

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

2 4:01 p.m.

3 CHAIRPERSON ANDERSON: The next matter
4 on our calendar is there is a Fact-Finding
5 Hearing application for a manager's license for
6 Benjamin J. Martucci.

7 Mr. Martucci, can you, please, come up
8 and identify yourself for the record, please?

9 MR. MARTUCCI: Thank you.

10 CHAIRPERSON ANDERSON: There is a
11 sign-in sheet also, too, please, sign there,
12 please, sir. And identify yourself for the
13 record.

14 MR. MARTUCCI: I am Benjamin Martucci.

15 CHAIRPERSON ANDERSON: All right.
16 Good afternoon, sir. All right. You applied for
17 a manager's license and as part of the manager's
18 license, on the application it says "Have you
19 ever been convicted of a misdemeanor within the
20 past five years?" And the answer is "No."

21 You brought us your background check,
22 criminal background check and there is an issue

1 on here that says on October -- I'm sorry, on
2 November -- sorry, September 21, 2017 that it
3 says dump trash comp animal, etcetera, and there
4 was a disposition on October 30, 2017. And it
5 says that there was a guilty plea.

6 I don't know what that is, sir, so
7 maybe you can explain to us what is that issue on
8 your background check? And it is from the
9 perspective that if it's a conviction of
10 something, it is -- then you need to answer the
11 question. If it is a conviction, why did you not
12 say yes on your application? Why did you say no?

13 So that's why I'm saying you can
14 explain to us what it is and what does it mean.

15 MR. MARTUCCI: It was I got a --
16 pulling out of my development, my house, I
17 flicked my cigarette out of the window and a
18 police officer pulled me over and charged me for
19 littering.

20 CHAIRPERSON ANDERSON: I'm sorry? I'm
21 being very serious, sir.

22 MR. MARTUCCI: I'm serious. I was

1 pulling out of my development and I flicked my
2 cigarette out the window and a police officer
3 came by and pulled me over and ticketed me for
4 littering.

5 MEMBER SILVERSTEIN: What is this C-O-
6 M-P animal about then?

7 CHAIRPERSON ANDERSON: So what does it
8 mean dump trash comp, C-O-M-P, animal, etcetera?
9 What does that mean?

10 MR. MARTUCCI: I have no idea.

11 CHAIRPERSON ANDERSON: Have you seen
12 the background? Have you seen your background --
13 the police report?

14 MR. MARTUCCI: I haven't seen the
15 police report, but I mean, I gave the background
16 check for what I got from Virginia.

17 CHAIRPERSON ANDERSON: From Fairfax?
18 So --

19 MR. MARTUCCI: Yeah, from Fairfax.

20 CHAIRPERSON ANDERSON: -- you don't
21 know what -- so that was what had happened?

22 MR. MARTUCCI: That was actually what

1 I was charged with was for littering and I think
2 it was like a \$50 fine. And then when I went to
3 Court and pleaded no contest to it, which is
4 basically a guilty plea, the Court costs were
5 like \$98, so I ended up paying all of that, too.

6 CHAIRPERSON ANDERSON: Well, it does
7 say it was a \$50 fine, but so what was that? So
8 was that a misdemeanor or was it just a parking
9 ticket? What's that?

10 MR. MARTUCCI: I'm not -- I didn't
11 think it was a misdemeanor.

12 MEMBER SILVERSTEIN: Littering?

13 MR. MARTUCCI: Littering, yeah.

14 MEMBER SHORT: What date was that?

15 MEMBER ALBERTI: It would be, there is
16 no ticket for littering. It would be.

17 CHAIRPERSON ANDERSON: So is that the
18 same event?

19 MR. MARTUCCI: Yeah.

20 CHAIRPERSON ANDERSON: Well --

21 MEMBER SILVERSTEIN: Let's all exhale.

22 (Laughter)

1 MEMBER SILVERSTEIN: Starting with
2 you, sir. Let's exhale.

3 CHAIRPERSON ANDERSON: Yeah, I -- as
4 I said, sir, when -- this is in Virginia.

5 Well, I think, sir, you need to know
6 what -- when you do a background check, you need
7 to know what is on it.

8 MR. MARTUCCI: Okay.

9 CHAIRPERSON ANDERSON: And so when
10 somebody calls you in, you will -- because we see
11 this here. We don't know what it is.

