

DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD  
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MEETING

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IN THE MATTER OF: :  
: :  
The Popal Group, LLC :  
t/a Napoleon :  
1847 Columbia Road, NW : Show Cause  
Retailer CR : Hearing  
License No. 75836 : (Status)  
Case No. 12-CMP-00624 :  
ANC 1C :  
Failed to Post ABC License :  
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APRIL 24, 2013

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  
NICK ALBERTI, Member  
DONALD BROOKS, Member

ALSO PRESENT  
  
FERNANDO RIVERO, OAG

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

10:03 a.m.

CHAIRPERSON MILLER: Next case on our calendar is Case No. 12-CMP-00624, Napoleon located at 1847 Columbia Road, N.W., License No. 75836 in ANC 1C.

MR. RIVERO: Good morning, Board Members. Fernando Rivero for the District of Columbia.

CHAIRPERSON MILLER: Good morning.

MR. O'BRIEN: Stephen O'Brien for the Licensee. I'm accompanied by Omar Popal, P-O-P-A-L, who is the Licensee.

CHAIRPERSON MILLER: Okay. All right. This is a show cause status hearing, so I just want to ask if you received notice of the hearing, read and understood it?

MR. O'BRIEN: Yes to all and you certainly may --

CHAIRPERSON MILLER: You don't object to it becoming a part of the record?

MR. O'BRIEN: -- submit to the

1 record.

2 CHAIRPERSON MILLER: I'm sorry, we  
3 probably spoke at the same time.

4 MR. O'BRIEN: You certainly may --

5 CHAIRPERSON MILLER: Move it into  
6 the record?

7 MR. O'BRIEN: -- submit it to the  
8 record.

9 CHAIRPERSON MILLER: All right.  
10 Thank you. Mr. Rivero, do we have any  
11 preliminary matters?

12 MR. RIVERO: Yes, the parties have  
13 an Offer in Compromise to present at this  
14 time. That offer is a fine of \$1,000 payable  
15 within 14 days.

16 CHAIRPERSON MILLER: Fourteen?

17 MR. RIVERO: Fourteen, yes.

18 CHAIRPERSON MILLER: Okay. Mr.  
19 O'Brien, does your client understand that he  
20 waives his right to a hearing?

21 MR. O'BRIEN: Yes, he does.

22 CHAIRPERSON MILLER: Okay. Are

1       there any Board questions or comments?

2                   MEMBER ALBERTI:  Yes, on this case  
3       I will note that this is the fifth secondary  
4       tier violation for this licensee within I  
5       think four years, or at least within five  
6       years.  And I'll also note that on June 30th  
7       of 2012, less than a year ago, what, nine  
8       months ago, the Licensee paid a citation for  
9       the same charge, posting and carrying  
10      licenses.  So I'm seeing that the Licensee  
11      just isn't getting -- just isn't paying  
12      attention to the District's rules and  
13      regulations, and so I cannot accept this Offer  
14      in Compromise of \$2,000.

15                   MR. O'BRIEN:  I'm sorry, the Offer  
16      in Compromise was \$1,000.

17                   MEMBER ALBERTI:  Of \$1,000.  I'm  
18      sorry.  The Offer in Compromise for \$1,000.

19                   MR. O'BRIEN:  May I speak to that?

20                   MEMBER ALBERTI:  Which I will note  
21      is below the statutory guidelines.

22                   CHAIRPERSON MILLER:  Yes.

1 MR. O'BRIEN: May I speak to that?

2 CHAIRPERSON MILLER: Yes.

3 MR. O'BRIEN: The charge was the  
4 same posting/carrying licenses. The facts are  
5 different. I'm not totally familiar with the  
6 previous one, but there's no question the  
7 license was posted in the same place that it  
8 had been posted in the six years since the  
9 business was opened. Any number of regulatory  
10 inspections, no one questioned the location of  
11 it. But we understand now that it may not  
12 have satisfied the requirement that it be  
13 posted in a conspicuous place. So I say that  
14 to refute any notion that the Licensee is a  
15 stop law here. There's no question the  
16 license was valid, posted, just not perhaps  
17 where it should be.

