lot of business away from
18 me.

19 So now there is another business
20 opposite to mine and for that I have lost a lot
21 of income.

22 CHAIRPERSON ANDERSON: I understand

1 that, but that's not the nature of these
2 proceedings.

3 MR. RAHMAN: Once again, the agreement
4 was that the accountant would do this. Now that
5 he has faulted and now I have understood quite a
6 bit myself, I promise you it will not happen
7 again.

8 CHAIRPERSON ANDERSON: All right. So
9 is he agreeing that the filing was late and that
10 he wants the Board to determine what the penalty?
11 Is there agreement that it was filed late? And
12 then the Board can decide what the penalty is.
13 Is that what -- would he agree to that?

14 MR. RAHMAN: So fine, I guess I
15 understand that. And that the Board Members
16 here, also I would like them to understand that
17 yes, the accountant was delayed, but if the Board
18 still wants to penalize me, well, then what can I
19 do?

20 CHAIRPERSON ANDERSON: All right. But
21 this is what I -- would he agree, could we agree
22 that the filing was -- it was filed late? Is

1 that -- would he agree to that?

2 MR. RAHMAN: Yes, I agree that it was
3 filed late.

4 CHAIRPERSON ANDERSON: All right. So
5 we have a stipulation. All right. So this is
6 what we are going to do now.

7 There is an agreement that it was
8 filed late. All right. The Government will tell
9 us what is it that what the penalty is. Okay.
10 Listen, no, we are not done yet. After the
11 Government tells us what the penalty, you then
12 need to tell us what you want us to do.

13 MR. RAHMAN: Okay. So it is quite
14 apparent that whatever I say has absolutely no
15 value, no worth.

16 CHAIRPERSON ANDERSON: No, no, sir.
17 Yes, go ahead.

18 INTERPRETER KHAN: I'm only
19 interpreting this way.

20 CHAIRPERSON ANDERSON: Yes.

21 INTERPRETER KHAN: Actually, please,
22 allow me to do that.

1 MR. RAHMAN: So what I say has no
2 value, no worth, so if they inflict a penalty on
3 me, I guess I have to accept it.

4 CHAIRPERSON ANDERSON: No. What I'm
5 saying to him, the Government is going to tell us
6 what the penalty is. Then you then need to tell
7 us why we should not impose the penalty that the
8 Government recommends.

9 So once we listen to the Government,
10 once we listen to you, then we will make a
11 decision what we are going to do.

12 Does he understand?

13 MR. RAHMAN: Fine, I'll accept it.

14 CHAIRPERSON ANDERSON: All right.
15 Okay. Fine. So Ms. -- so there is a stipulation
16 that the filing was 30 days late.

17 MS. PHILLIPS: The stipulation was
18 that the filing was late.

19 CHAIRPERSON ANDERSON: Yeah, was late.
20 Based on the late filing, Ms. Phillips, what is
21 it that the Government is recommending that we
22 should do?

1 MS. PHILLIPS: According to the
2 information I have from the Administration, this
3 establishment and this charge is the fourth
4 secondary violation within four years. And then
5 the penalty for that kind of violation and that
6 number of secondary violations is \$1,500 to be
7 paid within 30 or 60 days.

8 I have been outside with the
9 interpreter, Ms. Clark and I discussed that there
10 can be training through ABRA and that there is
11 apparently a training on books and records that
12 is occurring on September 20, 2018 and it's my
13 understanding through the interpreter that the
14 owner plans to attend the 9:00 to 11:00 a.m.
15 training, if the Board will provide a translator,
16 so that he can understand the lesson plan.

17 MR. RAHMAN: Okay. That's fine. I
18 can come. There is no problem. I can come for
19 the training.

20 MS. PHILLIPS: So I think that should
21 be taken into consideration by the Board. Also,
22 I should say that in other establishments and

1 other violations on quarterly statement late
2 filings, the fact that the accountant was at
3 fault has not been a defense in my other cases,
4 but the Board is able to do what it needs to do
5 and make an interpretation if he throws himself
6 upon the mercy of the Board. I'm finished.

7 CHAIRPERSON ANDERSON: All right.

8 Sir, it's my understanding that this is the
9 fourth time this has occurred. Just listen. And
10 based on the fact that this is the fourth time it
11 has occurred, the Government is recommending that
12 you pay a \$1,500 fine.