12 MR. MARTUCCI: Okay.

13 CHAIRPERSON ANDERSON: And it is more
14 so my concern is not that there is a -- that you
15 might or might not have a criminal record, it's
16 when we ask you a question --

17 MEMBER SILVERSTEIN: Yeah.

18 CHAIRPERSON ANDERSON: -- and it's for
19 you to own up to it. So that's one of the
20 reasons. So if it was an actual misdemeanor or
21 felony and if on the front page of the
22 application if you said no and there was actually

1 a felony or misdemeanor that was within our
2 statutory guideline, meaning 5 or 10 years, and
3 if you did not own up to it, then I would be not
4 inclined to support an application, because it's
5 a matter of trust.

6 MR. MARTUCCI: Um-hum.

7 CHAIRPERSON ANDERSON: As I said
8 before, it's not the crime itself. It's a matter
9 of trust.

10 MEMBER SILVERSTEIN: Right.

11 CHAIRPERSON ANDERSON: We are giving
12 you a manager's license and we have to depend on
13 you to be responsible in the sense of making sure
14 that people do not -- you don't over-serve.

15 MR. MARTUCCI: Absolutely.

16 CHAIRPERSON ANDERSON: That you do not
17 -- you make sure that folks who are underage,
18 that does not occur. And so if we -- in your
19 application to us, if you can't be honest with
20 us, how -- what type of assurance would you be
21 giving us once we give you this responsibility by
22 you having this license?

1 So that's why when I -- as I always
2 tell people, it's not the -- whether or not you
3 were convicted of a crime, it's whether or not on
4 your application whether or not you admit to it.
5 And if it -- if you admit to it and the Board
6 probably have seen like -- not in this particular
7 case, I'm just saying generally, because you have
8 now explained to us, because we were trying to
9 figure out what it is.

10 It's like what it is that says dump,
11 it says animal. Comp animal and like okay, all
12 type of things go through somebody's mind.

13 MR. MARTUCCI: Sir, it sounds weird
14 when you read it like that, yeah.

15 CHAIRPERSON ANDERSON: That's what the
16 document says.

17 MR. MARTUCCI: Yeah.

18 CHAIRPERSON ANDERSON: So I'm glad
19 that you came in and I guess it's just to let you
20 know that you can -- next time you are smoking,
21 you need to keep it in your car until you go --

22 MR. MARTUCCI: Pretty much.

1 CHAIRPERSON ANDERSON: -- because if
2 you -- clearly, you know -- do you still live in
3 Virginia?

4 MR. MARTUCCI: Yeah.

5 CHAIRPERSON ANDERSON: The reason I'm
6 saying is because you don't have a record in
7 D.C., so this is going to stay with you until
8 whenever you can ask them to clear it from your
9 record. So you have a record, so when people see
10 that, it is going to be like okay, what does this
11 mean and it could be much more serious.

12 Someone will think it is much more
13 serious than it actually is, so I would suggest
14 to you that you go find out at some point in
15 Virginia --

16 MEMBER SILVERSTEIN: Yeah.

17 CHAIRPERSON ANDERSON: -- how long --
18 when can you --

19 MR. MARTUCCI: Get it expunged.

20 CHAIRPERSON ANDERSON: -- expunge
21 this.

22 MR. MARTUCCI: Yeah.

1 CHAIRPERSON ANDERSON: Because if --
2 what is it that you said it is, it's unfortunate
3 to have a criminal record for that infraction,
4 unless you lived in California and you would
5 throw your cigarette out and it caused a forest
6 fire. But in that particular case, that's
7 serious.

