

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

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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

Capital Reporting Company
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<p style="text-align: right;">2</p> <p>1 P R O C E E D I N G S</p> <p>2 11:16 a.m.</p> <p>3 CHAIRPERSON MILLER: Is Mr. Brown here by any</p> <p>4 chance, Mr. Darryl Brown? Okay. We may want to pass</p> <p>5 on that then. That's our 10:00 fact finding hearing.</p> <p>6 MR. ALBERTI: Actually, Madam Chair, I would</p> <p>7 like the Board to consider this case. I know that Mr.</p> <p>8 Brown's not here but we have an application before us.</p> <p>9 Mr. Brown is here.</p> <p>10 CHAIRPERSON MILLER: Hello. Are you Mr.</p> <p>11 Brown?</p> <p>12 MR. KUTCHER: No, I'm not Mr. Brown. My name</p> <p>13 is Mark Kutcher. I'm his employer. I don't know where</p> <p>14 he is. I've been trying to get a hold of him but we</p> <p>15 are in -- we want him to be able to get his bar manager</p> <p>16 license.</p> <p>17 CHAIRPERSON MILLER: Okay.</p> <p>18 MR. KUTCHER: Just want that on the record.</p> <p>19 CHAIRPERSON MILLER: That's good to know.</p> <p>20 Right.</p> <p>21 MR. KUTCHER: He's an employee in good</p> <p>22 standing.</p>	<p style="text-align: right;">4</p> <p>1 CHAIRPERSON MILLER: Okay. I just -- I just</p> <p>2 want to check with you about the prospects of your</p> <p>3 being able to reach him this morning in the event that</p> <p>4 we chose to put another case ahead of yours --</p> <p>5 MR. KUTCHER: That's his --</p> <p>6 CHAIRPERSON MILLER: -- of his --</p> <p>7 MR. KUTCHER: I keep calling his cell phone</p> <p>8 and it's temporarily disconnected. I don't know what</p> <p>9 that means but I'll keep calling him.</p> <p>10 CHAIRPERSON MILLER: Okay.</p> <p>11 MR. KUTCHER: I don't know.</p> <p>12 CHAIRPERSON MILLER: All right. Let me just</p> <p>13 take a minute and see what --</p> <p>14 MR. KUTCHER: Okay.</p> <p>15 CHAIRPERSON MILLER: -- the Board wants to</p> <p>16 do.</p> <p>17 MR. ALBERTI: Madam Chair, my recommendation</p> <p>18 is that we postpone this matter until we have heard all</p> <p>19 of the other morning's cases. And if Mr. Brown shows</p> <p>20 up, he'll just have to wait on us since he's already</p> <p>21 late. But I'm willing to indulge him since -- because</p> <p>22 the employer is here. There is some -- there is some</p>
<p style="text-align: right;">3</p> <p>1 CHAIRPERSON MILLER: That's what I've heard.</p> <p>2 MR. KUTCHER: But I don't know -- I've been -</p> <p>3 - it's -- been trying to call him and I just can't get</p> <p>4 a hold of him. I don't know why he isn't here but</p> <p>5 CHAIRPERSON MILLER: Yeah, I do --</p> <p>6 MR. ALBERTI: Madam Chair, I --</p> <p>7 CHAIRPERSON MILLER: This is --</p> <p>8 MR. ALBERTI: -- I would -- I would suggest</p> <p>9 that --</p> <p>10 CHAIRPERSON MILLER: Excuse me. I'm sorry?</p> <p>11 MR. KUTCHER: And I have a letter for the</p> <p>12 record --</p> <p>13 MR. ALBERTI: All right. Go ahead. Go ahead</p> <p>14 if you --</p> <p>15 CHAIRPERSON MILLER: That's -- I'm sorry.</p> <p>16 MR. KUTCHER: -- if you'd like --</p> <p>17 MR. ALBERTI: All right. (Inaudible)--</p> <p>18 MR. KUTCHER: I have a letter from us,</p> <p>19 Kramerbooks & Afterwords --</p> <p>20 CHAIRPERSON MILLER: Okay.</p> <p>21 MR. KUTCHER: -- stating how long he's worked</p> <p>22 for us and that he's been a good employee.</p>	<p style="text-align: right;">5</p> <p>1 effort to notify the Board. So --</p> <p>2 MR. SILVERSTEIN: I'm with him.</p> <p>3 MR. ALBERTI: -- that's my -- that's -- that</p> <p>4 would be my desire.</p> <p>5 MR. SILVERSTEIN: Madam Chair --</p> <p>6 CHAIRPERSON MILLER: Yes, sir.</p> <p>7 MR. SILVERSTEIN: -- I totally agree with</p> <p>8 Board Member Alberti.</p> <p>9 CHAIRPERSON MILLER: Okay.</p> <p>10 MR. SILVERSTEIN: You could push this back to</p> <p>11 give him a chance to get in touch -- every effort and</p> <p>12 without hurting anyone else.</p> <p>13 MR. KUTCHER: Thank you.</p> <p>14 CHAIRPERSON MILLER: Sir, could you -- could</p> <p>15 you identify yourself again?</p> <p>16 MR. KUTCHER: Oh, my name is Mark Kutcher --</p> <p>17 CHAIRPERSON MILLER: Mark Kutcher.</p> <p>18 MR. KUTCHER: -- K-U-T-C-H-E-R --</p> <p>19 CHAIRPERSON MILLER: Okay.</p> <p>20 MR. KUTCHER: -- manager of Kramerbooks and</p> <p>21 Afterwords Cafe.</p> <p>22 CHAIRPERSON MILLER: Are you able to stay</p>

