

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF: :
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Case #11-CMP-00343 :
Bread & Chocolate, Inc. :
t/a Bread & Chocolate : Show
5542 Connecticut Avenue NW : Cause
License #7792 : Hearing
Retailer CR :
ANC-3G :
No ABC Manager on Duty :
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January 25, 2012

The Alcoholic Beverage Control

Board met in the Alcoholic Beverage Control
Hearing Room, Reeves Building, 2000 14th
Street, N.W., Washington, D.C., Ruthanne
Miller, Chairperson, presiding.

PRESENT

- RUTHANNE MILLER, Chairperson
- CALVIN NOPHLIN, Member
- NICK ALBERTI, Member
- DONALD BROOKS, Member
- MIKE SILVERSTEIN, Member
- JEANNETTE MOBLEY, Member
- HERMAN JONES, Member

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

10:10 a.m.

CHAIRPERSON MILLER: I think that concludes our protest status hearings. Now we can move into our show cause hearings that are scheduled for today.

The first case is #11-CMP-00343, Bread & Chocolate, 5542 Connecticut Avenue, N.W. in ANC-3G.

MS. GEPHARDT: Good morning, Board Members. Chrissy Gephardt on behalf of the District of Columbia.

CHAIRPERSON MILLER: Good morning. Bear with me. Sir, you can identify yourself.

MR. COOK: I'm Andy Cook on behalf of Bread & Chocolate.

CHAIRPERSON MILLER: Okay. Do you have -- oh, I'm sorry. Who are you on behalf of?

MR. COOK: Bread & Chocolate.

CHAIRPERSON MILLER: On behalf of

1 Bread & Chocolate. And your name is again?

2 MR. COOK: Andy Cook.

3 CHAIRPERSON MILLER: Andy Cook.

4 Okay.

5 Do we have some preliminary
6 matters?

7 MS. GEPHARDT: Yes, we do. The
8 parties have reached an Offer-in-Compromise in
9 this --

10 MEMBER JONES: With all due
11 respect may I interrupt, Madam Chair?

12 CHAIRPERSON MILLER: Yes. Did I
13 miss something?

14 MEMBER JONES: I just want to
15 understand what is the nature of your
16 relationship to the establishment. Are you
17 the owner, shareholder?

18 MR. COOK: I'm the chief operating
19 officer and a very small percentage owner.

20 MEMBER JONES: How small is small?

21 MR. COOK: Wow.

22 MEMBER JONES: Ten percent or

1 more?

2 MR. COOK: Probably 11, 12.

3 MEMBER JONES: Okay. Is that a
4 matter of record with ABRA?

5 MR. COOK: I don't think so. I
6 don't know to be honest with you.

7 CHAIRPERSON MILLER: The question
8 goes to your authority to represent Bread &
9 Chocolate here in an Offer-in-Compromise.

10 MR. COOK: I understand. I'm the
11 chief operating officer. I have represented
12 Bread & Chocolate on multiple occasions in
13 various functions in the city. But if I need
14 to produce something, I will happily do so.

15 MEMBER JONES: Just one moment,
16 please.

17 MR. COOK: Sure.

18 CHAIRPERSON MILLER: Otherwise you
19 could produce a letter fairly quickly
20 authorizing you?

21 MR. COOK: Yes. I mean, I have to
22 call my office and the owner would have to be

1 contacted. Within the day.

2 MEMBER ALBERTI: I'm sorry. Your
3 name again?

4 MR. COOK: Andy Cook.

5 MEMBER ALBERTI: Mr. Cook, we
6 would like for you to do two things. One,
7 we're not sure right now -- I apologize. Our
8 records aren't clear as to whether you're
9 listed as a corporate officer or an owner
10 owning more than 10 percent.

11 What I will ask you to do is by
12 the end of today if you could submit a letter
13 authorizing you to represent Bread &
14 Chocolate.