13 What is it that you want us to do?

14 Tell me, tell us why is it that we should not
15 fine you \$1,500 because this is the fourth time
16 this has occurred. So this is your opportunity.

17 MR. RAHMAN: So I was not aware that
18 I was in violation four times. The accountant
19 was responsible for everything and now I'm stuck
20 with this situation where I have to pay all this
21 money.

22 CHAIRPERSON ANDERSON: How -- this is

1 your business. How is it that you didn't realize
2 that this is the fourth time? Either you or your
3 accountant is filing it late.

4 INTERPRETER KHAN: Mr. Anderson and
5 Board Members, counselor, I would -- I have
6 explained to the gentleman and I will do this in
7 your presence again. The -- when the witness
8 interferes or interrupts the interpreter, it
9 becomes very difficult for the interpreter to do
10 their job.

11 If you could kindly instruct the
12 witness not to interrupt me and not to interrupt
13 you, please.

14 CHAIRPERSON ANDERSON: All right. I'm
15 sorry, what's his name again?

16 INTERPRETER KHAN: Mr. Rahman.

17 CHAIRPERSON ANDERSON: Mr. Rahman, the
18 gentleman sitting beside you, all he is doing, he
19 is explaining what you are saying to us. Okay?
20 So all he is doing is translating. He is not
21 telling us what his views are. He is just
22 telling us what you are saying. So allow him to

1 tell us, to speak for you. Okay? So you can't
2 interrupt him or us.

3 INTERPRETER KHAN: All right. Mr.
4 Anderson, I have conveyed the message.

5 MR. RAHMAN: So did you not tell me
6 that whatever decision you make, I will have to
7 follow it?

8 CHAIRPERSON ANDERSON: After you tell
9 us why we should not fine you \$1,500, because you
10 have done this for the fourth time.

11 MR. RAHMAN: So fine. So the thing
12 that I understand is that whether I'm in America
13 or whether I'm in my country, Bangladesh, there
14 is no justice. I'm a poor man.

15 So I am doing -- I am at fault whether
16 my accountant faulted in his responsibility, in
17 their responsibility or not. So I'm trying to
18 now understand this. So there is no justice. I
19 have a business. If I have to turn in my liquor
20 license, I will do that. I own -- I know this
21 much that I will not get justice.

22 CHAIRPERSON ANDERSON: Sir, it's your

1 business. You are responsible for the business.
2 The accountant works for you. So therefore, you
3 are responsible for what the accountant does or
4 does not do.

5 INTERPRETER KHAN: I'm letting him
6 know, please, let me interpret what Mr. Anderson
7 just said. You are interrupting me again.

8 MR. RAHMAN: Okay. Fine. This is
9 what I have understood. Whether it was my fault,
10 I'm the business owner and the accountant was
11 given the responsibility to fulfill their
12 responsibility his or her, they didn't. I know
13 this much. The -- in the end, I'm the one who is
14 at fault. Fine, I accept it.

15 I also accept that yes, whether it was
16 my fault or the accountant's fault, it really
17 falls back on me. So now, if I have to pay the
18 penalty, I guess I have to.

19 CHAIRPERSON ANDERSON: So what penalty
20 do you want to pay?

21 MR. RAHMAN: Okay. Now, I understand
22 what this is. Now, I have been able to

1 comprehend. I accept this is my fault. Whether
2 they want to penalize me \$1,500, whether they
3 want to forgive it, whether they want to lessen
4 it, I accept it.

5 CHAIRPERSON ANDERSON: So yeah, and so
6 we will now make a decision based on the
7 presentation that is made today.

8 MR. RAHMAN: Okay.

9 CHAIRPERSON ANDERSON: Are we fine
10 with where we are, Ms. Phillips?

11 MS. PHILLIPS: We are fine with where
12 we are. But I think the Board should take into
13 account before they render their order whether or
14 not he attends the training.

15 INTERPRETER KHAN: Sorry.

16 CHAIRPERSON ANDERSON: What time is
17 the training?

18 MS. PHILLIPS: The training? All
19 right. I'm going to give him another flyer, so
20 everybody has a flyer over there. September 20,
21 2018, which is like next week Thursday maybe,
22 9:00 to 11:00 is the one he said he could attend.