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

<p style="text-align: right;">6</p> <p>1 around a little bit?</p> <p>2 MR. KUTCHER: Yeah. No, no. I'll --</p> <p>3 CHAIRPERSON MILLER: Okay. Good. Then we'll --</p> <p>4 MR. KUTCHER: I -- we want him to get his bar</p> <p>5 manager license. So --</p> <p>6 CHAIRPERSON MILLER: Okay. Good. And --</p> <p>7 MR. KUTCHER: -- I'll keep -- you know, I</p> <p>8 keep going out and trying to call him and --</p> <p>9 CHAIRPERSON MILLER: Okay.</p> <p>10 MR. KUTCHER: -- call his friends and try to</p> <p>11 get him over here. But --</p> <p>12 CHAIRPERSON MILLER: That would be terrific.</p> <p>13 MR. KUTCHER: Okay.</p> <p>14 CHAIRPERSON MILLER: And --</p> <p>15 MR. KUTCHER: But, yeah, don't keep these</p> <p>16 other people waiting.</p> <p>17 CHAIRPERSON MILLER: Okay.</p> <p>18 MR. KUTCHER: But --</p> <p>19 CHAIRPERSON MILLER: Would you let us know if</p> <p>20 he arrives?</p> <p>21 MR. KUTCHER: Yes.</p> <p>22 CHAIRPERSON MILLER: Okay. Perfect. Thank</p>	<p style="text-align: right;">8</p> <p>1 and Afterwords?</p> <p>2 MR. BROWN: Correct. Yes, ma'am.</p> <p>3 CHAIRPERSON MILLER: Okay. Well, welcome,</p> <p>4 Mr. Brown. And you've applied for being an ABC manager</p> <p>5 in charge of alcohol. And --</p> <p>6 MR. BROWN: Yes.</p> <p>7 CHAIRPERSON MILLER: So we take that</p> <p>8 responsibility seriously. And we just note that you do</p> <p>9 have an arrest record dealing with possession of</p> <p>10 controlled substances or I believe it was marijuana.</p> <p>11 MR. BROWN: Yes, ma'am.</p> <p>12 CHAIRPERSON MILLER: And also one of them --</p> <p>13 or two of them say with an attempt to distribute.</p> <p>14 MR. BROWN: Yes.</p> <p>15 CHAIRPERSON MILLER: So we wanted to just</p> <p>16 hear from you with respect to, you know, why that</p> <p>17 shouldn't be a concern at this point for your</p> <p>18 consideration of this position.</p> <p>19 MR. BROWN: Yes, ma'am. Currently I've</p> <p>20 changed my life around. I've been at the Kramers and</p> <p>21 Afterwords for about five years now. I own a house and</p> <p>22 a car. I'm a little bit more responsible. I made bad</p>