15 MR. COOK: That's fine.

16 MEMBER ALBERTI: It should come
17 from one of the corporate officers we have on
18 record in our file.

19 MR. COOK: Do you have on record
20 Ted Manousakis? He's the principal owner.

21 MEMBER ALBERTI: Actually, after
22 this hearing if you would discuss that with

1 our general counsel.

2 MR. COOK: Who can I talk to?

3 MEMBER ALBERTI: Ms. Jenkins or
4 Ms. Davis, either one. After this hearing
5 they will come out and speak with you.

6 MR. COOK: All right.

7 MEMBER ALBERTI: The other thing
8 we would like to do, and I'll mention this to
9 you, is make sure that our licensing records
10 are correct and that we do have you as an
11 owner owning more than 10 percent. We make
12 sure that we have your name on the license.
13 If not, they can help you straighten that out
14 and make sure that the license records that we
15 have are correct.

16 MR. COOK: Certainly.

17 MEMBER ALBERTI: Thank you.

18 Thank you, Madam Chair.

19 CHAIRPERSON MILLER: So we can
20 continue.

21 MS. GEPHARDT: Okay. The parties
22 have reached an Offer-in-Compromise to be

1 presented to the Board for charge 1, the only
2 charge in this case. The parties have agreed
3 to a fine of \$750 to be paid within 60 days.

4 CHAIRPERSON MILLER: Mr. Cook, is
5 that acceptable to you?

6 MR. COOK: That's a loaded
7 question.

8 CHAIRPERSON MILLER: Is that
9 something you are agreeing to on behalf of
10 Bread & Chocolate?

11 MR. COOK: There was an Offer-in-
12 Compromise last time of \$500 which was
13 rejected so based on the notion that you
14 didn't take \$500, I guess \$750 is acceptable.

15 What is interesting to me is the
16 whole process began because we were fined and
17 we just wrote a letter saying, "Yes, we did
18 this. We admit the guilt but based on our
19 size we just ask for an accommodation to be
20 made."

21 I've had great conversations with
22 Ms. Gephardt and she indicated that would not

1 happen but we still have to appear for the
2 first hearing. Through the effort of trying
3 to save some money for our struggling company,
4 I've increased the fine. We'll cut it off
5 here if that is possible. If there is any
6 consideration to be given, please do.

7 CHAIRPERSON MILLER: Mr. Jones.

8 MEMBER JONES: Thank you, Madam
9 Chair.

10 Ms. Gephardt, with whom have you
11 been working out the arrangements of the
12 details of the OIC?

13 MS. GEPHARDT: Fred. What do you
14 mean?

15 MEMBER JONES: I'm sorry. In
16 terms of the licensee.

17 MS. GEPHARDT: Oh, the licensee.
18 I run everything by Fred. I have been working
19 with Andy.

20 MEMBER JONES: Andy. Are you
21 comfortable that he is legitimately eligible
22 to represent the establishment, the licensee,

1 in this matter?

2 MS. GEPHARDT: Yes. That's
3 correct.

4 MEMBER JONES: Okay. Thank you.
5 Thank you, Madam Chair.

6 CHAIRPERSON MILLER: Okay. Any
7 other comments?

8 If the Board is comfortable that
9 Mr. Cook is an authorized representative of
10 the company I am. I understand that he will
11 supplement the record later with
12 authorization.

13 Mr. Jones.

14 MEMBER JONES: I would like to
15 note that I am not comfortable until he
16 provides said documentation in support
17 thereof. However, I would be interested in
18 polling the Board on the veracity of accepting
19 this OIC for the purposes of moving forward.

20 CHAIRPERSON MILLER: So how do you
21 suggest we proceed on polling the Board as to
22 accepting the OIC? Do we accept it or --

1 MEMBER JONES: Acceptance
2 contingent upon submission of said
3 documentation by XYZ time today, that time
4 being 5:00 arbitrarily spoken, but I'm open to
5 suggestions.

6 CHAIRPERSON MILLER: Okay. Mr.
7 Cook, I don't want to set this up for failure
8 if you can't produce it by 5:00 p.m. or
9 whatever.