1 MR. RAHMAN: When is this?

2 INTERPRETER KHAN: So I said it's 9:00
3 to 11:00 a.m.

4 CHAIRPERSON ANDERSON: Is he agreeing
5 as part of our decision that he will go to the
6 books and training --

7 MS. PHILLIPS: Books and records
8 training.

9 CHAIRPERSON ANDERSON: -- books and
10 records training that is being offered by the
11 Agency on September 20th at 9:00 provided we
12 provide him a translator?

13 MR. RAHMAN: Okay.

14 CHAIRPERSON ANDERSON: All right.

15 MS. PHILLIPS: That's all I have to
16 say, Mr. Chair.

17 CHAIRPERSON ANDERSON: Does he have
18 anything else he wants to say?

19 MR. RAHMAN: So I want to come back to
20 that again. I have accepted all my fault.

21 CHAIRPERSON ANDERSON: All right.

22 MS. PHILLIPS: Are we excused?

1 CHAIRPERSON ANDERSON: I need to -- I
2 need to do the reading.

3 MS. PHILLIPS: I know, but it's going
4 to take a long time to translate that's why I was
5 thinking that --

6 CHAIRPERSON ANDERSON: Oh, yes, so
7 that's what I was -- the case is now over, but
8 I'm going to close the record.

9 INTERPRETER KHAN: All right, sir.

10 CHAIRPERSON ANDERSON: So that's what
11 I'm going to do a reading to close the record.

12 As Chairman of the Alcoholic Beverage
13 Control Board for the District of Columbia and in
14 accordance with DC Official Code Section 2-574(b)
15 of the Open Meetings Act, I move that the ABC
16 Board hold a closed meeting for the purpose of
17 seeking legal advice from our counsel on Case No.
18 18-CIT-00174, India Gate, pursuant to DC Official
19 Code Section 2-574(b)(4) of the Open Meetings Act
20 and deliberate upon Case No. 18-CIT-00174, India
21 gate, for the reasons cited in DC Official Code
22 Section 2-574(b)(13) of the Open Meetings Act.

1 Is there a second?

2 MEMBER SHORT: Second.

3 MEMBER SILVERSTEIN: Second.

4 CHAIRPERSON ANDERSON: Mr. Short and
5 Mr. Silverstein seconded the motion. I will now
6 take a roll call vote on the motion before us now
7 that it has been seconded.

8 Mr. Silverstein?

9 MEMBER SILVERSTEIN: I agree.

10 CHAIRPERSON ANDERSON: Mr. Short?

11 MEMBER SHORT: I agree.

12 CHAIRPERSON ANDERSON: Mr. Alberti?

13 MEMBER ALBERTI: I agree.

14 CHAIRPERSON ANDERSON: Mr. Cato?

15 MEMBER CATO: I agree.

16 CHAIRPERSON ANDERSON: Mr. Anderson?

17 I agree.

18 As it appears that the motion has
19 passed, I hereby give notice that the ABC Board
20 will recess these proceedings to hold a closed
21 meeting in the ABC Board conference room pursuant
22 to Section 2-574(b) of the Open Meetings Act.

1 The matter is over and we will issue
2 a decision in 90 days. All right?

3 MR. RAHMAN: All right.

4 CHAIRPERSON ANDERSON: And so you have
5 agreed, sir, that you are definitely going to
6 come to the training on September 20th from 9:00
7 to 11:00 and we will provide you a translator.

8 MR. RAHMAN: Yes, I accept.

9 CHAIRPERSON ANDERSON: All right.
10 Fine. Thank you.

11 MS. PHILLIPS: Are we dismissed?

12 CHAIRPERSON ANDERSON: Dismissed.
13 Thank you very much.

14 INTERPRETER KHAN: Thank you.

15 CHAIRPERSON ANDERSON: We are in
16 recess until 1:00.

17 (Whereupon, the Show Cause Hearing was
18 concluded at 11:11 a.m.)

19

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21

22

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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: India Get Restaurant, Inc.

Before: Alcoholic Beverage Control Board

Date: 09-12-18

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.



Court Reporter

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