<p style="text-align: right;">7</p> <p>1 you very much.</p> <p>2 MR. KUTCHER: Thank you.</p> <p>3 CHAIRPERSON MILLER: Okay. So we'll back to</p> <p>4 you.</p> <p>5 (WHEREUPON, at 11:19 a.m., the hearing went</p> <p>6 off record until 12:15 p.m.)</p> <p>7 CHAIRPERSON MILLER: Okay. Mr. Brown, come</p> <p>8 on forward.</p> <p>9 MR. ALBERTI: Good afternoon.</p> <p>10 MR. BROWN: Good evening.</p> <p>11 MR. ALBERTI: Yes. Please, be seated.</p> <p>12 CHAIRPERSON MILLER: This is a fact finding</p> <p>13 hearing for a manager's application by Mr. Brown. And</p> <p>14 it's good that the -- we have the hearing room all to</p> <p>15 ourselves. So you don't have to worry about anybody</p> <p>16 hearing about the reasons that we called you -- is</p> <p>17 you're -- applied for -- let me have you introduce</p> <p>18 yourself for the record first.</p> <p>19 MR. BROWN: My name is Darryl Brown.</p> <p>20 CHAIRPERSON MILLER: Okay. And you're with?</p> <p>21 MR. BROWN: With my supervisor, Mark Kutcher.</p> <p>22 CHAIRPERSON MILLER: Okay. From Kramerbooks</p>	<p style="text-align: right;">9</p> <p>1 decisions in the past. I probably can't change that --</p> <p>2 well, I know I can't. But I just have a better outlook</p> <p>3 on life, the whole what not and what to do.</p> <p>4 CHAIRPERSON MILLER: Are you drug-free at</p> <p>5 this point?</p> <p>6 MR. BROWN: Yes, ma'am.</p> <p>7 CHAIRPERSON MILLER: Did you participate in</p> <p>8 any programs to reduce --</p> <p>9 MR. BROWN: Yes, ma'am.</p> <p>10 CHAIRPERSON MILLER: Do you want to put that</p> <p>11 on the record?</p> <p>12 MR. BROWN: I don't know the name. It was on</p> <p>13 Bennett Road. I was put in a program the last</p> <p>14 probation I was on. And I completed that. It was a</p> <p>15 year program.</p> <p>16 CHAIRPERSON MILLER: Okay. And how long have</p> <p>17 you been at Kramerbooks and Afterwords?</p> <p>18 MR. BROWN: About four and a half years now.</p> <p>19 CHAIRPERSON MILLER: Okay. So one of the --</p> <p>20 one of the offenses was in 2010, so that was while you</p> <p>21 were at Kramerbooks?</p> <p>22 MR. BROWN: Yes, ma'am.</p>

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

<p style="text-align: right;">10</p> <p>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</p>	<p style="text-align: right;">12</p> <p>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.</p>
<p style="text-align: right;">11</p> <p>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.</p>	<p style="text-align: right;">13</p> <p>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</p>