10 MR. COOK: I will have no problem
11 producing a letter by 5:00 saying that I'm
12 authorized to deal with you on behalf of Bread
13 & Chocolate. Depending on how you call
14 evaluation of our company, and it's a multi-
15 legal structure, I don't know if I'll be able
16 to present a percentage ownership statement
17 without accounting, etc., but if you'll accept
18 the notion that I am fully able to represent
19 Bread & Chocolate, then no problem at all.

20 MEMBER JONES: Mr. Cook, clearing
21 up the licensee records, that doesn't have to
22 be done today.

1 MR. COOK: Okay.

2 MEMBER JONES: A letter of
3 authorization is required.

4 MR. COOK: That will be no problem
5 whatsoever.

6 MEMBER JONES: We hope that in the
7 coming weeks you will come in and do that as
8 soon as possible.

9 MR. COOK: Quite happily.

10 MEMBER JONES: Thank you.

11 CHAIRPERSON MILLER: Okay. I
12 would then move that we accept the Offer-in-
13 Compromise as it has been represented to us,
14 that being the fine or penalty of \$750 to be
15 paid within 60 days of today. Do I have a
16 second?

17 MEMBER NOPHLIN: Second.

18 CHAIRPERSON MILLER: Anybody want
19 to speak to the motion any further before we
20 vote? Okay. All those in favor say aye.

21 BOARD MEMBERS: Aye.

22 CHAIRPERSON MILLER: All those

1 opposed? All those abstaining? The motion
2 passes seven to zero.

3 It's been accepted and a letter of
4 authorization for you to represent Bread &
5 Chocolate will be submitted by 5:00.

6 MR. COOK: Much quicker probably.

7 CHAIRPERSON MILLER: Okay. Thank
8 you very much.

9 MEMBER ALBERTI: Mr. Cook, you may
10 fax it in if you so choose to.

11 MS. GEPHARDT: Thank you.

12 CHAIRPERSON MILLER: Thank you.

13 Our next hearing is scheduled at
14 11:00 a.m. so at this point the Board will
15 adjourn and be off the record.

16 (Whereupon, at 10:20 a.m. the
17 hearing was adjourned.)

