

Capital Reporting Company
In the Matter of: Darryl J. Brown, Manager's Application 08-15-2012

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DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

-----x
IN THE MATTER OF: :
 :
 : FACT FINDING
DARRYL J. BROWN : HEARING
 :
 :
MANAGER'S APPLICATION :
-----x

August 15, 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

NICK ALBERTI, Member

DONALD BROOKS, Member

HERMAN JONES, Member

CALVIN NOPHLIN, Member

MIKE SILVERSTEIN, Member

ALSO PRESENT

MICHAEL STERN, OAG

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

2 11:16 a.m.

3 CHAIRPERSON MILLER: Is Mr. Brown here by any
4 chance, Mr. Darryl Brown? Okay. We may want to pass
5 on that then. That's our 10:00 fact finding hearing.

6 MR. ALBERTI: Actually, Madam Chair, I would
7 like the Board to consider this case. I know that Mr.
8 Brown's not here but we have an application before us.
9 Mr. Brown is here.

10 CHAIRPERSON MILLER: Hello. Are you Mr.
11 Brown?

12 MR. KUTCHER: No, I'm not Mr. Brown. My name
13 is Mark Kutcher. I'm his employer. I don't know where
14 he is. I've been trying to get a hold of him but we
15 are in -- we want him to be able to get his bar manager
16 license.

17 CHAIRPERSON MILLER: Okay.

18 MR. KUTCHER: Just want that on the record.

19 CHAIRPERSON MILLER: That's good to know.
20 Right.

21 MR. KUTCHER: He's an employee in good
22 standing.

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1 CHAIRPERSON MILLER: That's what I've heard.

2 MR. KUTCHER: But I don't know -- I've been -
3 - it's -- been trying to call him and I just can't get
4 a hold of him. I don't know why he isn't here but

5 CHAIRPERSON MILLER: Yeah, I do --

6 MR. ALBERTI: Madam Chair, I --

7 CHAIRPERSON MILLER: This is --

8 MR. ALBERTI: -- I would -- I would suggest
9 that --

10 CHAIRPERSON MILLER: Excuse me. I'm sorry?

11 MR. KUTCHER: And I have a letter for the
12 record --

13 MR. ALBERTI: All right. Go ahead. Go ahead
14 if you --

15 CHAIRPERSON MILLER: That's -- I'm sorry.

16 MR. KUTCHER: -- if you'd like --

17 MR. ALBERTI: All right. (Inaudible)--

18 MR. KUTCHER: I have a letter from us,
19 Kramerbooks & Afterwords --

20 CHAIRPERSON MILLER: Okay.

21 MR. KUTCHER: -- stating how long he's worked
22 for us and that he's been a good employee.

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1 CHAIRPERSON MILLER: Okay. I just -- I just
2 want to check with you about the prospects of your
3 being able to reach him this morning in the event that
4 we chose to put another case ahead of yours --

5 MR. KUTCHER: That's his --

6 CHAIRPERSON MILLER: -- of his --

7 MR. KUTCHER: I keep calling his cell phone
8 and it's temporarily disconnected. I don't know what
9 that means but I'll keep calling him.

10 CHAIRPERSON MILLER: Okay.

11 MR. KUTCHER: I don't know.

12 CHAIRPERSON MILLER: All right. Let me just
13 take a minute and see what --

14 MR. KUTCHER: Okay.

15 CHAIRPERSON MILLER: -- the Board wants to
16 do.

17 MR. ALBERTI: Madam Chair, my recommendation
18 is that we postpone this matter until we have heard all
19 of the other morning's cases. And if Mr. Brown shows
20 up, he'll just have to wait on us since he's already
21 late. But I'm willing to indulge him since -- because
22 the employer is here. There is some -- there is some

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1 effort to notify the Board. So --

2 MR. SILVERSTEIN: I'm with him.

3 MR. ALBERTI: -- that's my -- that's -- that
4 would be my desire.

5 MR. SILVERSTEIN: Madam Chair --

6 CHAIRPERSON MILLER: Yes, sir.

7 MR. SILVERSTEIN: -- I totally agree with
8 Board Member Alberti.

9 CHAIRPERSON MILLER: Okay.

10 MR. SILVERSTEIN: You could push this back to
11 give him a chance to get in touch -- every effort and
12 without hurting anyone else.