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

<p style="text-align: right;">14</p> <p>1 questions.</p> <p>2 CHAIRPERSON MILLER: Okay. Mr. Nophlin, did</p> <p>3 you have a question?</p> <p>4 MR. NOPHLIN: Now, I have one issue --</p> <p>5 MR. BROWN: Yes.</p> <p>6 MR. NOPHLIN: -- and not an issue but I'd</p> <p>7 like to understand. You said you were in a treatment</p> <p>8 program?</p> <p>9 MR. BROWN: Yes, sir.</p> <p>10 MR. NOPHLIN: And you know what the name of</p> <p>11 the treatment program was?</p> <p>12 MR. BROWN: I don't remember because it was,</p> <p>13 like, three years ago. I know exactly where it is. I</p> <p>14 -- it's located on Bennett Road in-between -- well, not</p> <p>15 too far from 295 by the bridge. I don't know the name</p> <p>16 of the place though.</p> <p>17 MR. NOPHLIN: Did they give you a certificate</p> <p>18 after you completed the program?</p> <p>19 MR. BROWN: I have one at home, yes. I know</p> <p>20 I can find it. I don't know where it is. But even if</p> <p>21 I can't find it, I should be able to go --</p> <p>22 MR. NOPHLIN: Okay.</p>	<p style="text-align: right;">16</p> <p>1 MR. SILVERSTEIN: Mr. Brown, the 2010</p> <p>2 possession of the controlled substance --</p> <p>3 MR. BROWN: Yes.</p> <p>4 MR. SILVERSTEIN: -- was that also marijuana?</p> <p>5 MR. BROWN: Yes, sir.</p> <p>6 MR. SILVERSTEIN: I just want to say that you</p> <p>7 have a very good employer there. And I'm impressed</p> <p>8 that, first of all, they run a wonderful, wonderful</p> <p>9 operation. It's highly respected in the city. And the</p> <p>10 fact that they would stand by you, vouch for you, it is</p> <p>11 important that the folks who made mistakes be brought</p> <p>12 back into the community if they're willing to do -- you</p> <p>13 know, to turn their life around.</p> <p>14 And I'm very impressed Mr. Kutcher's here.</p> <p>15 And I'm very impressed with the operation that he runs.</p> <p>16 And speaking only for myself here, if he's willing to</p> <p>17 trust you with the money and the operation, I'm willing</p> <p>18 to trust you to make the right decisions and be a part</p> <p>19 of my neighborhood. Because I live about two blocks</p> <p>20 from there. And personally, I'm impressed with</p> <p>21 everything except your punctuality. No further</p> <p>22 questions --</p>
<p style="text-align: right;">15</p> <p>1 MR. BROWN: -- to downtown to K Street and</p> <p>2 somebody I should be able to talk to -- find that</p> <p>3 information.</p> <p>4 MR. NOPHLIN: For the record, Madam Chair, I</p> <p>5 want to see the certificate, even if it's forwarded to</p> <p>6 the Board.</p> <p>7 CHAIRPERSON MILLER: Okay.</p> <p>8 MR. NOPHLIN: Thank you.</p> <p>9 CHAIRPERSON MILLER: Would you do that, sir?</p> <p>10 MR. BROWN: Yes, sir.</p> <p>11 CHAIRPERSON MILLER: Okay.</p> <p>12 MR. BROWN: Yes, ma'am.</p> <p>13 CHAIRPERSON MILLER: Was the program helpful?</p> <p>14 MR. BROWN: Yeah, they taught me a lot --</p> <p>15 CHAIRPERSON MILLER: Okay.</p> <p>16 MR. BROWN: -- about -- yeah.</p> <p>17 CHAIRPERSON MILLER: Taught you a lot about</p> <p>18 what?</p> <p>19 MR. BROWN: About why I was acting the way I</p> <p>20 was basically.</p> <p>21 CHAIRPERSON MILLER: Okay. All right. Any</p> <p>22 other questions? Yes, Mr. Silverstein?</p>	<p style="text-align: right;">17</p> <p>1 CHAIRPERSON MILLER: Okay.</p> <p>2 MR. SILVERSTEIN: -- Madam Chair.</p> <p>3 CHAIRPERSON MILLER: Any other questions?</p> <p>4 Okay. Well, I would -- I would like to move then --</p> <p>5 make a motion if that's all right with everyone to</p> <p>6 approve the application of Mr. Brown as an ABC manager.</p> <p>7 And do I have a second?</p> <p>8 MR. NOPHLIN: Second.</p> <p>9 MR. SILVERSTEIN: Second.</p> <p>10 CHAIRPERSON MILLER: Okay. Any other</p> <p>11 comments?</p> <p>12 MR. NOPHLIN: Well, I would like also to</p> <p>13 submit the certificate that he said that he went</p> <p>14 through a program to the Board.</p> <p>15 CHAIRPERSON MILLER: Okay.</p> <p>16 MR. BROWN: I go down K Street when I leave</p> <p>17 here -- try to find out what I need to get the -- get a</p> <p>18 copy.</p> <p>19 CHAIRPERSON MILLER: Okay. All right. So</p> <p>20 the motion is to approve the application and Mr. Brown</p> <p>21 will submit for the record his certificate of the</p> <p>22 program he participated in with respect to the</p>

