

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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ROLL CALL HEARING

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IN THE MATTER OF: :

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Matchbox 14th Street, LLC :

t/a Matchbox :

1901 14th Street, NW :

License #ABRA-088258 :

Class CR New Application :

Case #11-PRO-00093 :

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MONDAY, January 9, 2012

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The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, 2000 14th Street, N.W., Suite 400S Washington, D.C., Ms. La Verne Fletcher, Agent, presiding.

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

10:17 a.m.

AGENT FLETCHER: Would the parties in the matter of Matchbox please come forward? This is Case Number 11-PRO-00093, Matchbox 14th Street, LLC., trading as Matchbox, 1901 14th Street, NW, License Number ABRA-088258, Retailer Class CR, new application. The protest issues are adverse impact on peace, order, and quiet, residential parking and vehicular and pedestrian safety, and over-concentration.

My name is La Verne Fletcher, and I will be conducting the Roll Call Hearing as the Board's Agent pursuant to D.C. Official Code 1601.2. Introductions, beginning with the Applicant, please?

MR. FONSECA: Michael Fonseca, on behalf of the Applicant, F-O-N-S-E-C-A.

AGENT FLETCHER: Thank you, Mr. Fonseca.

MR. SMITH: Perry Smith, from

1 Matchbox, LLC.

2 AGENT FLETCHER: Did you say
3 Perry?

4 MR. SMITH: Perry, P-E-R-R-Y, P as
5 in Paul.

6 AGENT FLETCHER: Thank you.
7 Smith?

8 MR. SMITH: Yes.

9 AGENT FLETCHER: S-M-I-T-H?

10 MR. SMITH: Yes, ma'am.

11 AGENT FLETCHER: Thank you. And
12 present for the Protestants?

13 MR. McKAY: Yes. Hi. Good
14 morning. Daniel McKay, D-A-N-I-E-L
15 M-C-K-A-Y.

16 AGENT FLETCHER: Thank you, Mr.
17 McKay.

18 MS. KELLY: Lisa Kelly, L-I-S-A
19 K-E-L-L-Y.

20 AGENT FLETCHER: Is there anyone
21 else present from your protestant group? If
22 so, would you line up just behind the table at

1 the microphone and read your name and spell it
2 for the court reporter, please?

3 MS. SHUSTER: My name is Robin
4 Shuster. That's R-O-B-I-N S-H-U-S-T-E-R.

5 AGENT FLETCHER: Thank you.

6 MS. De MARIZ: And my name is
7 Caroline De Mariz, C-A-R-O-L-I-N-E
8 D-E M-A-R-I-Z.

9 AGENT FLETCHER: Thank you, very
10 much.

11 MR. MCKAY: And ma'am, we also
12 have some representations from folks who
13 couldn't make it today.

14 AGENT FLETCHER: Okay.

15 MR. MCKAY: And -- and Lisa has
16 those. Can she --

17 AGENT FLETCHER: I'll take those.

18 MR. MCKAY: You can take those?
19 Yes. Okay. Thank you.

20 MR. FONSECA: Ms. Fletcher, if we
21 could get some copies of those please?

22 AGENT FLETCHER: Yes. Mr.

1 Fonseca, I will make sure that you receive
2 copies. And Ms. Kelly, I received from you
3 two letters of designation. One is from
4 Douglas B. Johnson.

5 MS. KELLY: Correct.

6 AGENT FLETCHER: Designating you
7 as his representative. The other one is from
8 Craig Brownstein.

9 MS. KELLY: Correct.

10 AGENT FLETCHER: Designating you
11 as his representative. Based upon my review
12 of the protest file, Douglas B. Johnson is not
13 one of the individuals that actually signed
14 the protest letter. You had a list of
15 protestants and --

16 MR. MCKAY: Right. That's
17 correct. And that's -- that's a good point.
18 The -- we did an online survey of folks
19 because a lot of people travel and they have
20 a tough time making meetings and whatnot.

21 AGENT FLETCHER: Yes.

22 MR. MCKAY: But we had -- out of

1 40 folks that we sent the survey to, we had 17
2 respond and 16 out of the 17 either wanted to
3 protest or disagreed with the hours of
4 Matchbox.

5 AGENT FLETCHER: Yes.

6 MR. MCKAY: And -- and -- and he
7 was one of the folks who was willing to
8 protest, but I didn't manage to get his
9 signature before finishing. Thank you.

10 AGENT FLETCHER: Well, Mr. Johnson
11 is not recognized as a protestant, but Mr.
12 Brownstein is.

13 MR. MCKAY: He is? Okay.

14 AGENT FLETCHER: Mr. Brownstein
15 did actually sign the protest letter.

16 MS. KELLY: Okay.

17 AGENT FLETCHER: And so, you do
18 have a group of five.

19 MS. KELLY: Yes.

20 AGENT FLETCHER: At the upcoming
21 status hearing, Mr. Brownstein has to appear.

22 MS. KELLY: He does? Okay. Thank

1 you.