8 All right. So -- yes, Mr.
9 Silverstein?

10 MEMBER SILVERSTEIN: Mr. Martucci, it
11 was this week a couple of years ago that I
12 actually had the pleasure of spending part of
13 Thanksgiving at the mansion on O Street with Arlo
14 Guthrie, who was also arrested for littering, and
15 became part of his famous "Alice's Restaurant"
16 song, which was a Thanksgiving thing. It got him
17 out of the draft, according to the song. It is
18 rather odd and I feel like I'm in the middle of
19 Alice's Restaurant here, that we are a Court and
20 we are looking at you looking scant at your
21 littering violation.

22 I hope that is the worst that you have

1 ever run afoul with the law.

2 MR. MARTUCCI: Yeah.

3 MEMBER SILVERSTEIN: So I do not need
4 any copies of what you did with circles and
5 arrows on the back of each one to be used as
6 evidence. Good luck to you.

7 MEMBER ALBERTI: May I ask a question?
8 Do you know what he is talking about?

9 MR. MARTUCCI: Um.

10 MEMBER ALBERTI: No, no, do you know
11 what he is talking about?

12 MR. MARTUCCI: To be honest, no.

13 (Laughter)

14 MEMBER ALBERTI: Do you know what he
15 is talking about? Okay. That's fine. Google
16 Alice's Restaurant sometime.

17 MR. MARTUCCI: Alice's Restaurant?

18 MEMBER ALBERTI: Yeah, yeah. It was
19 basically a protest song.

20 MR. MARTUCCI: All right.

21 MEMBER ALBERTI: From the early '70s.

22 MEMBER SILVERSTEIN: It was about a

1 gentleman who was Woody Guthrie's son and was
2 able to get out of the war because he had been
3 arrested for littering.

4 MR. MARTUCCI: Got it.

5 CHAIRPERSON ANDERSON: All right. All
6 right. A quick question, sir. What -- and this
7 is irrelevant, this is not relevant to what we
8 are doing today, it's just an FYI. What
9 establishment are you applying for?

10 MR. MARTUCCI: Rosa Mexicano.

11 CHAIRPERSON ANDERSON: Rosa Mexicano?
12 Well, congratulations on your promotion.

13 I make a motion that we approve, we
14 grant the manager's license. Is there a second?

15 MEMBER SILVERSTEIN: I second.

16 CHAIRPERSON ANDERSON: Mr. Silverstein
17 has seconded the motion.

18 All those in favor say aye.

19 ALL: Aye.

20 CHAIRPERSON ANDERSON: Those opposed?
21 The matter passes 5-0-0.

22 So can two other people sign this, so

1 you can take -- the office is still open, right?

2 UNIDENTIFIED SPEAKER: No.

3 CHAIRPERSON ANDERSON: So you can come
4 back tomorrow. And do we keep this?

5 UNIDENTIFIED SPEAKER: We keep it. We
6 will keep it.

7 CHAIRPERSON ANDERSON: So you can come
8 back to the front desk tomorrow and you can pick
9 up your license, sir.

10 MR. MARTUCCI: Okay. Thank you.

11 CHAIRPERSON ANDERSON: Because
12 normally if it was a little bit earlier, you
13 could have picked it up today, but --

14 MR. MARTUCCI: I understand.

15 CHAIRPERSON ANDERSON: All right. All
16 right. Thank you for being here today and thank
17 you for ending our day on a good way. All right.
18 Thank you.

19 MR. MARTUCCI: Thank you.

20 CHAIRPERSON ANDERSON: Thank you.

21 (Whereupon, the Fact-Finding Hearing
22 was concluded at 4:11 p.m.)

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This is to certify that the foregoing transcript

In the matter of: Benjamin Martucci

Before: DCABRA

Date: 11-28-18

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

NEAL R. GROSS

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