

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

IN THE MATTER OF: :

:

John, LLC, :

t/a Toni's Market : Fact Finding

5319 East Capitol Street, SE: Hearing

Retailer B - ANC 7E :

License No. 102043 :

Case #19-CMP-00085 :

:

(Multiple Violations of :
 the Settlement Agreement) :

Wednesday
 August 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
 BOBBY CATO, JR., Member
 MIKE SILVERSTEIN, Member
 JAMES SHORT, Member
 RAFI A. CROCKETT, Member

ALSO PRESENT:

SEMAGNE WUBNEH, APPLICANT

INVESTIGATOR JEREMEY ZOLLARCOFFER, ABRA

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

2 9:50 a.m.

3 CHAIRPERSON ANDERSON: All right. So
4 we will move on to our next calendar case. The
5 next matter is a Fact-Finding Hearing, Case No.
6 19-CMP-00085, Toni's Market, License No. 102043.

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

9 INVESTIGATOR ZOLLARCOFFER:
10 Investigator Jeremy Zollarcoffer.

11 CHAIRPERSON ANDERSON: Good morning,
12 Mr. Zollarcoffer.

13 MR. WUBNEH: Semagne Wubneh.

14 CHAIRPERSON ANDERSON: I can't hear
15 you, sir.

16 MR. WUBNEH: Good morning. My name is
17 Semagne.

18 CHAIRPERSON ANDERSON: Mister?

19 MR. WUBNEH: Semagne Wubneh, Toni's
20 Market.

21 CHAIRPERSON ANDERSON: Hold on.
22 Mister?

1 MR. WUBNEH: Wubneh.

2 CHAIRPERSON ANDERSON: One more time,
3 sir, so I can address you.

4 MR. WUBNEH: The last name is Wubneh.

5 CHAIRPERSON ANDERSON: Wubneh?

6 MR. WUBNEH: Yes.

7 CHAIRPERSON ANDERSON: All right.

8 Thank you. Have a seat, sir. There is a sign-in
9 sheet on the table, please, sign in, sign your
10 name in, please.

11 All right. Mr. Wubneh, I'm going to
12 try to the best of my abilities to pronounce your
13 name correctly.

14 MR. WUBNEH: Okay.

15 CHAIRPERSON ANDERSON: This is a Fact-
16 Finding Hearing and, basically, the reason why
17 you are here today is because the Investigator
18 went to your establishment, I think, just to do a
19 -- I don't think -- I just think that he -- yeah,
20 just a regulatory inspection. And once he went
21 to your establishment, there were some violations
22 that the investigator saw.

1 It was brought to the attention of the
2 Board and one of the things that the Board
3 determined was that there was a violation, but
4 because of the -- based on the nature of the
5 violation and the substantive nature of the
6 violation, we thought that we would bring you in
7 to have a Fact-Finding Hearing.

8 All that the Board is doing at a Fact-
9 Finding Hearing is to gather information. The
10 Board, at a Fact-Finding Hearing, is -- you are
11 not under oath. The Board at a Fact-Finding
12 Hearing will not -- cannot order you to do
13 anything. We can request that you do certain
14 things and you can decide that you are not going
15 to do it, but the Board cannot take any action
16 whether or not you agree or disagree to do an
17 action because of the nature of Fact-Finding
18 Hearings.

19 And so that's one of -- so I just want
20 to explain to you what it is.

21 And I just -- let me ask you just a
22 quick question before we start. I'm going to

1 have the Investigator go through his report.
2 Once he goes through his report, we might ask him
3 some questions. If there -- if based on what
4 information he presents in his report, if you
5 disagree with certain things, you can ask him
6 questions about it and we might ask you some
7 questions also. Okay?

8 But I just want to ask you a quick
9 question. How long have you owned this business?

10 MR. WUBNEH: Three and a half.

11 CHAIRPERSON ANDERSON: I'm sorry?

12 MR. WUBNEH: Three years and a half.

13 CHAIRPERSON ANDERSON: Three and a
14 half years?

15 MR. WUBNEH: Yes.

16 CHAIRPERSON ANDERSON: So about three
17 and a half years you have, okay, owned this
18 business. All right.

19 Investigator Zollarcoffer, can you
20 tell us what is it -- just explain to us. Tell
21 us about your report and what brought us here
22 today, please.