2 AGENT FLETCHER: In order for a
3 group of five to have been seen by that date.

4 MS. KELLY: Okay.

5 AGENT FLETCHER: So have you
6 decided who is going to be the designated
7 representative for the group?

8 MS. KELLY: Ms. McKay.

9 MR. MCKAY: Yes. I'll do it.

10 AGENT FLETCHER: Okay. Mr. McKay,
11 could you -- while you're here, if you would
12 like, you may write a statement, designating
13 you as the representative of the four
14 individuals present, and each person can sign
15 that letter.

16 MR. MCKAY: Okay.

17 AGENT FLETCHER: Just for the
18 record. Because I've got a letter of
19 representation from -- a letter designating
20 you, Ms. Kelly, to represent Mr. Brownstein.
21 So he's covered, in terms of being represented
22 today.

1 MR. McKAY: Right.

2 MS. KELLY: Yes.

3 AGENT FLETCHER: But, beyond
4 today, it will only be necessary for you, in
5 the case of Mr. Brownstein, because he's
6 definitely naming you as his representative.
7 But Mr. McKay -- at the status hearing, Mr.
8 McKay can appear on behalf of --

9 MR. McKAY: Any of the folks here.
10 Okay.

11 AGENT FLETCHER: Any of the folks,
12 yes. So, today, you're granted conditional
13 standing, contingent upon the appearance of
14 Mr. Brownstein at the upcoming status hearing.

15 MS. KELLY: I'm sorry. Could you
16 repeat that?

17 AGENT FLETCHER: Yes. Today, you
18 are granted conditional standing.

19 MS. KELLY: Okay.

20 AGENT FLETCHER: Contingent upon
21 the appearance of Mr. Craig Brownstein at the
22 upcoming status hearing.

1 MS. KELLY: Okay.

2 AGENT FLETCHER: He needs to
3 appear, even if neither of you appear.

4 MS. KELLY: Okay.

5 AGENT FLETCHER: He must appear.

6 MS. KELLY: He must appear.

7 AGENT FLETCHER: At that time.

8 MS. KELLY: But I don't have to
9 appear, as well as he?

10 AGENT FLETCHER: Well you -- yes.
11 You're here today, so you're accounted for.

12 MS. KELLY: Okay.

13 AGENT FLETCHER: Mr. McKay is
14 representing everyone else.

15 MS. KELLY: All of us. All right.
16 Thank you.

17 AGENT FLETCHER: And so he will
18 appear.

19 MS. KELLY: Yes.

20 AGENT FLETCHER: But Mr.
21 Brownstein must appear to complete the total
22 group of five.

1 MS. KELLY: Okay. Thank you.

2 MR. FONSECA: If we could, we --
3 to give all parties knowledge of this,
4 Advisory Neighborhood Commission 1B and the
5 Applicant entered into a voluntary agreement,
6 which was filed this morning. They did not
7 protest, but this agreement was -- was
8 negotiated in late November and -- and
9 executed. And we filed it this morning.

10 AGENT FLETCHER: Thank you, Mr.
11 Fonseca.

12 MR. MCKAY: Now, just to comment
13 on that, I -- I think that the folks that are
14 protesting here don't feel that they were
15 informed properly or -- or represented by the
16 voluntary agreement, which is mentioned.

17 AGENT FLETCHER: Yes. Well you
18 have a right to file.

19 MR. MCKAY: Thank you. Just --
20 just -- just to make it known.

21 AGENT FLETCHER: Okay. Thank you.

22 MR. MCKAY: Just a clarification

1 on the nomenclature, I'm the representative of
2 the folks here or -- when I'm writing the --
3 the note?

4 AGENT FLETCHER: Oh. The
5 statement would just say something to the
6 effect of we designate Daniel McKay to
7 represent us in this matter. And the matter,
8 of course, is Matchbox.

9 MR. MCKAY: Right.

10 AGENT FLETCHER: And then they
11 would sign it.

12 MR. MCKAY: Right.

13 AGENT FLETCHER: That's just to
14 make it easier for you to get that done, as
15 opposed to gathering the signatures beyond
16 today.

17 MR. MCKAY: Thank you.

18 AGENT FLETCHER: And then I will
19 just include it in the record and give a copy
20 to Mr. Fonseca.

21 And, just to clarify, for the
22 record, only the five individuals that

1 actually signed the protest letter are
2 protestants in this matter. And those are
3 Craig Brownstein, Lisa Kelly, Daniel McKay,
4 Robin Shuster, and Caroline De Mariz.

