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

(9:43 a.m.)

CHAIRPERSON MILLER: The next case on the calendar is Case No. 12-CMP-00428, Look located at 1909 K Street, N.W., License No. 77812 in ANC-2B.

MS. PHILLIPS: Louise Phillips, Assistant Attorney General for the District of Columbia.

MR. KLINE: Good morning, Andrew Kline on behalf of the licensee.

Madam Chairperson, I am going to ask that you pass this.

CHAIRPERSON MILLER: Okay.

MR. KLINE: The licensee is due here. I expect him here. But if I could get a few minutes so I can track him down and then we can get this matter recalled?

CHAIRPERSON MILLER: Okay. We have actually coming up on today's calendar next some Fact-Finding, so you are willing to wait through those? Okay.

1 MR. KLINE: As if I have any
2 choice.

3 MS. PHILLIPS: Right.

4 CHAIRPERSON MILLER: Okay.

5 MR. KLINE: Thank you.

6 CHAIRPERSON MILLER: That's okay
7 with the Government as well?

8 MS. PHILLIPS: I have a hearing at
9 11:00, so I'm good with that today.

10 CHAIRPERSON MILLER: Okay. Good.
11 All right. Thank you.

12 MR. KLINE: Thank you.

13 CHAIRPERSON MILLER: We are
14 passing on that. Okay.

15 (Whereupon, at 9:44 a.m. a recess
16 until 10:21 a.m.)

17 CHAIRPERSON MILLER: They are
18 here.

19 MEMBER ALBERTI: They're here?

20 CHAIRPERSON MILLER: They're here.
21 So it appears that the parties are now here
22 for Look?

1 MS. PHILLIPS: It appears so,
2 Madam Chair.

3 CHAIRPERSON MILLER: Okay. Then
4 we are going to go back to Look that I
5 previously called, Case No. 12-CMP-00428
6 located at 1909 K Street, N.W., License No.
7 77812 in ANC-2B.

8 Would the parties introduce
9 themselves for the record, please?

10 MS. PHILLIPS: Louise Phillips,
11 Assistant Attorney General for the District of
12 Columbia. Good morning again.

13 MR. KLINE: Good morning, Andrew
14 Kline on behalf of the licensee.

15 MR. KOSMIRE: Michael Kosmires,
16 proprietor of Look.

17 CHAIRPERSON MILLER: Okay. This
18 is a Show Cause (Status) Hearing. Mr. Kline,
19 did your client receive notice of this hearing
20 and did he understand it?

21 MR. KLINE: Yes. Received it,
22 read it, understood it and we waive any

1 required formal reading.

2 CHAIRPERSON MILLER: Thank you.

3 Okay. Ms. Phillips, do we have any
4 preliminary issues in this case?

5 MS. PHILLIPS: Madam Chair, we do.
6 First of all, we would like to correct the
7 record. Apparently, there was a typo in the
8 notice and the parties have agreed to change
9 the reported statute cite to 7 DC Official
10 Code 25?

11 MR. KLINE: 25.

12 MS. PHILLIPS: 25, 762(b)(3).
13 That was just a typo and we thought we would
14 correct the record.

15 And then we have an OIC to present
16 to the Board for acceptance to which the
17 parties have agreed. It would be a fine of
18 \$2,000 to be paid in?

19 MR. KLINE: Within 10 days.

20 CHAIRPERSON MILLER: Okay. The
21 Government has presented that there is an
22 offer in compromise of \$2,000 to be paid

1 within 10 days.

2 Mr. Kline, is that what your
3 client understands to be the offer in
4 compromise and agrees to?

5 MR. KLINE: Yes. No objection to
6 the amendment of the notice and that is our
7 understanding of the offer in compromise. It
8 is acceptable and we would waive any right to
9 hearing, if it were accepted by the Board.

10 CHAIRPERSON MILLER: Okay. Are
11 there any Board questions on this offer in
12 compromise?

13 Does anybody have a motion on this
14 offer in compromise? All right. I will move
15 to disapprove this offer in compromise.

16 Do I have a second?

17 MEMBER SILVERSTEIN: Second.

18 MEMBER ALBERTI: Second.

19 CHAIRPERSON MILLER: Any comments?

20 MEMBER ALBERTI: May I make a
21 comment?

22 CHAIRPERSON MILLER: Yes, please.

1 MEMBER ALBERTI: I will vote in
2 favor of disapproving this offer in
3 compromise. The allegations before us, if
4 true, show an egregious disregard for ABRA
5 Law. I'm just shocked at the degree of
6 disregard represented by the allegations.