18 CHAIRPERSON MILLER: Okay. All  
19 right. Then I'm going to move that we approve  
20 this Offer in Compromise of \$1,000 payable  
21 within 14 days. I think it's a fair,  
22 reasonable Offer in Compromise for a sign

1 issue and especially given that it was hung  
2 according to the notes that we have, but just  
3 in the wrong place. Do I have a second?

4 MEMBER BROOKS: Second.

5 CHAIRPERSON MILLER: Mr. Brooks  
6 has seconded the motion. Any final comments?

7 (No audible response.)

8 CHAIRPERSON MILLER: Okay.  
9 There's a motion that's been seconded. All  
10 those in favor, say aye? Aye.

11 MEMBER BROOKS: Aye.

12 CHAIRPERSON MILLER: All those  
13 opposed?

14 MEMBER ALBERTI: Opposed.

15 CHAIRPERSON MILLER: All those  
16 abstaining?

17 (No audible response.)

18 CHAIRPERSON MILLER: Then the  
19 motion passes by a vote of 2-1-0. I'm sorry,  
20 I don't know if I said payable within 40 days.

21  
22 MEMBER BROOKS: Fourteen.

1                   CHAIRPERSON MILLER: Fourteen.  
2                   Fourteen. The Offer in Compromise is \$1,000  
3                   payable within 14 days.

4                   Mr. Brooks, you confirm that?  
5                   You're the second.

6                   MEMBER BROOKS: Yes.

7                   CHAIRPERSON MILLER: Okay. All  
8                   right. And Mr. Alberti dissents. Okay.  
9                   Thank you.

10                  MR. O'BRIEN: Thank you.

11                  (Whereupon, the hearing was  
12                  concluded at 10:08 a.m.)