5 I'll give you the dates for
6 mediation, a status hearing and a protest
7 hearing. I'll give you the dates for the
8 status hearing and protest hearing first. The
9 status hearing is scheduled for February 15,
10 2012, at 9:30 a.m. February 15, 9:30 a.m.

11 MS. KELLY: 9:30 -- at 9:30 a.m.?

12 AGENT FLETCHER: Yes.

13 MS. KELLY: Okay.

14 AGENT FLETCHER: The status
15 hearing is before the ABC Board. The protest
16 hearing is set for April 11, 2012, at 1:30
17 p.m. I will give you --

18 MR. SMITH: Ms. Fletcher, I'm
19 sorry. You said 1:30 p.m.?

20 AGENT FLETCHER: Yes. I will give
21 you some dates that are available for
22 mediation, which has to occur prior to

1 February 15. Tuesday, February 7, February 8,
2 and February 10, are actually available. So
3 that's Tuesday, Wednesday, and Friday, of
4 February, at 9:00 a.m., 10:00 a.m., 11:00
5 a.m., or 1:00 p.m. Mr. McKay, do you have a
6 preference?

7 MR. MCKAY: Yes. I'm just -- I'm
8 just checking there. So probably Wednesday or
9 Friday is okay. And the morning would be
10 better, probably at 10:00 a.m.

11 AGENT FLETCHER: On the 10th?
12 That works for you? Did you say the Friday?

13 MR. MCKAY: Yes, ma'am, either the
14 Wednesday or the Friday. Yes. So the 10th is
15 fine.

16 AGENT FLETCHER: Mr. Fonseca, do
17 you have a preference for which day?

18 MR. FONSECA: Friday the 10th,
19 10:00 a.m. Is 10:00 all right.

20 AGENT FLETCHER: So Friday, the
21 10th at 10:00 a.m.?

22 MR. MCKAY: Yes. That's fine.

1 AGENT FLETCHER: Okay. So
2 mediation is set for Friday, February 10, at
3 10:00 a.m. The mediation will take place
4 here. I serve as the Board's mediator, so the
5 mediation will also be with me, probably in
6 this room, if not in another of our rooms.
7 And my card -- do I still have cards on the
8 table?

9 MS. KELLY: Yes.

10 AGENT FLETCHER: Okay. If you
11 need to contact me. Ms. Kelly and Mr. McKay,
12 did you put your daytime phone numbers and e-
13 mail addresses on that sheet on the table?

14 MS. KELLY: Yes.

15 MR. MCKAY: Yes, I did.

16 AGENT FLETCHER: Thank you. Ms.
17 Kelly?

18 MS. KELLY: Yes?

19 AGENT FLETCHER: I assume you're
20 going to need these letters back. If you want
21 to wait, after this roll call is concluded, I
22 will return these letters to you. I will copy

1 the back, designating you as the
2 representative.

3 MS. KELLY: Okay.

4 MR. MCKAY: Thank you.

5 MR. FONSECA: Thank you.

6 AGENT FLETCHER: Then I will
7 return these protest letters to you.

8 MS. KELLY: All right.

9 AGENT FLETCHER: I will get your
10 signature that you received them from us.

11 MS. KELLY: All right.

12 AGENT FLETCHER: Any questions, at
13 all? Roll call hearing is concluded.

14 MR. MCKAY: Thank you.

15 MR. FONSECA: Thank you.

16 (Whereupon, the roll call hearing
17 was concluded at 10:31 a.m.)