13 MR. KUTCHER: Thank you.

14 CHAIRPERSON MILLER: Sir, could you -- could
15 you identify yourself again?

16 MR. KUTCHER: Oh, my name is Mark Kutcher --

17 CHAIRPERSON MILLER: Mark Kutcher.

18 MR. KUTCHER: -- K-U-T-C-H-E-R --

19 CHAIRPERSON MILLER: Okay.

20 MR. KUTCHER: -- manager of Kramerbooks and
21 Afterwords Cafe.

22 CHAIRPERSON MILLER: Are you able to stay

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1 around a little bit?

2 MR. KUTCHER: Yeah. No, no. I'll --

3 CHAIRPERSON MILLER: Okay. Good. Then we'll --

4 MR. KUTCHER: I -- we want him to get his bar
5 manager license. So --

6 CHAIRPERSON MILLER: Okay. Good. And --

7 MR. KUTCHER: -- I'll keep -- you know, I
8 keep going out and trying to call him and --

9 CHAIRPERSON MILLER: Okay.

10 MR. KUTCHER: -- call his friends and try to
11 get him over here. But --

12 CHAIRPERSON MILLER: That would be terrific.

13 MR. KUTCHER: Okay.

14 CHAIRPERSON MILLER: And --

15 MR. KUTCHER: But, yeah, don't keep these
16 other people waiting.

17 CHAIRPERSON MILLER: Okay.

18 MR. KUTCHER: But --

19 CHAIRPERSON MILLER: Would you let us know if
20 he arrives?

21 MR. KUTCHER: Yes.

22 CHAIRPERSON MILLER: Okay. Perfect. Thank

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1 you very much.

2 MR. KUTCHER: Thank you.

3 CHAIRPERSON MILLER: Okay. So we'll back to
4 you.

5 (WHEREUPON, at 11:19 a.m., the hearing went
6 off record until 12:15 p.m.)

7 CHAIRPERSON MILLER: Okay. Mr. Brown, come
8 on forward.

9 MR. ALBERTI: Good afternoon.

10 MR. BROWN: Good evening.

11 MR. ALBERTI: Yes. Please, be seated.

12 CHAIRPERSON MILLER: This is a fact finding
13 hearing for a manager's application by Mr. Brown. And
14 it's good that the -- we have the hearing room all to
15 ourselves. So you don't have to worry about anybody
16 hearing about the reasons that we called you -- is
17 you're -- applied for -- let me have you introduce
18 yourself for the record first.

19 MR. BROWN: My name is Darryl Brown.

20 CHAIRPERSON MILLER: Okay. And you're with?

21 MR. BROWN: With my supervisor, Mark Kutcher.

22 CHAIRPERSON MILLER: Okay. From Kramerbooks

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1 and Afterwords?

2 MR. BROWN: Correct. Yes, ma'am.

3 CHAIRPERSON MILLER: Okay. Well, welcome,
4 Mr. Brown. And you've applied for being an ABC manager
5 in charge of alcohol. And --

6 MR. BROWN: Yes.

7 CHAIRPERSON MILLER: So we take that
8 responsibility seriously. And we just note that you do
9 have an arrest record dealing with possession of
10 controlled substances or I believe it was marijuana.

11 MR. BROWN: Yes, ma'am.

12 CHAIRPERSON MILLER: And also one of them --
13 or two of them say with an attempt to distribute.

14 MR. BROWN: Yes.

15 CHAIRPERSON MILLER: So we wanted to just
16 hear from you with respect to, you know, why that
17 shouldn't be a concern at this point for your
18 consideration of this position.