7 So if they are true, I could not
8 accept that offer in compromise.

9 CHAIRPERSON MILLER: Others? Yes,
10 my motion, too, is based on that it just seems
11 insufficient if the allegations as set forth
12 in the investigative report are true. So I'm
13 not ready to accept this offer in compromise
14 as well.

15 So all right, any other comments?
16 Any others? Okay.

17 MR. KLINE: Madam Chair, if I may?
18 I understand that's the Board's decision, but
19 in drafting an offer in compromise, obviously,
20 the Government and the licensee's
21 representative reach a compromise. The -- in
22 terms of admitting the underlying violation,

1 the licensee is willing to do that for
2 purposes of an offer in compromise.

3 But that does not necessarily mean
4 that all of the allegations contained in the
5 report are true. And I just put that out
6 there for the Board's edification.

7 CHAIRPERSON MILLER: Oh,
8 absolutely. Absolutely. And I am not relying
9 on that. And this just means that, you know,
10 we go to hearing and hear the case. And it
11 may be that the facts prove otherwise.

12 So it's just looking at these
13 facts, the offer in compromise doesn't seem
14 adequate. So all right. Any other comments?
15 All right.

16 Was this seconded? There is a
17 motion to disapprove the offer in compromise.

18 MEMBER ALBERTI: It was seconded.

19 CHAIRPERSON MILLER: Okay.

20 MEMBER ALBERTI: I seconded it.

21 CHAIRPERSON MILLER: Seconded by
22 Mr. Alberti.

1 All those in favor of the motion
2 to disapprove say aye.

3 ALL: Aye.

4 CHAIRPERSON MILLER: All those
5 opposed? All those abstaining? Okay. The
6 motion passes 5-0-0 to disapprove. And the
7 hearing then is set for April 10, 2013 at
8 10:00 a.m.

9 MS. PHILLIPS: Madam Chair, your
10 voice is dropping.

11 CHAIRPERSON MILLER: Oh.

12 MS. PHILLIPS: I didn't hear you.
13 Did you say 4/10 at 10:00?

14 CHAIRPERSON MILLER: I said 4/10
15 at 10:00, yes.

16 MS. PHILLIPS: Thank you.

17 MR. KLINE: Thank you.

18 CHAIRPERSON MILLER: Thank you.
19 Okay.

20 (Whereupon, the Show Cause
21 (Status) Hearing in the above-entitled matter
22 was concluded at 10:27 a.m.)

