

Capital Reporting Company  
In the Matter of: Ventura, LLC t/a Albert's Liquors 08-15-2012

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DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF: :  
 :  
Ventura, LLC :  
t/a Albert's Liquors :  
328 Kentucky Avenue, SE :  
Retailer A : Motion  
License No. 77335 : Hearing  
ANC 6B :  
Case No. 12-PRO-00043 :  
Motion to Dismiss Protest of :  
ANC 6B :  
-----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

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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                                 11:55 a.m.</p> <p>3           CHAIRPERSON MILLER: All right. Okay. The</p> <p>4 next case on our calendar is Case No. 12-PRO-00043,</p> <p>5 Albert's Liquors, located at 328 Kentucky Avenue, S.E.,</p> <p>6 License No. 77335. We have a motion here.</p> <p>7           And when you're ready, if you would be so</p> <p>8 kind as to introduce yourself for the record?</p> <p>9           MS. GREEN: Carol Green, ANC 6B, commissioner</p> <p>10 and chair of ABC Committee.</p> <p>11          CHAIRPERSON MILLER: Okay.</p> <p>12          MS. MCKENZIE: Monica McKenzie with DCI</p> <p>13 Interpretation.</p> <p>14          MR. VENTURA: Jorge Ventura, Albert's</p> <p>15 Liquors, as the owner.</p> <p>16          CHAIRPERSON MILLER: Okay. I just want to</p> <p>17 swear you in as an interpreter. Spanish, correct?</p> <p>18          MS. MCKENZIE: Correct.</p> <p>19          CHAIRPERSON MILLER: Okay. Would you raise</p> <p>20 your right hand, please? Okay. Do you solemnly affirm</p> <p>21 that you will faithfully and accurately interpret the</p> <p>22 proceedings in this matter from Spanish into English</p>	<p style="text-align: right;">4</p> <p>1 satisfied. That's why I believe in this establishment</p> <p>2 that is not necessary.</p> <p>3           CHAIRPERSON MILLER: Okay. Ms. Green, do you</p> <p>4 want to respond to the motion to dismiss ANC 6B?</p> <p>5           MS. GREEN: Yes. We have some areas in our</p> <p>6 ANC that are problematic in terms of quality of life</p> <p>7 issues. And we decided -- whether it was right or</p> <p>8 wrong, we decided the best way to implement change was</p> <p>9 to pass a resolution to eliminate the sale of two packs</p> <p>10 and three packs of beer and malt liquor and ale</p> <p>11 throughout the ANC area, not to pick on any one</p> <p>12 particular establishment or -- to make sure that</p> <p>13 everybody understood we were trying to be fair.</p> <p>14           And either you applied for and were approved</p> <p>15 for a single sales exemption so that you could sell</p> <p>16 twos and threes and singles or -- excuse me -- or we</p> <p>17 would not support your license renewal. And so we</p> <p>18 started that last March when we passed our resolution.</p> <p>19 We shared our resolution with all the Class A and Class</p> <p>20 B establishments in our geographic area. And since</p> <p>21 then, we've protested if the Licensee does not have a</p> <p>22 single sales exemption but sells two packs or three</p>
<p style="text-align: right;">3</p> <p>1 and from English into Spanish to the best of your</p> <p>2 ability?</p> <p>3           MS. MCKENZIE: I do.</p> <p>4           CHAIRPERSON MILLER: Okay. Thank you very</p> <p>5 much. Okay. So we're here to hear a motion, as I</p> <p>6 understand it, from a Licensee to dismiss ANC 6B's</p> <p>7 protest. That's how -- I believe it came in the form</p> <p>8 of a letter initially asked the Board to do that. The</p> <p>9 letter was received by ABRA June 19th, 2012. And the</p> <p>10 last line of this says, "I would like to request the</p> <p>11 ABC Board to dismiss the protest of ANC 6B."</p> <p>12          MR. VENTURA: Yes.</p> <p>13          CHAIRPERSON MILLER: So I'm going to first</p> <p>14 ask Mr. Ventura to -- if he wants to speak to that</p> <p>15 request. You -- and we're considering it as motion to</p> <p>16 dismiss the ANC's protest.</p> <p>17          MR. VENTURA: Well, it's in the letter. I</p> <p>18 can say anything. The reason for the letter is because</p> <p>19 I feel that it's -- the protest is unnecessary because</p> <p>20 the establishment is peaceful and clean compared to two</p> <p>21 to three years ago. The clients have -- the clients</p> <p>22 have also seen the changes in the location and they are</p>	<p style="text-align: right;">5</p> <p>1 packs.</p> <p>2           So, you know, there may have been a better</p> <p>3 way to approach this. I'm not sure. But that's the</p> <p>4 way we decided to do it.</p> <p>5           CHAIRPERSON MILLER: Okay. When I read Mr.</p> <p>6 Ventura's letter, it says that, you know, you -- well,</p> <p>7 "That the protest is an effort to pressure me into</p> <p>8 signing the voluntary agreement." And is it your</p> <p>9 understanding that if he doesn't sign the voluntary</p> <p>10 agreement, you'll go to protest for peace, order and</p> <p>11 quiet, and if he were to sign it, then there would be</p> <p>12 no protest?</p> <p>13          MS. GREEN: Well, not just a voluntary</p> <p>14 agreement. By one agreeing not to sell two packs or</p> <p>15 three packs -- or the alternative is to apply for a</p> <p>16 single sales exemption. And --</p> <p>17          CHAIRPERSON MILLER: Oh, I see.</p> <p>18          MS. GREEN: And that's what we have done</p> <p>19 since we passed our resolution in March. In fact, we</p> <p>20 tried earlier than that. And we got two of our</p> <p>21 establishments to sign voluntary agreements not selling</p> <p>22 two packs. One of them also does not sell three packs.</p>