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<p style="text-align: center;">A</p> <p>ABC 12:15 ABRA-088258 1:12 2:7 accounted 9:11 addresses 14:13 adverse 2:9 Advisory 10:4 Agent 1:22 2:3,15 2:20 3:2,6,9,11,16 3:20 4:5,9,14,17 4:22 5:6,10,21 6:5 6:10,14,17,20 7:2 7:5,10,17 8:3,11 8:17,20 9:2,5,7,10 9:13,17,20 10:10 10:17,21 11:4,10 11:13,18 12:12,14 12:20 13:11,16,20 14:1,10,16,19 15:6,9,12 agreement 10:5,7 10:16 Alcoholic 1:3,18,19 appear 6:21 8:8 9:3 9:3,5,6,9,18,21 appearance 8:13 8:21 Applicant 2:17,19 10:5 application 1:12 2:8 April 12:16 assume 14:19 available 12:21 13:2 a.m 2:2 12:10,10,11 13:4,4,5,10,19,21 14:3 15:17</p>	<p>Beverage 1:3,18,19 beyond 8:3 11:15 Board 1:3,19 12:15 Board's 2:15 14:4 Brownstein 5:8 6:12,14,21 7:20 8:5,14,21 9:21 12:3</p>	<p>date 7:3 dates 12:5,7,21 day 13:17 daytime 14:12 De 4:6,7 12:4 decided 7:6 definitely 8:6 designate 11:6 designated 7:6 designating 5:6,10 7:12,19 15:1 designation 5:3 disagreed 6:3 DISTRICT 1:1 Douglas 5:4,12 D-A-N-I-E-L 3:14 D-E 4:8 D.C 1:21 2:15</p>	<p>12:14,18,20 13:11 13:16,20 14:1,10 14:16,19 15:6,9 15:12 folks 4:12 5:18 6:1 6:7 8:9,11 10:13 11:2 Fonseca 2:18,18,21 4:20 5:1 10:2,11 11:20 13:16,18 15:5,15 forward 2:4 four 7:13 Friday 13:3,9,12 13:14,18,20 14:2 F-O-N-S-E-C-A 2:19</p>	<p>6:10</p> <p style="text-align: center;">K</p> <p>Kelly 3:18,18 5:2,5 5:9 6:16,19,22 7:4 7:8,20 8:2,15,19 9:1,4,6,8,12,15,19 10:1 12:3,11,13 14:9,11,14,17,18 15:3,8,11 knowledge 10:3 known 10:20 K-E-L-L-Y 3:19</p>
<p style="text-align: center;">B</p> <p>B 5:4,12 back 14:20 15:1 Based 5:11 beginning 2:16 behalf 2:19 8:8 better 13:10</p>	<p style="text-align: center;">C</p> <p>call 1:5 2:14 14:21 15:13,16 card 14:7 cards 14:7 Caroline 4:7 12:4 case 1:13 2:5 8:5 checking 13:8 clarification 10:22 clarify 11:21 Class 1:12 2:8 Code 2:16 COLUMBIA 1:1 come 2:4 comment 10:12 Commission 10:4 complete 9:21 concentration 2:12 concluded 14:21 15:13,17 conditional 8:12,18 conducting 2:14 contact 14:11 contingent 8:13,20 Control 1:3,18,19 copies 4:21 5:2 copy 11:19 14:22 correct 5:5,9,17 course 11:8 court 4:2 covered 7:21 CR 1:12 2:8 Craig 5:8 8:21 12:3 C-A-R-O-L-I-N-E 4:7</p>	<p style="text-align: center;">E</p> <p>e 14:12 easier 11:14 effect 11:6 either 6:2 13:13 entered 10:5 executed 10:9</p> <p style="text-align: center;">F</p> <p>February 12:9,10 13:1,1,1,2,4 14:2 feel 10:14 file 5:12 10:18 filed 10:6,9 fine 13:15,22 finishing 6:9 first 12:8 five 6:18 7:3 9:22 11:22 Fletcher 1:22 2:3 2:13,20 3:2,6,9,11 3:16,20 4:5,9,14 4:17,20,22 5:6,10 5:21 6:5,10,14,17 6:20 7:2,5,10,17 8:3,11,17,20 9:2,5 9:7,10,13,17,20 10:10,17,21 11:4 11:10,13,18 12:12</p>	<p style="text-align: center;">G</p> <p>gathering 11:15 give 10:3 11:19 12:5,7,17,20 going 7:6 14:20 good 3:13 5:17 granted 8:12,18 group 3:21 6:18 7:3 7:7 9:22</p> <p style="text-align: center;">H</p> <p>hearing 1:5,20 2:14 6:21 8:7,14,22 12:6,7,8,8,9,15,16 15:13,16 Hi 3:13 hours 6:3</p> <p style="text-align: center;">I</p> <p>impact 2:9 include 11:19 individuals 5:13 7:14 11:22 informed 10:15 Introductions 2:16 issues 2:9</p>	<p style="text-align: center;">L</p> <p>La 1:21 2:13 late 10:8 letter 5:14 6:15 7:15,18,19 12:1 letters 5:3 14:20,22 15:7 License 1:12 2:7 line 3:22 Lisa 3:18 4:15 12:3 list 5:14 LLC 1:10 2:6 3:1 lot 5:19 L-I-S-A 3:18</p> <p style="text-align: center;">M</p> <p>mail 14:13 making 5:20 manage 6:8 Mariz 4:6,7 12:4 Matchbox 1:10,10 2:4,5,6 3:1 6:4 11:8 matter 1:9 2:4 11:7 11:7 12:2 ma'am 3:10 4:11 13:13 McKAY 3:13,14,17 4:11,15,18 5:16 5:22 6:6,13 7:8,9 7:10,16 8:1,7,8,9 9:13 10:12,19,22 11:6,9,12,17 12:3 13:5,7,13,22</p>
	<p style="text-align: center;">D</p> <p>Daniel 3:14 11:6 12:3</p>	<p style="text-align: center;">J</p> <p>January 1:15 Johnson 5:4,12</p>		

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