19 MR. BROWN: Yes, ma'am. Currently I've
20 changed my life around. I've been at the Kramers and
21 Afterwords for about five years now. I own a house and
22 a car. I'm a little bit more responsible. I made bad

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1 decisions in the past. I probably can't change that --
2 well, I know I can't. But I just have a better outlook
3 on life, the whole what not and what to do.

4 CHAIRPERSON MILLER: Are you drug-free at
5 this point?

6 MR. BROWN: Yes, ma'am.

7 CHAIRPERSON MILLER: Did you participate in
8 any programs to reduce --

9 MR. BROWN: Yes, ma'am.

10 CHAIRPERSON MILLER: Do you want to put that
11 on the record?

12 MR. BROWN: I don't know the name. It was on
13 Bennett Road. I was put in a program the last
14 probation I was on. And I completed that. It was a
15 year program.

16 CHAIRPERSON MILLER: Okay. And how long have
17 you been at Kramerbooks and Afterwords?

18 MR. BROWN: About four and a half years now.

19 CHAIRPERSON MILLER: Okay. So one of the --
20 one of the offenses was in 2010, so that was while you
21 were at Kramerbooks?

22 MR. BROWN: Yes, ma'am.

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1 CHAIRPERSON MILLER: Did that interfere with
2 your job or --

3 MR. BROWN: No, ma'am. Actually all -- I
4 explained what happened but that was not actually what
5 they wanted to hear. They found something in my car
6 but it was not belong -- it didn't belong to me. And
7 it was very miniscule amount but it was my fault for
8 not knowing it was there.

9 CHAIRPERSON MILLER: Oh, okay. So you're
10 saying that wasn't even -- you weren't even using it
11 then?

12 MR. BROWN: I knew whose it was. But --
13 yeah, I was on my way home from work that night.

14 CHAIRPERSON MILLER: Okay, okay. Is it Mr.
15 Kutchner [sic]? Is that your name, Kutchner?

16 MR. KUTCHER: Kutcher.

17 CHAIRPERSON MILLER: Kutcher. Do you -- do
18 you want to say anything at this point?

19 MR. KUTCHER: I just -- we want to say that
20 Darryl's been a good employee. He's, unlike this
21 morning, punctual and responsible. He's punctual,
22 responsible. We do trust him with our money. We trust

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1 him with our liquor license. He shows good judgment
2 behind the bar when there have been issues. And we --
3 has -- he's been an integral part of our bar staff.
4 And to have him be an ABC manager allows us, you know,
5 a little more flexibility in terms of scheduling our
6 bar staff. And we're behind Darryl.

7 CHAIRPERSON MILLER: Okay. Good. Others?
8 Mr. Brooks?

9 MR. BROOKS: Thank you, Madam Chair. Mr.
10 Jones [sic], what do you do at Kramer? What are your
11 duties?

12 MR. SILVERSTEIN: Mr. Brown.

13 MR. BROOKS: Brown, I'm sorry.

14 MR. SILVERSTEIN: Mr. Brown, yeah.

15 MR. BROWN: I'm sorry. I'm a bartender.

16 MR. JONES: I'm in here.

17 MR. BROOKS: You're a bartender?

18 MR. BROWN: Yes, sir.

19 MR. BROOKS: Okay. And how long have you
20 been doing that?

21 MR. BROWN: About two years now, a year and a
22 half, give or take.

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1 MR. BROOKS: Okay. So now, you were working
2 at Kramer on two occasions when you were arrested?

3 MR. BROWN: I don't believe so. Only one.

4 MR. BROOKS: You don't believe so? Okay.
5 Because I'm look at 4/19/08.

6 MR. KUTCHER: Oh, I can help clarify that.
7 Let me just -- Darryl's hire date was the 6th of May,
8 2008.

9 MR. BROOKS: Okay. So you hired him
10 approximately two months after he was given a one-year
11 probation? Were you aware that he had those kinds of
12 problems before you hired him?

