

DISTRICT OF COLUMBIA  
+ + + + +  
ALCOHOLIC BEVERAGE CONTROL BOARD  
+ + + + +  
MEETING

IN THE MATTER OF:                   :  
  :  
Wagshal's 3201, LLC,                :  
t/a Wagshal's                       :  
3201 New Mexico Ave NW            : Show Call  
Retailer B - ANC 3D                 : Hearing (Status)  
License No. 92730                   :  
Case #18-CC-00094                 :  
  :  
(Sale to Minor Violation,           :  
Failed to Post License               :  
Conspicuously in the               :  
Establishment)                       :

Wednesday,  
January 9, 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

**ALSO PRESENT:**

**AMY SCHMIDT, DC OAG**

**ROSEMARIE SALGUERO, Licensee's Counsel**

**WILLIAM FUCHS, Licensee**

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

2 9:49 a.m.

3 CHAIRPERSON ANDERSON: All right. The  
4 next case on our calendar is Case No. 18-CC-  
5 00094, Wagshal's, License No. 92730.

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

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

11 CHAIRPERSON ANDERSON: Good morning,  
12 again, Ms. Schmidt.

13 MS. SALGUERO: Good morning, Members  
14 of the Board. My name is Rosemarie Salguero from  
15 Greenberg Traurig and I am representing  
16 Wagshal's.

17 CHAIRPERSON ANDERSON: I did not hear  
18 your last name, ma'am.

19 MS. SALGUERO: Salguero, S, as in Sam,  
20 A-L-G-U-E-R-O.

21 CHAIRPERSON ANDERSON: Good morning  
22 again, Ms. Salguero.

1 MS. SALGUERO: Good morning.

2 MR. FUCHS: And my name is William  
3 Fuchs. Good morning.

4 CHAIRPERSON ANDERSON: Good morning,  
5 Mr. Fuchs.

6 MR. FUCHS: I'm the owner of  
7 Wagshal's.

8 CHAIRPERSON ANDERSON: Good morning.  
9 Ms. Schmidt, are there any preliminary matters in  
10 this case?

11 MS. SCHMIDT: Yes, there is, there  
12 are. There is an Offer in Compromise consisting  
13 of a \$4,000 --

14 CHAIRPERSON ANDERSON: Hold on, hold  
15 on, hold on one minute, please. This appears to  
16 be long, so let me make sure. Go ahead.

17 MS. SCHMIDT: For Charge 1, there is  
18 a \$4,000 fine which can be paid today, I'm told,  
19 and the license shall be suspended for 10 days.  
20 Now, we'll just figure out the logistics. If it  
21 could start this Friday?

22 CHAIRPERSON ANDERSON: We're going to

1 issue a Board Order, but they -- can you tell me,  
2 give me the dates.

3 MS. SCHMIDT: Okay. January 11  
4 through 19th.

5 CHAIRPERSON ANDERSON: January the 11th  
6 through what?

7 MS. SCHMIDT: The 19th.

8 CHAIRPERSON ANDERSON: Okay, um-hum,  
9 what else?

10 MS. SCHMIDT: Oh, well, that's going  
11 to be the -- let me just clarify. The license  
12 will be suspended for 10 days with six days  
13 stayed for one year and four days to be served.  
14 So the first four days of that goes to that.

15 And then in addition, the respondent  
16 shall serve five days activated from Case No. 17-  
17 CC-0089, that's how he gets the 19th.

18 CHAIRPERSON ANDERSON: Okay.

19 MS. SCHMIDT: And then all employees  
20 who serve alcoholic beverages in the licensed  
21 establishment shall complete alcohol training  
22 within three months from the OIC's date.

1 CHAIRPERSON ANDERSON: Okay.

2 MS. SCHMIDT: And with respect to  
3 Charge 2, there is a mandatory warning.

4 CHAIRPERSON ANDERSON: That's it?  
5 That's it?

6 MS. SCHMIDT: That's it.

7 CHAIRPERSON ANDERSON: All right. Ms.  
8 Salguero, it's my understanding that there is an  
9 Offer in Compromise. And the Offer in Compromise  
10 is that for Charge 1, there is a fine of \$4,000  
11 and it's my understanding that the fine will be  
12 paid today. And if the fine is not paid today,  
13 the license will be suspended until the fine has  
14 been paid.