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

<p style="text-align: right;">18</p> <p>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.</p>	<p style="text-align: right;">19</p> <p>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.) 19 20 21</p>
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Capital Reporting Company
 In the Matter of: Darryl J. Brown, Manager's Application 08-15-2012
 Page 1

<hr/> <p style="text-align: center;">0</p> <hr/> <p>0-0 18:10</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1:00 13:16 18:21 19:1,3,4,8,9</p> <p>1:30 13:18 18:20,22 19:1,2,13,16</p> <p>1:45 18:20</p> <p>10:00 2:5</p> <p>11:16 2:2</p> <p>11:19 7:5</p> <p>12:15 7:6</p> <p>12:27 19:17</p> <p>14th 1:13</p> <p>15 1:10</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2000 1:13</p> <p>2008 12:8</p> <p>2010 9:20 16:1</p> <p>2012 1:10</p> <p>295 14:15</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3:30 13:18</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4/19/08 12:5</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 18:10</p> <p>6:00 13:15,18</p> <p>6th 12:7</p> <hr/> <p style="text-align: center;">A</p> <hr/>	<p>a.m 2:2 7:5</p> <p>ABC 8:4 11:4 17:6</p> <p>able 2:15 4:3 5:22 14:21 15:2</p> <p>abstaining 18:7</p> <p>acting 15:19</p> <p>actually 2:6 10:3,4</p> <p>afternoon 7:9</p> <p>Afterwords 3:19 5:21 8:1,21 9:17</p> <p>agenda 19:5</p> <p>ago 14:13</p> <p>ahead 3:13 4:4</p> <p>alarm 13:4</p> <p>Alberti 1:16 2:6 3:6,8,13,17 4:17 5:3,8 7:9,11 13:12,17,19,22 18:13,16 19:4,8,13</p> <p>alcohol 8:5</p> <p>Alcoholic 1:2,11,12</p> <p>allowed 12:17</p> <p>allows 11:4</p> <p>already 4:20</p> <p>amount 10:7</p> <p>anybody 7:15</p> <p>anyone 5:12</p> <p>anything 10:18</p> <p>anywhere 13:15</p> <p>application 1:8 2:8 7:13 17:6,20</p> <p>applied 7:17 8:4</p> <p>approve 17:6,20 18:10</p>	<p>approximately 12:10</p> <p>arrest 8:9 12:14,17</p> <p>arrested 12:2</p> <p>arrives 6:20</p> <p>attempt 8:13</p> <p>audible 18:6,8</p> <p>August 1:10</p> <p>aware 12:11</p> <p>aye 18:3</p> <p>eyes 18:4</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>bad 8:22</p> <p>bar 2:15 6:4 11:2,3,6</p> <p>bartender 11:15,17 12:19</p> <p>basically 15:20</p> <p>behind 11:2,6</p> <p>believe 8:10 12:3,4</p> <p>belong 10:6</p> <p>Bennett 9:13 14:14</p> <p>better 9:2</p> <p>Beverage 1:2,11,12</p> <p>bit 6:1 8:22</p> <p>blocks 16:19</p> <p>Board 1:2,12 2:7 4:15 5:1,8 15:6 17:14 19:15</p> <p>bridge 14:15</p> <p>Brooks 1:17 11:8,9,13,17,19 12:1,4,9,15,18,2</p>	<p>1 13:1,7,9 18:22 19:2,7,11,14</p> <p>brought 16:11</p> <p>Brown 1:6 2:3,4,9,11,12 4:19 7:7,10,13,19,21 8:2,4,6,11,14,19 9:6,9,12,18,22 10:3,12 11:12,13,14,15,1 8,21 12:3,20,22 13:3,8,12,15,18, 21 14:5,9,12,19 15:1,10,12,14,16 ,19 16:1,3,5 17:6,16,20 18:11,14</p> <p>Brown's 2:8</p> <p>Building 1:13</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>Cafe 5:21</p> <p>CALVIN 1:18</p> <p>car 8:22 10:5</p> <p>case 2:7 4:4</p> <p>cases 4:19</p> <p>cell 4:7 13:6</p> <p>certificate 14:17 15:5 17:13,21</p> <p>Chair 2:6 3:6 4:17 5:5 11:9 13:7,10 15:4 17:2</p> <p>Chairperson 1:13,16 2:3,10,17,19 3:1,5,7,10,15,20 4:1,6,10,12,15 5:6,9,14,17,19,2 2</p>
--	--	--	--