1 INVESTIGATOR ZOLLARCOFFER: Okay. On
2 May 15, 2019 at approximately 2:20 p.m., I
3 visited Toni's Market at 5319 East Capitol Street
4 with two other ABRA Investigators, Kevin Puente
5 and Vanessa Pleitez. I went there for -- to
6 conduct a regulatory inspection.

7 I introduced myself as an ABRA
8 Investigator. I met Mr. Wubneh. He introduced
9 himself as the owner of Toni's Market.

10 While conducting the inspection, I
11 asked for the settlement agreement and some
12 copies of books and records, which both he wasn't
13 able to provide. They weren't there on the
14 premise at the time, so I asked him to, you know,
15 gather those documents and we could meet in two
16 days on Friday, May 17th, and we can conduct
17 another reinspection.

18 While I was there doing the
19 reinspection, he -- so I revisited on May 17th.
20 He was able to provide them. I came back with
21 ABRA Investigator Earl Jones. We conducted the
22 inspection.

1 I did find in the inspection that he
2 was in violation of his settlement agreement for
3 the following:

4 (1) Advertising drug paraphernalia for
5 sale.

6 (2) Supplying black plastic bags with
7 the purchase of sale.

8 (3) Go-cups with ice cup -- go-cups
9 with ice were for sale in a freezer box.

10 (4) The sign -- there was not a sign
11 posted indicating between the hours of 9:30 a.m.
12 and 3:30 p.m. children under the age of 18 would
13 not be serviced.

14 (5) And also the ABC License was not
15 posted in -- conspicuously. It was kind of
16 tucked over in the corner out of sight.

17 I informed Mr. Wubneh of the
18 settlement agreement violations and the failure
19 to properly post and carry the license and that
20 an ABRA report would be generated.

21 After -- at this point, I did not
22 observe any further ABRA violations and I exited

1 the establishment.

2 I do want to add on July 23rd at
3 approximately 1:30 while conducting another
4 compliance check with a minor, we visited once
5 again Toni's Market and another ABRA Investigator
6 Vanessa Pleitez while in the establishment
7 noticed that some of the settlement agreement
8 were still in violation and she did notice that
9 the black bags were still being sold with the
10 purchase of sale.

11 CHAIRPERSON ANDERSON: All right. Mr.
12 Wubneh, do you have a response?

13 Let me ask you quickly, when you
14 bought the business, did someone provide you a
15 copy of the settlement agreement when you bought
16 the business?

17 MR. WUBNEH: Yeah, I use to be have it
18 in my document, but that was a friend that owned
19 that time.

20 CHAIRPERSON ANDERSON: All right.

21 MR. WUBNEH: And I came to the ABRA
22 office, I got the property and I show to them. I

1 admit the violation. I signed a waiver and I
2 paid the fine of -- it is with me now. I can
3 prove I received all of these things.

4 CHAIRPERSON ANDERSON: Well, yeah, I
5 know, but I'm not that concerned about whether or
6 not you paid the fine or not. I'm just saying,
7 I'm talking about the violations in the agreement
8 itself.

9 I mean, were you aware in the sense of
10 the posting of the sign?

11 MR. WUBNEH: Yeah.

12 CHAIRPERSON ANDERSON: The posting of
13 the sign, the selling of, as the agreement says,
14 cigarette rolling paper, cocaine freebase kit,
15 that you would not use the black bag.

16 Were you aware of these? Were you
17 aware that -- the go-cups, I mean, were you aware
18 that these are -- that per the settlement
19 agreement, that you can't do that?

20 MR. WUBNEH: Yeah, I accept that.

21 CHAIRPERSON ANDERSON: I'm sorry, sir?

22 MR. WUBNEH: I accept that, the

1 violations.

2 CHAIRPERSON ANDERSON: But --

3 MR. WUBNEH: So I'm not going to do
4 it.

5 CHAIRPERSON ANDERSON: -- my -- the
6 purpose of bringing you here is not to say do I
7 accept or not the violation. It's to say to you
8 that you signed a settlement agreement or you
9 have -- there is a settlement agreement with your
10 business saying that you can't do this.