15 And secondly that the license shall be  
16 suspended for 10 days with six days stayed for  
17 one year and four days to be served. That all  
18 employees who serve alcoholic beverages in the  
19 licensed establishment shall complete an alcohol  
20 training within three months from the date of the  
21 OIC.

22 And in addition, the respondent shall

1       serve five days that were activated from Case No.  
2       17-CC-00089.

3                       For Charge 2, that there is a  
4       mandatory warning.

5                       So total that the -- will be a 9-day  
6       suspension and six days stayed and the days that  
7       the suspension are in effect are from January the  
8       11th through January 19, 2019.

9                       Is this your understanding of the  
10      Offer in Compromise?

11                      MS. SALGUERO: It is our  
12      understanding, except I have one clarification  
13      and I spoke with Ms. Schmidt's colleague just  
14      Wagshal's has a B/D License and they, you know,  
15      have the grocery side and then they have a small  
16      deli. And we just want to confirm that the  
17      suspension is for the B side and the D side,  
18      which is a small deli, you know, sit-down, that  
19      they will still be able to use that side of the  
20      license. And I apologize, I forgot to bring that  
21      up.

22                      MS. SCHMIDT: Yes.

1 CHAIRPERSON ANDERSON: You guys need  
2 to tell me what -- this is a B License, because  
3 from -- I'm looking at this is on -- for License  
4 No. 92730.

5 MS. SALGUERO: The sale to minor did  
6 occur on the B side of the license.

7 CHAIRPERSON ANDERSON: Right.

8 MS. SALGUERO: So I just want --

9 CHAIRPERSON ANDERSON: Yeah.

10 MS. SALGUERO: -- we want to make sure  
11 that that's --

12 CHAIRPERSON ANDERSON: Right.

13 MS. SALGUERO: -- the side of the  
14 license that would be --

15 CHAIRPERSON ANDERSON: Right.

16 MS. SALGUERO: -- suspended.

17 CHAIRPERSON ANDERSON: So this is on  
18 the 92730 License.

19 MS. SCHMIDT: That's what your  
20 understanding is?

21 MS. SALGUERO: So then the suspension  
22 would apply to both the B and the D side?



1 MS. SCHMIDT: As far as alcohol goes.

2 MS. SALGUERO: Because they are able  
3 to have currently in their dining side, you know,  
4 bring the drinks to, you know, whoever is dining.

5 MR. FUCHS: It's just beer and wine.

6 MS. SALGUERO: It's just beer and  
7 wine. It's not, you know, on the other side.

8 MR. FUCHS: Yeah.

9 MS. SALGUERO: On the grocery side, we  
10 also sell beer and wine.

11 MR. FUCHS: Yes, right.

12 CHAIRPERSON ANDERSON: So you are  
13 saying you have a B and a D?

14 MS. SALGUERO: Yeah, it's one of those  
15 hybrid licenses that permits, you know, a few --  
16 you know, there is only a few of them where there  
17 is a grocery, you know, store with a small dining  
18 inside, so --

19 CHAIRPERSON ANDERSON: All right. The  
20 infraction occurred on the B side and so,  
21 therefore, it's the B License that is being  
22 suspended.

1 MS. SALGUERO: Okay.

2 CHAIRPERSON ANDERSON: And so it does  
3 not impact the D that you have. It's just the B  
4 License.

5 MS. SALGUERO: Okay.

6 CHAIRPERSON ANDERSON: All right. So  
7 with that clarification, is this your  
8 understanding of the Offer in Compromise?

9 MS. SALGUERO: It is our understanding  
10 and I believe that also Mr. Fuchs just wanted to  
11 make known that he has made several steps to try  
12 to, you know, train his staff. He has card  
13 readers. He goes through extensive training. He  
14 has secret shoppers, you know, that go in and  
15 test his staff, that he has them sign, you know,  
16 basically waivers saying, you know, we understand  
17 all of the procedures.