Capital Reporting Company
 In the Matter of: Darryl J. Brown, Manager's Application 08-15-2012
 Page 2

<p>6:3,6,9,12,14,17,19,22 7:3,7,12,20,22 8:3,7,12,15 9:4,7,10,16,19 10:1,9,14,17 11:7 13:11 14:2 15:7,9,11,13,15,17,21 17:1,3,10,15,19 18:5,7,9,12,15,19 19:1,5,12,15</p> <p>chance 2:4 5:11 change 9:1 changed 8:20 charge 8:5 check 4:2 Chorus 18:4 chose 4:4 city 16:9 clarify 12:6 COLUMBIA 1:1 coming 18:10,16 comments 17:11 community 16:12 completed 9:14 14:18 concern 8:17 concluded 19:18 consider 2:7 consideration 8:18 Control 1:2,11,12 controlled 8:10 16:2 copy 17:18 Correct 8:2</p>	<p>curious 13:12 Currently 8:19</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>D.C 1:13 Darryl 1:6 2:4 7:19 11:6 12:19 Darryl's 10:20 12:7 date 12:7 dealing 8:9 decisions 9:1 16:18 desire 5:4 disconnected 4:8 distribute 8:13 DISTRICT 1:1 DONALD 1:17 downtown 15:1 drug-free 9:4 duties 11:11</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>effort 5:1,11 electric 13:3 else 5:12 19:3 employee 2:21 3:22 10:20 employer 2:13 4:22 16:7 evening 7:10 event 4:3 everyone 17:5 everything 16:21 exactly 14:13</p>	<p>except 16:21 Excuse 3:10 explained 10:4</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>fact 1:6 2:5 7:12 16:10 19:4,6,7,8,9 fault 10:7 favor 18:3 finding 1:6 2:5 7:12 19:4,6,7,8,9 first 7:18 16:8 five 8:21 flexibility 11:5 folks 16:11 forward 7:8 forwarded 15:5 friends 6:10</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>given 12:10</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>half 9:18 11:22 13:2 happened 10:4 hear 8:16 10:5 heard 3:1 4:18 13:5 hearing 1:6,12 2:5 7:5,13,14,16 18:20,21 19:17 he'll 4:20 Hello 2:10 help 12:6</p>	<p>helpful 15:13 HERMAN 1:17 he's 2:21 3:21,22 4:20 10:20,21 11:3 16:16 highly 16:9 hire 12:7 hired 12:9,12 hold 2:14 3:4 home 10:13 14:19 hours 13:2,13 house 8:21 13:3 hurting 5:12</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>I'd 14:6 identify 5:15 I'll 4:9 6:2,7 I'm 2:12,13 3:10,15 4:21 5:2 8:22 11:13,15,16 12:5 13:12,21 16:7,14,15,17,20 important 16:11 impressed 16:7,14,15,20 Inaudible 3:17 18:12 in-between 14:14 indulge 4:21 information 15:3 integral 11:3 interfere 10:1 introduce 7:17 isn't 3:4 issue 14:4,6</p>
--	---	--	---

Capital Reporting Company
 In the Matter of: Darryl J. Brown, Manager's Application 08-15-2012
 Page 3