11 Now the Investigators, I'm not saying
12 the Investigator is going to come there every
13 day, but if the Investigator was to come every
14 day and see that you continue to do this, they
15 are going to fine you.

16 So the reason why we brought you in
17 today is to inform you of the settlement
18 agreement, the terms of the settlement agreement
19 and to say to you that this is the settlement
20 agreement that is with your license, that you
21 have to comply with the agreement because at any
22 point an Investigator comes to your establishment

1 and if this occurs, then they are going to fine
2 you.

3 And I don't want you to come back here
4 to say that we are picking on you. So now why
5 are these Investigators coming to my property?
6 I'm doing everything that is right.

7 So it's to let you know that you have
8 an agreement and the only way this can change is
9 when your -- do you know who signed -- who are
10 the parties to the settlement agreement? The
11 parties to the settlement agreement are you, the
12 owner, and I'm not sure who the other party is,
13 because I cannot make out this signature.

14 This is an agreement from -- is this--
15 this is from '09, so this is an agreement from 10
16 years ago.

17 MR. WUBNEH: How many years, sir?

18 CHAIRPERSON ANDERSON: From 10 years
19 ago.

20 MR. WUBNEH: I just bought it, I mean.

21 CHAIRPERSON ANDERSON: I know, but
22 when you buy a business, the settlement agreement

1 goes with the business. It goes, it's attached
2 to the license. And so the only way this can
3 change is that you need to find out who the --
4 and I can't tell the -- I don't know who the
5 parties to the settlement agreement are.

6 And you have to -- when your license
7 is up for renewal, which I think is -- you have a
8 B License, so was that -- when did you renew your
9 license?

10 MR. WUBNEH: When I get my license?

11 CHAIRPERSON ANDERSON: When did you
12 renew it?

13 MR. WUBNEH: Last year.

14 CHAIRPERSON ANDERSON: Last year?
15 Okay. So your license is up for renewal again in
16 2021, I think.

17 MR. WUBNEH: I think, yeah.

18 CHAIRPERSON ANDERSON: And so in order
19 to change this, you would have to try to find the
20 parties. Either appeal to the Agency or try to
21 find or contact the person who had signed the
22 settlement agreement with -- to see if you can

1 make changes to it.

2 But until and unless the settlement
3 agreement is changed, you have to comply with all
4 the provisions in the agreement. So this is --
5 the purpose of bringing you here is not to say
6 okay, that -- do I contest or do I agree with the
7 violation? It's to bring it to -- and the reason
8 why we brought this to your attention, the reason
9 why we brought this Fact-Finding Hearing, is to
10 let you know that yes, I know that it is 10 years
11 ago and you are going to say well, I only bought
12 the business three years ago.

13 Well, you have to comply with this
14 settlement agreement until it is changed. All
15 right? Do you have any questions you want to ask
16 any of us?

17 MR. WUBNEH: I posted the --

18 CHAIRPERSON ANDERSON: I'm sorry, sir?

19 MR. WUBNEH: I just accept there was
20 a request to me and I posted the license and I
21 have the papers after they left. And I paid the
22 fee and --

1 CHAIRPERSON ANDERSON: But I -- the
2 part of it that I also want you to be aware of,
3 sir, because if you have a copy of the report in
4 front of you, the report that I'm looking at it
5 has -- you have all these advertisements in your
6 shop. And based on your settlement agreement,
7 you can't have these. This is not the ABC Board
8 saying you can't have this.

9 This is the settlement agreement that
10 you have where you agree that you are not going
11 to have these. And you have a settlement
12 agreement where you agree that you are not going
13 to sell using black plastic bags.

14 So because you have that settlement
15 agreement, you cannot sell in black -- you can't
16 use black plastic bags. You have to use a clear
17 plastic bag, that's what -- so I just want you to
18 -- this is not the ABC Board telling you this is
19 what you can or can't do.