13 MR. KUTCHER: At the time, no. We do not ask
14 people about their arrest records.

15 MR. BROOKS: Okay.

16 MR. KUTCHER: I don't even think we're
17 allowed to ask people about that -- arrest records.

18 MR. BROOKS: Okay. And you say you're a
19 bartender now, Darryl?

20 MR. BROWN: Yes, sir. I started off as --

21 MR. BROOKS: Okay.

22 MR. BROWN: -- a waiter.

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1 MR. BROOKS: Okay. And you're about almost
2 two and a half hours late. Why?

3 MR. BROWN: My electric went off in my house
4 and I didn't wake up. My alarm -- the only reason I
5 got up is because I heard my phone keep going off -- my
6 cell phone from the texts.

7 MR. BROOKS: Thank you, Madam Chair.

8 MR. BROWN: Sorry about that.

9 MR. BROOKS: Yeah, okay. Thank you, Madam
10 Chair.

11 CHAIRPERSON MILLER: Others? Others have --

12 MR. ALBERTI: I'm curious, Mr. Brown. You
13 sound like a late sleeper. What's -- what hours do you
14 work?

15 MR. BROWN: Nights, anywhere from 6:00 to
16 1:00 --

17 MR. ALBERTI: Okay.

18 MR. BROWN: -- 6:00 to 1:30, 3:30.

19 MR. ALBERTI: So you -- good reason to sleep
20 late?

21 MR. BROWN: I'm pretty used to it, yeah.

22 MR. ALBERTI: Okay. I have no further

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1 questions.

2 CHAIRPERSON MILLER: Okay. Mr. Nophlin, did
3 you have a question?

4 MR. NOPHLIN: Now, I have one issue --

5 MR. BROWN: Yes.

6 MR. NOPHLIN: -- and not an issue but I'd
7 like to understand. You said you were in a treatment
8 program?

9 MR. BROWN: Yes, sir.

10 MR. NOPHLIN: And you know what the name of
11 the treatment program was?

12 MR. BROWN: I don't remember because it was,
13 like, three years ago. I know exactly where it is. I
14 -- it's located on Bennett Road in-between -- well, not
15 too far from 295 by the bridge. I don't know the name
16 of the place though.

17 MR. NOPHLIN: Did they give you a certificate
18 after you completed the program?

19 MR. BROWN: I have one at home, yes. I know
20 I can find it. I don't know where it is. But even if
21 I can't find it, I should be able to go --

22 MR. NOPHLIN: Okay.

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1 MR. BROWN: -- to downtown to K Street and
2 somebody I should be able to talk to -- find that
3 information.

4 MR. NOPHLIN: For the record, Madam Chair, I
5 want to see the certificate, even if it's forwarded to
6 the Board.

7 CHAIRPERSON MILLER: Okay.

8 MR. NOPHLIN: Thank you.

9 CHAIRPERSON MILLER: Would you do that, sir?

10 MR. BROWN: Yes, sir.

11 CHAIRPERSON MILLER: Okay.

12 MR. BROWN: Yes, ma'am.

13 CHAIRPERSON MILLER: Was the program helpful?

14 MR. BROWN: Yeah, they taught me a lot --

15 CHAIRPERSON MILLER: Okay.

16 MR. BROWN: -- about -- yeah.

17 CHAIRPERSON MILLER: Taught you a lot about
18 what?

19 MR. BROWN: About why I was acting the way I
20 was basically.

21 CHAIRPERSON MILLER: Okay. All right. Any
22 other questions? Yes, Mr. Silverstein?

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1 MR. SILVERSTEIN: Mr. Brown, the 2010
2 possession of the controlled substance --

3 MR. BROWN: Yes.

4 MR. SILVERSTEIN: -- was that also marijuana?

5 MR. BROWN: Yes, sir.

6 MR. SILVERSTEIN: I just want to say that you
7 have a very good employer there. And I'm impressed
8 that, first of all, they run a wonderful, wonderful
9 operation. It's highly respected in the city. And the
10 fact that they would stand by you, vouch for you, it is
11 important that the folks who made mistakes be brought
12 back into the community if they're willing to do -- you
13 know, to turn their life around.