<p>issues 11:2</p> <p>it's 3:3 4:8 7:14 14:14 15:5 16:9</p> <p>I've 2:14 3:1,2 8:19,20</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>job 10:2</p> <p>Jones 1:17 11:10,16</p> <p>judgment 11:1 18:1</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>kinds 12:11</p> <p>knew 10:12</p> <p>Kramer 11:10 12:2</p> <p>Kramerbooks 3:19 5:20 7:22 9:17,21</p> <p>Kramers 8:20</p> <p>Kutcher 2:12,13,18,21 3:2,11,16,18,21 4:5,7,11,14 5:13,16,17,18,20 6:2,4,7,10,13,15, 18,21 7:2,21 10:16,17,19 12:6,13,16 18:17,18</p> <p>K-U-T-C-H-E-R 5:18</p> <p>Kutcher's 16:14</p> <p>Kutchner 10:15</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>last 9:13</p>	<p>late 4:21 13:2,13,20</p> <p>leave 17:16</p> <p>let's 19:12</p> <p>letter 3:11,18</p> <p>license 2:16 6:5 11:1</p> <p>life 8:20 9:3 16:13</p> <p>liquor 11:1</p> <p>little 6:1 8:22 11:5</p> <p>live 16:19</p> <p>located 14:14</p> <p>long 3:21 9:16 11:19</p> <p>lot 15:14,17</p> <p>luck 18:13</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>ma'am 8:2,11,19 9:6,9,22 10:3 15:12</p> <p>Madam 2:6 3:6 4:17 5:5 11:9 13:7,9 15:4 17:2</p> <p>manager 2:15 5:20 6:5 8:4 11:4 17:6</p> <p>manager's 1:8 7:13</p> <p>marijuana 8:10 16:4</p> <p>Mark 2:13 5:16,17 7:21</p> <p>matter 1:5 4:18</p> <p>may 2:4 12:7</p> <p>means 4:9</p> <p>MEETING 1:3</p> <p>Member</p>	<p>1:16,17,18 5:8</p> <p>met 1:12</p> <p>MICHAEL 1:19</p> <p>MIKE 1:18</p> <p>Miller 1:13,16 2:3,10,17,19 3:1,5,7,10,15,20 4:1,6,10,12,15 5:6,9,14,17,19,2 2 6:3,6,9,12,14,17, 19,22 7:3,7,12,20,22 8:3,7,12,15 9:4,7,10,16,19 10:1,9,14,17 11:7 13:11 14:2 15:7,9,11,13,15, 17,21 17:1,3,10,15,19 18:5,7,9,12,15,1 9 19:1,5,12,15</p> <p>miniscule 10:7</p> <p>minute 4:13</p> <p>mistakes 16:11</p> <p>money 10:22 16:17</p> <p>months 12:10</p> <p>morning 4:3 10:21</p> <p>morning's 4:19</p> <p>motion 17:5,20 18:2</p> <p>move 17:4</p> <p>Mt 19:9</p> <p>myself 16:16</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>N.W 1:13</p> <p>neighborhood</p>	<p>16:19</p> <p>NICK 1:16</p> <p>night 10:13</p> <p>Nights 13:15</p> <p>Nophlin 1:18 14:2,4,6,10,17,2 2 15:4,8 17:8,12 18:3 19:9</p> <p>note 8:8</p> <p>notify 5:1</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>OAG 1:19</p> <p>occasions 12:2</p> <p>offenses 9:20</p> <p>oh 5:16 10:9 12:6 19:6</p> <p>one-year 12:10</p> <p>operation 16:9,15,17</p> <p>opposed 18:5</p> <p>Others 11:7 13:11</p> <p>ourselves 7:15</p> <p>outlook 9:2</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>p.m 7:6 19:17</p> <p>participate 9:7</p> <p>participated 17:22</p> <p>pass 2:4</p> <p>past 9:1</p> <p>people 6:16 12:14,17</p> <p>Perfect 6:22</p> <p>personally 16:20</p> <p>phone 4:7 13:5,6</p>
--	---	---	--

Capital Reporting Company
 In the Matter of: Darryl J. Brown, Manager's Application 08-15-2012
 Page 4