20 You have a settlement agreement with
21 your license that tells you what is it that you
22 can do. If you want our General Counsel will sit

1 and meet and talk to you and give you some
2 guidelines what is it that you can do to change
3 the settlement agreement when, if you so desire,
4 your license is up for renewal.

5 Is that something that you want the
6 Agency to help you with?

7 MR. WUBNEH: Any help.

8 CHAIRPERSON ANDERSON: I'm sorry, sir?

9 MR. WUBNEH: You mean any help with
10 the settlement agreement?

11 CHAIRPERSON ANDERSON: I'm sorry. The
12 Agency, someone from our Agency can sit down and
13 explain to you --

14 MR. WUBNEH: Okay.

15 CHAIRPERSON ANDERSON: -- about the
16 settlement agreement and what is it that you need
17 to do when your license is up for renewal, how to
18 make changes to it if you so desire.

19 MR. WUBNEH: Yes.

20 CHAIRPERSON ANDERSON: All right. So
21 we will -- I'll make sure that our General
22 Counsel, before you leave today, will provide you

1 her contact information and so therefore it's up
2 to you to contact our legal staff and they will
3 work with you.

4 MR. WUBNEH: Okay.

5 CHAIRPERSON ANDERSON: But I just want
6 to remind you, sir, that until the settlement
7 agreement is changed, you have to comply with all
8 the terms, because if you don't comply with the
9 terms, whenever our Investigator comes to your
10 business, if they see this advertisement, if they
11 don't see the sign, if they don't see -- if they
12 see go-cups, they are going to fine you.

13 MR. WUBNEH: Yes.

14 CHAIRPERSON ANDERSON: I mean, the
15 fact about your license being posted, that's
16 standard for everyone, for every establishment.
17 It has to be posted in a conspicuous manner.

18 And but there are other terms though
19 that are specific to your license. And so
20 therefore, you have to comply with that. And I
21 know that when the Investigator came you didn't
22 have your receipts.

1 Are you aware that you are supposed to
2 have these receipts on-premise, so therefore are
3 you aware of that?

4 MR. WUBNEH: (No audible answer.)

5 CHAIRPERSON ANDERSON: That's also
6 something that you can sit and talk to our Agency
7 and we will let you know what is it that you need
8 to do, how to do that and if you can't keep them
9 on your premises, you can ask for permission and
10 they will tell you what is it that you can do to
11 make sure you comply with the law.

12 Our job is not to take you away from
13 your business to bring you here today or to fine
14 you. It's to make sure that you comply with the
15 law and so you can be out there doing -- running
16 your business and doing what you need to do.

17 Okay. Do you have any other
18 questions? Any questions by any Board Members?
19 Yes, Mr. Short?

20 MEMBER SHORT: Good morning, sir. Do
21 you realize and the Chairman explained to you
22 quite well some things, but do you realize that

1 with a settlement agreement, when you do renew
2 your license, that the community who you have
3 that agreement with bring all these violations in
4 and challenge your application.

5 There is a possibility that you could
6 lose your liquor license. Are you aware of that?

7 MR. WUBNEH: (No audible answer.)

8 MEMBER SHORT: If you don't comply
9 with the agreement that you have with your
10 business and you keep getting tickets, I know you
11 said you paid the fine, but there comes a time
12 when that doesn't help you, because that means
13 you are just course of business continue to
14 violate the laws and rules, which you agreed to
15 when you bought this business.

16 It is a privilege to have an alcoholic
17 beverage license. And it affords you to have a
18 business and take care of yourself and take care
19 of your family, but you also have to think about
20 the community around you and the reasons why they
21 don't want you doing certain things in their
22 community.

1 Do you understand that?

2 MR. WUBNEH: Yeah.

3 MEMBER SHORT: So when you go against
4 that, what do you think you are doing to the
5 community? How does the community feel about
6 your license?

7 MR. WUBNEH: (No audible answer.)

8 MEMBER SHORT: Do you have an answer?

9 MR. WUBNEH: No.

10 MEMBER SHORT: When you don't comply
11 with the agreement that was signed for this
12 business, what do you think the community feels
13 like when they see you violating this every day
14 when they come into your business?