<p style="text-align: center;">A</p> <p>above-entitled 9:21 ABRA 7:4 absolutely 8:8,8 abstaining 9:5 accept 7:8,13 acceptable 6:8 acceptance 5:16 accepted 6:9 adequate 8:14 admitting 7:22 agreed 5:8,17 agrees 6:4 Alberti 1:20 3:19 6:18,20 7:1 8:18 8:20,22 Alcoholic 1:2,14,14 allegations 7:3,6,11 8:4 amendment 6:6 ANC-2B 1:8 2:6 4:7 Andrew 2:10 4:13 anybody 6:13 Apparently 5:7 appears 3:21 4:1 April 1:12 9:7 Assistant 2:8 4:11 Attorney 2:8 4:11 aye 9:2,3 a.m 2:2 3:15,16 9:8 9:22</p> <hr/> <p style="text-align: center;">B</p> <p>back 4:4 based 7:10 behalf 2:11 4:14 Beverage 1:2,14,14 Board 1:2,14 5:16 6:9,11 Board's 7:18 8:6 BROOKS 1:21 Building 1:15</p> <hr/> <p style="text-align: center;">C</p> <p>calendar 2:4,20 called 4:5</p>	<p>case 1:9 2:3,4 4:5 5:4 8:10 Cause 1:6 4:18 9:20 Chair 4:2 5:5 7:17 9:9 Chairperson 1:16 1:19 2:3,12,14,19 3:4,6,10,13,17,20 4:3,17 5:2,20 6:10 6:19,22 7:9 8:7,19 8:21 9:4,11,14,18 change 5:8 choice 3:2 cite 5:9 client 4:19 6:3 Code 5:10 Columbia 1:1 2:9 4:12 coming 2:20 comment 6:21 comments 6:19 7:15 8:14 compromise 5:22 6:4,7,12,14,15 7:3 7:8,13,19,21 8:2 8:13,17 concluded 9:22 contained 8:4 Control 1:2,14,14 correct 5:6,14 CR 1:8</p> <hr/> <p style="text-align: center;">D</p> <p>days 5:19 6:1 DC 5:9 decision 7:18 degree 7:5 disapprove 6:15 8:17 9:2,6 disapproving 7:2 disregard 7:4,6 District 1:1 2:8 4:11 DONALD 1:21 drafting 7:19 dropping 9:10</p>	<p>due 2:15 D.C 1:15</p> <hr/> <p style="text-align: center;">E</p> <p>edification 8:6 egregious 7:4 expect 2:16</p> <hr/> <p style="text-align: center;">F</p> <p>facts 8:11,13 Fact-Finding 2:21 favor 7:2 9:1 fine 5:17 First 5:6 formal 5:1 forth 7:11</p> <hr/> <p style="text-align: center;">G</p> <p>General 2:8 4:11 go 4:4 8:10 going 2:12 4:4 good 2:10 3:9,10 4:12,13 Government 3:7 5:21 7:20</p> <hr/> <p style="text-align: center;">H</p> <p>hear 8:10 9:12 hearing 1:6,15 3:8 4:18,19 6:9 8:10 9:7,21 HERMAN 1:21</p> <hr/> <p style="text-align: center;">I</p> <p>insufficient 7:11 introduce 4:8 investigative 7:12 issues 5:4</p> <hr/> <p style="text-align: center;">J</p> <p>JONES 1:21</p> <hr/> <p style="text-align: center;">K</p> <p>K 1:7 2:5 4:6 Kline 2:10,11,15 3:1,5,12 4:13,14 4:18,21 5:11,19 6:2,5 7:17 9:17</p>	<p>know 8:9 Kosmires 4:15,15</p> <hr/> <p style="text-align: center;">L</p> <p>Law 7:5 License 1:8,10 2:5 4:6 licensee 2:11,15 4:14 8:1 licensee's 7:20 located 2:5 4:6 Look 1:6 2:4 3:22 4:4,16 looking 8:12 Louise 1:24 2:7 4:10</p> <hr/> <p style="text-align: center;">M</p> <p>Madam 2:12 4:2 5:5 7:17 9:9 matter 1:5 2:18 9:21 mean 8:3 means 8:9 MEETING 1:3 Member 1:20,21 1:21,22 3:19 6:17 6:18,20 7:1 8:18 8:20 met 1:14 Michael 4:15 MIKE 1:22 Miller 1:16,19 2:3 2:14,19 3:4,6,10 3:13,17,20 4:3,17 5:2,20 6:10,19,22 7:9 8:7,19,21 9:4 9:11,14,18 minutes 2:17 Misuse 1:10 morning 2:10 4:12 4:13 motion 6:13 7:10 8:17 9:1,6 move 6:14</p> <hr/> <p style="text-align: center;">N</p> <p>necessarily 8:3</p>	<p>NICK 1:20 notice 4:19 5:8 6:6 NW 1:7 N.W 1:15 2:5 4:6</p> <hr/> <p style="text-align: center;">O</p> <p>OAG 1:24 objection 6:5 obviously 7:19 offer 5:22 6:3,7,11 6:14,15 7:2,8,13 7:19 8:2,13,17 Official 5:9 Oh 8:7 9:11 OIC 5:15 okay 2:14,19,22 3:4 3:6,10,14 4:3,17 5:3,20 6:10 7:16 8:19 9:5,19 On-Premises 1:10 opposed 9:5</p> <hr/> <p style="text-align: center;">P</p> <p>paid 5:18,22 parties 3:21 4:8 5:8 5:17 pass 2:13 passes 9:6 passing 3:14 Phillips 1:24 2:7,7 3:3,8 4:1,10,10 5:3,5,12 9:9,12,16 please 4:9 6:22 preliminary 5:4 present 1:18,23 5:15 presented 5:21 presiding 1:17 previously 4:5 proprietor 4:16 prove 8:11 purposes 8:2 put 8:5 P-R-O-C-E-E-D-... 2:1</p> <hr/> <p style="text-align: center;">Q</p> <p>questions 6:11</p>
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