<p>Please 7:11</p> <p>point 8:17 9:5 10:18</p> <p>position 8:18</p> <p>possession 8:9 16:2</p> <p>postpone 4:18</p> <p>PRESENT 1:15,19</p> <p>presiding 1:14</p> <p>pretty 13:21</p> <p>probably 9:1</p> <p>probation 9:14 12:11</p> <p>problems 12:12</p> <p>program 9:13,15 14:8,11,18 15:13 17:14,22</p> <p>programs 9:8</p> <p>prospects 4:2</p> <p>protest 18:21</p> <p>punctual 10:21</p> <p>punctuality 16:21</p> <p>push 5:10</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>question 14:3</p> <p>questions 14:1 15:22 16:22 17:3</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>reach 4:3</p> <p>reason 13:4,19</p> <p>reasons 7:16</p> <p>recessing 19:16</p> <p>recommendation</p>	<p>4:17</p> <p>record 2:18 3:12 7:6,18 8:9 9:11 15:4 17:21</p> <p>records 12:14,17</p> <p>reduce 9:8</p> <p>Reeves 1:13</p> <p>regardless 19:14</p> <p>remember 14:12</p> <p>respect 8:16 17:22</p> <p>respected 16:9</p> <p>response 18:6,8</p> <p>responsibility 8:8</p> <p>responsible 8:22 10:21,22</p> <p>Road 9:13 14:14</p> <p>room 1:13 7:14</p> <p>run 16:8</p> <p>runs 16:15</p> <p>Ruthanne 1:13,16</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>scheduling 11:5</p> <p>seated 7:11</p> <p>second 17:7,8,9</p> <p>seconded 18:2</p> <p>seriously 8:8</p> <p>shows 4:19 11:1</p> <p>sic 10:15 11:10</p> <p>Silverstein 1:18 5:2,5,7,10 11:12,14 15:22 16:1,4,6 17:2,9</p> <p>sir 5:6,14 11:18 12:20 14:9 15:9,10 16:5</p>	<p>sleep 13:19</p> <p>sleeper 13:13</p> <p>somebody 15:2</p> <p>someone 19:2</p> <p>sorry 3:10,15 11:13,15 13:8</p> <p>sound 13:13</p> <p>speaking 16:16</p> <p>Spirits 19:10</p> <p>staff 11:3,6</p> <p>stand 16:10</p> <p>standing 2:22</p> <p>started 12:20</p> <p>stating 3:21</p> <p>stay 5:22</p> <p>STERN 1:19</p> <p>Street 1:13 15:1 17:16</p> <p>submit 17:13,21</p> <p>substance 16:2</p> <p>substances 8:10</p> <p>suggest 3:8</p> <p>supervisor 7:21</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>talk 15:2</p> <p>taught 15:14,17</p> <p>temporarily 4:8</p> <p>terms 11:5</p> <p>terrific 6:12</p> <p>texts 13:6</p> <p>Thank 5:13 6:22 7:2 11:9 13:7,9 15:8 18:10,13,15,16,1</p>	<p>8</p> <p>Thanks 18:11</p> <p>that's 2:5,19 3:1,15 4:5 5:3 17:5</p> <p>they're 16:12</p> <p>totally 5:7</p> <p>touch 5:11</p> <p>treatment 14:7,11</p> <p>trust 10:22 16:17,18</p> <p>try 6:10 17:17</p> <p>trying 2:14 3:3 6:8</p> <p>turn 16:13</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>understand 14:7</p> <p>unlike 10:20</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>Vernon 19:10</p> <p>vote 18:9</p> <p>vouch 16:10</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>wait 4:20</p> <p>waiter 12:22</p> <p>waiting 6:16</p> <p>wake 13:4</p> <p>Washington 1:13</p> <p>wasn't 10:10</p> <p>welcome 8:3</p> <p>we'll 6:3 7:3</p> <p>we're 11:6 12:16</p> <p>WHEREUPON 7:5 19:17</p>
--	--	--	---

Capital Reporting Company

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

Page 5

<p>whole 9:3 whose 10:12 willing 4:21 16:12,16,17 Wine 19:10 wonderful 16:8 work 10:13 13:14 worked 3:21 working 12:1 worry 7:15</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>yours 4:4 yourself 5:15 7:18 you've 8:4</p>			
--	--	--	--