15 MR. WUBNEH: They are not going to
16 forgive it.

17 MEMBER SHORT: So you understand?

18 MR. WUBNEH: Yeah.

19 MEMBER SHORT: I do thank you very
20 much and again, I hope you follow the directions
21 of our Chairman. He gave you some good
22 information today. Thank you very much.

1 MR. WUBNEH: Yes.

2 MEMBER SHORT: That's all I have, Mr.
3 Chair.

4 CHAIRPERSON ANDERSON: Thank you, Mr.
5 Short. Any other questions? Yes, Ms. Crockett?

6 MEMBER CROCKETT: Good morning, Mr.
7 Wubneh.

8 MR. WUBNEH: Good morning.

9 MEMBER CROCKETT: I would just like to
10 let you know that in the event that you need
11 translation services when you come before the
12 Board, that those are, in fact, available to you,
13 because we do, in fact, want to make sure that
14 you understand everything that is being shared
15 with you today, all the information. And if you
16 need any assistance, please, let us know if in
17 the future when you are brought before the Board.

18 CHAIRPERSON ANDERSON: Yes, Ms.
19 Crockett. Yes, Mr. Zollarcoffer?

20 INVESTIGATOR ZOLLARCOFFER: I just
21 have a question of Mr. Wubneh. Do you have an
22 ABC Manager working while you are open right now?

1 I know that you spend a lot of time there, but do
2 you have some ABC Managers that are licensed with
3 you that are working there right now?

4 MR. WUBNEH: Yes, my wife.

5 INVESTIGATOR ZOLLARCOFFER: You have
6 your wife. She is an ABC Manager?

7 MR. WUBNEH: She is ABC manager, yeah.

8 CHAIRPERSON ANDERSON: And that's also
9 good information also.

10 INVESTIGATOR ZOLLARCOFFER: Yes.

11 CHAIRPERSON ANDERSON: In the sense
12 that you are also aware that any time you are
13 selling alcohol that either an owner or an ABC
14 Manager needs to be there. So you can also talk
15 to our legal staff.

16 Our job is to provide whatever type of
17 assistance that you require. Okay? So we are
18 not trying to get you. I just want to let you
19 know. And it appears although it's not related
20 here, but it appears that we did a sale to minor
21 at your establishment and it appears that you
22 might have passed, I think.

1 INVESTIGATOR ZOLLARCOFFER: Yes,
2 that's right.

3 CHAIRPERSON ANDERSON: Which is a good
4 thing.

5 MR. WUBNEH: Yeah.

6 CHAIRPERSON ANDERSON: Right. That's
7 a very good thing. So even when we came back for
8 another matter and you complied with the law, so
9 therefore you will probably get a nice
10 certificate to say that we came and you --

11 MR. WUBNEH: I have a manager there.

12 CHAIRPERSON ANDERSON: I'm sorry, sir?

13 MR. WUBNEH: I have a manager in the
14 store, yes.

15 CHAIRPERSON ANDERSON: Right, I know,
16 but I'm just saying though it appears that we
17 tried to do a sale to a minor at your
18 establishment and it appears that you did the
19 right thing, so you will probably get a
20 certificate for that. So that's also a good
21 thing.

22 MR. WUBNEH: Yeah.

1 CHAIRPERSON ANDERSON: That says that
2 you are doing something good.

3 MR. WUBNEH: Okay.

4 CHAIRPERSON ANDERSON: And we are
5 proud of you and we are happy for that.

6 MR. WUBNEH: Yeah, I aware.

7 CHAIRPERSON ANDERSON: And our job is
8 just to make sure that you continue to comply
9 with the law. And our office will provide you
10 whatever assistance that you require to ensure
11 that you comply with the law. Okay?

12 MR. WUBNEH: Okay.

13 CHAIRPERSON ANDERSON: All right.
14 Thank you for being here today, sir.

15 MR. WUBNEH: Thank you.

16 CHAIRPERSON ANDERSON: Thank you.

17 (Whereupon, the Fact-Finding Hearing
18 was concluded at 10:11 a.m.)

19

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21

22

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In the matter of: Toni's Market

Before: DC ABRA

Date: 08-07-19

Place: Washington, DC

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