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<b>A</b>	<b>concluded</b> 7:12 <b>confirm</b> 7:4 <b>conspicuous</b> 5:13 <b>Control</b> 1:2,13,14 <b>CR</b> 1:8	<b>inspections</b> 5:10 <b>issue</b> 6:1	<b>NW</b> 1:8 <b>N.W</b> 1:15 2:5	<b>R</b>
<b>ABC</b> 1:10 <b>abstaining</b> 6:16 <b>accept</b> 4:13 <b>accompanied</b> 2:12 <b>ago</b> 4:7,8 <b>Alberti</b> 1:18 4:2,17 4:20 6:14 7:8 <b>Alcoholic</b> 1:2,13,14 <b>ANC</b> 1:10 2:6 <b>approve</b> 5:19 <b>APRIL</b> 1:12 <b>attention</b> 4:12 <b>audible</b> 6:7,17 <b>aye</b> 6:10,10,11 <b>a.m</b> 2:2 7:12	<b>D</b>	<b>J</b>	<b>O</b>	<b>read</b> 2:17 <b>reasonable</b> 5:22 <b>received</b> 2:16 <b>record</b> 2:21 3:1,6,8 <b>Reeves</b> 1:14 <b>refute</b> 5:14 <b>regulations</b> 4:13 <b>regulatory</b> 5:9 <b>requirement</b> 5:12 <b>response</b> 6:7,17 <b>Retailer</b> 1:8 <b>right</b> 2:15 3:9,20 5:19 7:8 <b>Rivero</b> 1:22 2:7,8 3:10,12,17 <b>Road</b> 1:8 2:5 <b>Room</b> 1:14 <b>rules</b> 4:12 <b>Ruthanne</b> 1:15,17
<b>B</b>	<b>days</b> 3:15 5:21 6:20 7:3 <b>different</b> 5:5 <b>dissents</b> 7:8 <b>District</b> 1:1 2:8 <b>District's</b> 4:12 <b>DONALD</b> 1:18 <b>D.C</b> 1:15	<b>K</b>	<b>OAG</b> 1:22 <b>object</b> 2:21 <b>offer</b> 3:13,14 4:13 4:15,18 5:20,22 7:2 <b>Okay</b> 2:14 3:18,22 5:18 6:8 7:7,8 <b>Omar</b> 2:12 <b>opened</b> 5:9 <b>opposed</b> 6:13,14 <b>O'Brien</b> 2:11,11,18 2:22 3:4,7,19,21 4:15,19 5:1,3 7:10	<b>S</b>
<b>becoming</b> 2:21 <b>Beverage</b> 1:2,13,14 <b>Board</b> 1:2,14 2:7 4:1 <b>Brooks</b> 1:18 6:4,5 6:11,22 7:4,6 <b>Building</b> 1:14 <b>business</b> 5:9	<b>E</b>	<b>L</b>	<b>P</b>	<b>satisfied</b> 5:12 <b>second</b> 6:3,4 7:5 <b>secondary</b> 4:3 <b>seconded</b> 6:6,9 <b>seeing</b> 4:10 <b>show</b> 1:8 2:15 <b>sign</b> 5:22 <b>six</b> 5:8 <b>sorry</b> 3:2 4:15,18 6:19 <b>speak</b> 4:19 5:1 <b>spoke</b> 3:3 <b>status</b> 1:9 2:15 <b>statutory</b> 4:21 <b>Stephen</b> 2:11 <b>stop</b> 5:15 <b>Street</b> 1:15 <b>submit</b> 2:22 3:7
<b>C</b>	<b>especially</b> 6:1	<b>law</b> 5:15 <b>license</b> 1:9,10 2:6 5:7,16 <b>licensee</b> 2:12,13 4:4 4:8,10 5:14 <b>licenses</b> 4:10 5:4 <b>LLC</b> 1:6 <b>located</b> 2:5 <b>location</b> 5:10	<b>paid</b> 4:8 <b>part</b> 2:21 <b>parties</b> 3:12 <b>passes</b> 6:19 <b>payable</b> 3:14 5:20 6:20 7:3 <b>paying</b> 4:11 <b>place</b> 5:7,13 6:3 <b>Popal</b> 1:6 2:12 <b>Post</b> 1:10 <b>posted</b> 5:7,8,13,16 <b>posting</b> 4:9 <b>posting/carrying</b> 5:4 <b>preliminary</b> 3:11 <b>present</b> 1:17,20 3:13 <b>presiding</b> 1:15 <b>previous</b> 5:6 <b>probably</b> 3:3 <b>P-O-P-A-L</b> 2:13 <b>P-R-O-C-E-E-D-...</b> 2:1	<b>T</b>
<b>calendar</b> 2:4 <b>carrying</b> 4:9 <b>case</b> 1:9 2:3,4 4:2 <b>cause</b> 1:8 2:15 <b>certainly</b> 2:19 3:4 <b>Chairperson</b> 1:15 1:17 2:3,10,14,20 3:2,5,9,16,18,22 4:22 5:2,18 6:5,8 6:12,15,18 7:1,7 <b>charge</b> 4:9 5:3 <b>citation</b> 4:8 <b>client</b> 3:19 <b>Columbia</b> 1:1,8 2:5 2:9 <b>comments</b> 4:1 6:6 <b>Compromise</b> 3:13 4:14,16,18 5:20 5:22 7:2	<b>F</b>	<b>M</b>	<b>preliminary</b> 3:11 <b>present</b> 1:17,20 3:13 <b>presiding</b> 1:15 <b>previous</b> 5:6 <b>probably</b> 3:3 <b>P-O-P-A-L</b> 2:13 <b>P-R-O-C-E-E-D-...</b> 2:1	<b>Thank</b> 3:10 7:9,10 <b>think</b> 4:5 5:21 <b>tier</b> 4:4 <b>time</b> 3:3,14 <b>totally</b> 5:5
<b>calendar</b> 2:4 <b>carrying</b> 4:9 <b>case</b> 1:9 2:3,4 4:2 <b>cause</b> 1:8 2:15 <b>certainly</b> 2:19 3:4 <b>Chairperson</b> 1:15 1:17 2:3,10,14,20 3:2,5,9,16,18,22 4:22 5:2,18 6:5,8 6:12,15,18 7:1,7 <b>charge</b> 4:9 5:3 <b>citation</b> 4:8 <b>client</b> 3:19 <b>Columbia</b> 1:1,8 2:5 2:9 <b>comments</b> 4:1 6:6 <b>Compromise</b> 3:13 4:14,16,18 5:20 5:22 7:2	<b>facts</b> 5:4 <b>Failed</b> 1:10 <b>fair</b> 5:21 <b>familiar</b> 5:5 <b>favor</b> 6:10 <b>Fernando</b> 1:22 2:8 <b>fifth</b> 4:3 <b>final</b> 6:6 <b>fine</b> 3:14 <b>five</b> 4:5 <b>four</b> 4:5 <b>Fourteen</b> 3:16,17 6:22 7:1,2	<b>MATTER</b> 1:5 <b>matters</b> 3:11 <b>MEETING</b> 1:3 <b>Member</b> 1:18,18 4:2,17,20 6:4,11 6:14,22 7:6 <b>Members</b> 2:8 <b>met</b> 1:14 <b>Miller</b> 1:15,17 2:3 2:10,14,20 3:2,5,9 3:16,18,22 4:22 5:2,18 6:5,8,12,15 6:18 7:1,7 <b>months</b> 4:8 <b>morning</b> 2:7,10 <b>motion</b> 6:6,9,19 <b>move</b> 3:5 5:19	<b>question</b> 5:6,15 <b>questioned</b> 5:10 <b>questions</b> 4:1	
<b>H</b>	<b>G</b>	<b>N</b>		
<b>getting</b> 4:11 <b>given</b> 6:1 <b>going</b> 5:19 <b>Good</b> 2:7,10 <b>Group</b> 1:6 <b>guidelines</b> 4:21	<b>hearing</b> 1:8,14 2:15 2:17 3:20 7:11 <b>hung</b> 6:1	<b>Napoleon</b> 1:7 2:5 <b>NICK</b> 1:18 <b>nine</b> 4:7 <b>note</b> 4:3,6,20 <b>notes</b> 6:2 <b>notice</b> 2:16 <b>notion</b> 5:14 <b>number</b> 5:9		
<b>I</b>				