18 So he, you know, has tried to -- he is  
19 very upset that this has occurred on the second  
20 time. He just wanted to communicate that to the  
21 Board as to the fact that he is undertaking quite  
22 a number of steps at the establishment to make

1 sure this does not happen again.

2 CHAIRPERSON ANDERSON: Okay. Thank  
3 you for that representation. All right.

4 With that said, I make a motion that  
5 the Offer in Compromise be accepted. The Offer  
6 in Compromise is that for Charge 1, that there is  
7 a \$4,000 fine payable within -- payable today.  
8 If it's not payable today, the license will be  
9 suspended indefinitely until the fine is paid.  
10 That the license shall be -- that the B License  
11 shall be suspended for 10 days with six days  
12 stayed for one year and four days to be served.  
13 That all employees who serve alcoholic beverages  
14 in the licensed establishment complete an alcohol  
15 training program within three months from the  
16 date of the OIC.

17 And in addition, the respondent shall  
18 serve five days that were activated from Case No.  
19 17-CC-00089.

20 For Charge 2, the -- a mandatory  
21 warning will be issued.

22 So in this particular case, there are

1 a total of 9 days suspension and the 9 days  
2 suspension on the B License will be from January  
3 the 11th through January 19, 2019. And six days  
4 will be stayed for a year provided that no  
5 further infractions are -- occurs on the B  
6 License within the year.

7 Is there a second?

8 MEMBER SHORT: Second.

9 CHAIRPERSON ANDERSON: Mr. Short has  
10 seconded the motion.

11 All those in favor say aye.

12 ALL: Aye.

13 CHAIRPERSON ANDERSON: Those opposed?  
14 The matter passes 5-0-0.

15 I want to thank all the parties for  
16 doing this Offer in Compromise. And we will  
17 issue an order.

18 I just want to say, Mr. Fuchs, I  
19 appreciate the representation that was made by  
20 your attorney, but I also would like to point out  
21 to you that the Board takes serving to minor very  
22 important and you are -- you have now committed

1 two violations and if you get to four, it's a  
2 \$30,000 fine or you could lose your license. And  
3 that's not nothing, it's not -- and it's not  
4 negotiable. That's what the statute says.

5 So I am not here endorsing Costco, but  
6 everyone who goes to Costco no matter what they  
7 look like, no matter how old they are, before  
8 they sell alcohol, they have to prove their age,  
9 sir. And you need to do that, because although  
10 your employees might do it, you can fire them and  
11 they can go find another job.

12 But if this is your livelihood, you  
13 could lose your license. And as I said before,  
14 because of the graduated fines, you can come and  
15 represent, but the regulation says \$30,000 fine  
16 or you lose your license. And there is nothing  
17 we can do.

18 So you have to do -- you are the only  
19 one we can hold accountable, so you need to take  
20 the measures to make sure that you maintain your  
21 business, sir. All right?

22 MR. FUCHS: I appreciate the Board's

1 understanding and I am -- I believe that, you  
2 know, the world was probably built on good  
3 intentions, but that's not getting it done. So  
4 we understand the severity and understand that we  
5 have to be -- double our efforts to --

6 CHAIRPERSON ANDERSON: Sure. Because  
7 at the end of the day, you are the one who is  
8 going to -- the employees will come and go, but  
9 this is your livelihood and if you want to  
10 maintain your livelihood, you need to do what you  
11 need to do to make sure that your livelihood  
12 survives.

13 MR. FUCHS: I understand. Thank you.

14 CHAIRPERSON ANDERSON: All right.  
15 Have a great day. Thank you.

16 MS. SCHMIDT: Thank you.

17 (Whereupon, the Show Cause (Status)  
18 Hearing was concluded at 9:59 a.m.)  
19  
20  
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: Wagshal's

Before: DCABRA

Date: 01-09-19

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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