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<p style="text-align: center;">A</p> <p>ABC 1:13 able 10:15,18 ABRA 4:4 abstaining 12:1 accept 9:22 10:17 11:12 acceptable 7:5,14 Acceptance 10:1 accepted 12:3 accepting 9:18,22 accommodation 7:19 accounting 10:17 adjourn 12:15 adjourned 12:17 admit 7:18 agreed 7:2 agreeing 7:9 ALBERTI 1:21 5:2 5:5,16,21 6:3,7,17 12:9 Alcoholic 1:3,15,16 ANC-3G 1:12 2:9 Andy 2:16 3:2,3 5:4 8:19,20 Anybody 11:18 apologize 5:7 appear 8:1 arbitrarily 10:4 arrangements 8:11 authority 4:8 authorization 9:12 11:3 12:4 authorized 9:9 10:12 authorizing 4:20 5:13 Avenue 1:10 2:8 aye 11:20,21 a.m 2:2 12:14,16</p>	<p>2:22 7:9 10:12 Beverage 1:3,15,16 Board 1:3,16 2:10 7:1 9:8,18,21 11:21 12:14 Bread 1:9,10 2:8 2:17,21 3:1 4:8,12 5:13 7:10 10:12 10:19 12:4 BROOKS 1:22 Building 1:17</p> <hr/> <p style="text-align: center;">C</p> <p>call 4:22 10:13 CALVIN 1:21 case 1:9 2:7 7:2 cause 1:10 2:5 Certainly 6:16 Chair 3:11 6:18 8:9 9:5 Chairperson 1:18 1:20 2:3,13,18,22 3:3,12 4:7,18 6:19 7:4,8 8:7 9:6,20 10:6 11:11,18,22 12:7,12 charge 7:1,2 chief 3:18 4:11 Chocolate 1:9,10 2:8,17,21 3:1 4:9 4:12 5:14 7:10 10:13,19 12:5 choose 12:10 Chrissy 2:11 city 4:13 clear 5:8 clearing 10:20 Columbia 1:1 2:12 come 5:16 6:5 11:7 comfortable 8:21 9:8,15 coming 11:7 comments 9:7 company 8:3 9:10 10:14 Compromise 7:12 11:13</p>	<p>concludes 2:4 Connecticut 1:10 2:8 consideration 8:6 contacted 5:1 contingent 10:2 continue 6:20 Control 1:3,15,16 conversations 7:21 Cook 2:16,16,21 3:2,2,3,18,21 4:2 4:5,10,17,21 5:4,4 5:5,15,19 6:2,6,16 7:4,6,11 9:9 10:7 10:10,20 11:1,4,9 12:6,9 corporate 5:9,17 correct 6:10,15 9:3 counsel 6:1 CR 1:12 cut 8:4</p> <hr/> <p style="text-align: center;">D</p> <p>Davis 6:4 day 5:1 days 7:3 11:15 deal 10:12 Depending 10:13 details 8:12 discuss 5:22 District 1:1 2:12 documentation 9:16 10:3 DONALD 1:22 due 3:10 Duty 1:13 D.C 1:17</p> <hr/> <p style="text-align: center;">E</p> <p>effort 8:2 either 6:4 eligible 8:21 establishment 3:16 8:22 evaluation 10:14</p> <hr/> <p style="text-align: center;">F</p> <p>failure 10:7</p>	<p>fairly 4:19 favor 11:20 fax 12:10 file 5:18 fine 5:15 7:3 8:4 11:14 fined 7:16 first 2:7 8:2 forward 9:19 Fred 8:13,18 fully 10:18 functions 4:13 further 11:19</p> <hr/> <p style="text-align: center;">G</p> <p>general 6:1 Gephardt 2:10,11 3:7 6:21 7:22 8:10,13,17 9:2 12:11 given 8:6 goes 4:8 Good 2:10,13 great 7:21 guess 7:14 guilt 7:18</p> <hr/> <p style="text-align: center;">H</p> <p>happen 8:1 happily 4:14 11:9 hearing 1:11,17 5:22 6:4 8:2 12:13,17 hearings 2:4,5 help 6:13 HERMAN 1:23 honest 4:6 hope 11:6</p> <hr/> <p style="text-align: center;">I</p> <p>identify 2:15 increased 8:4 indicated 7:22 interested 9:17 interesting 7:15 interrupt 3:11</p> <hr/> <p style="text-align: center;">J</p>	<p>January 1:14 JEANNETTE 1:23 Jenkins 6:3 Jones 1:23 3:10,14 3:20,22 4:3,15 8:7 8:8,15,20 9:4,13 9:14 10:1,20 11:2 11:6,10</p> <hr/> <p style="text-align: center;">K</p> <p>know 4:6 10:15</p> <hr/> <p style="text-align: center;">L</p> <p>legal 10:15 legitimately 8:21 letter 4:19 5:12 7:17 10:11 11:2 12:3 license 1:11 6:12,14 licensee 8:16,17,22 10:21 licensing 6:9 listed 5:9 loaded 7:6</p> <hr/> <p style="text-align: center;">M</p> <p>Madam 3:11 6:18 8:8 9:5 Manager 1:13 Manousakis 5:20 matter 1:8 4:4 9:1 matters 3:6 mean 4:21 8:14 MEETING 1:5 Member 1:21,21 1:22,22,23,23 3:10,14,20,22 4:3 4:15 5:2,5,16,21 6:3,7,17 8:8,15,20 9:4,14 10:1,20 11:2,6,10,17 12:9 Members 2:11 11:21 mention 6:8 met 1:16 MIKE 1:22 Miller 1:18,20 2:3 2:13,18,22 3:3,12</p>
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