14 And I'm very impressed Mr. Kutcher's here.
15 And I'm very impressed with the operation that he runs.
16 And speaking only for myself here, if he's willing to
17 trust you with the money and the operation, I'm willing
18 to trust you to make the right decisions and be a part
19 of my neighborhood. Because I live about two blocks
20 from there. And personally, I'm impressed with
21 everything except your punctuality. No further
22 questions --

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1 CHAIRPERSON MILLER: Okay.

2 MR. SILVERSTEIN: -- Madam Chair.

3 CHAIRPERSON MILLER: Any other questions?

4 Okay. Well, I would -- I would like to move then --
5 make a motion if that's all right with everyone to
6 approve the application of Mr. Brown as an ABC manager.

7 And do I have a second?

8 MR. NOPHLIN: Second.

9 MR. SILVERSTEIN: Second.

10 CHAIRPERSON MILLER: Okay. Any other
11 comments?

12 MR. NOPHLIN: Well, I would like also to
13 submit the certificate that he said that he went
14 through a program to the Board.

15 CHAIRPERSON MILLER: Okay.

16 MR. BROWN: I go down K Street when I leave
17 here -- try to find out what I need to get the -- get a
18 copy.

19 CHAIRPERSON MILLER: Okay. All right. So
20 the motion is to approve the application and Mr. Brown
21 will submit for the record his certificate of the
22 program he participated in with respect to the

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1 judgment.

2 Okay. This motion has been seconded by Mr.

3 Nophlin. All those in favor, say aye?

4 (Chorus of ayes.)

5 CHAIRPERSON MILLER: All those opposed?

6 (No audible response.)

7 CHAIRPERSON MILLER: All those abstaining?

8 (No audible response.)

9 CHAIRPERSON MILLER: Okay. Then the vote is
10 6- 0-0 to approve. Thank you all for coming down.

11 MR. BROWN: Thanks.

12 CHAIRPERSON MILLER: (Inaudible).

13 MR. ALBERTI: Thank you and good luck, Mr.
14 Brown.

15 CHAIRPERSON MILLER: Okay. Thank you.

16 MR. ALBERTI: Thank you for coming, Mr.

17 Kutcher.

18 MR. KUTCHER: Thank you.

19 CHAIRPERSON MILLER: Do you want to come back
20 at 1:30 or 1:45: I don't know if the hearing is called
21 at 1:00 -- for the protest hearing at 1:00.

22 MR. BROOKS: 1:30.

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1 CHAIRPERSON MILLER: 1:00 OR 1:30. 1:30?

2 MR. BROOKS: 1:30. Don't we have someone
3 else at 1:00?

4 MR. ALBERTI: We have fact finding at 1:00.

5 CHAIRPERSON MILLER: Well, the agenda but --
6 oh, the fact finding.

7 MR. BROOKS: No, no, no. Fact finding.

8 MR. ALBERTI: The fact finding at 1:00.

9 MR. NOPHLIN: Fact finding at 1:00, Mt.
10 Vernon Wine & Spirits.

11 MR. BROOKS: Yeah.

12 CHAIRPERSON MILLER: Well, let's see --

13 MR. ALBERTI: I say we come back at 1:30.

14 MR. BROOKS: Yeah, regardless.

15 CHAIRPERSON MILLER: Okay. So the Board will
16 be recessing until 1:30.

17 (WHEREUPON, at 12:27 p.m., the hearing was
18 concluded.)

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