<b>t/a</b> 1:7	<b>4</b>			
<b>U</b>	<b>40</b> 6:20			
<b>understand</b> 3:19 5:11	<b>7</b>			
<b>understood</b> 2:17	<b>75836</b> 1:9 2:6			
<b>V</b>				
<b>valid</b> 5:16				
<b>violation</b> 4:4				
<b>vote</b> 6:19				
<b>W</b>				
<b>waives</b> 3:20				
<b>want</b> 2:16				
<b>Washington</b> 1:15				
<b>wrong</b> 6:3				
<b>Y</b>				
<b>year</b> 4:7				
<b>years</b> 4:5,6 5:8				
<b>p</b>				
<b>p</b> 1:5,11				
<b>\$</b>				
<b>\$1,000</b> 3:14 4:16,17 4:18 5:20 7:2				
<b>\$2,000</b> 4:14				
<b>1</b>				
<b>1C</b> 1:10 2:6				
<b>10:03</b> 2:2				
<b>10:08</b> 7:12				
<b>12-CMP-00624</b> 1:9 2:4				
<b>14</b> 3:15 5:21 7:3				
<b>14th</b> 1:14				
<b>1847</b> 1:8 2:5				
<b>2</b>				
<b>2-1-0</b> 6:19				
<b>2000</b> 1:14				
<b>2012</b> 4:7				
<b>2013</b> 1:12				
<b>24</b> 1:12				
<b>3</b>				
<b>30th</b> 4:6				