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6	<p>1 So that's how we thought it was best to eliminate the 2 problems that were associated with -- originally with 3 singles. When the law changed banning singles, then we 4 started seeing improvements. 5 But then, when manufacturers started 6 packaging two packs, we saw an increase in people 7 buying a two pack, standing outside the establishment 8 and drinking one, throwing the container over the fence 9 into somebody's yard, urinating on the side of the 10 building, and opening the second one. 11 CHAIRPERSON MILLER: Okay. 12 MS. GREEN: So -- 13 CHAIRPERSON MILLER: Let me see. Mr. 14 Ventura, the -- your motion says you don't think that - 15 - you said just now that you don't think -- you think 16 they should be dismissed because you are clean and 17 quiet, right? But isn't that the subject of a protest 18 hearing, to prove that? 19 MR. VENTURA: It's good to apply that in 20 another -- in other locations. But why would I have to 21 pay the price for others who aren't keeping their 22 establishments when I have mine well kept?</p>	8	<p>1 MS. GREEN: Which is, you know -- 2 MR. ALBERTI: But my -- what I'm saying is 3 that I believe -- I understand that it's related to the 4 sale of two and three packs. It's related in your -- 5 in your eyes to peace, order and quiet. But would you 6 -- is it fair to categorize that as a remedy? 7 MS. GREEN: Oh, sure. 8 MR. ALBERTI: Okay. 9 MS. GREEN: Yeah, well, but there's an 10 alternative. 11 MR. ALBERTI: No, I understand. I 12 understand. 13 MS. GREEN: Yeah, okay. 14 MR. ALBERTI: But that's -- 15 MS. GREEN: I mean, it's not just sign a 16 voluntary agreement saying you won't sell twos and 17 threes. 18 MR. ALBERTI: But as an example? 19 MS. GREEN: You could also apply for a single 20 sales exemption. 21 MR. ALBERTI: And both of those are -- both 22 of those are remedies?</p>
7	<p>1 CHAIRPERSON MILLER: It looks good. I just 2 want to ask one more question. Then I'll let the other 3 Board -- other Board members ask questions. How is 4 this motion to dismiss related to your protest? I 5 mean, it sounds like it's related to their not wanting 6 to come to agreements outside the protest. Do you have 7 -- you have issues of order and quiet and peace in your 8 protest? 9 MR. GREEN: We do. 10 CHAIRPERSON MILLER: And -- okay. I'm going 11 to let others ask questions. 12 MR. ALBERTI: Ms. Green, my question's going 13 to be simple. But before I ask it, I will say that 14 your suggestion that the Licensee sign a voluntary 15 agreement that bans the sale of two and three packs of 16 alcohol is a remedy and it's not a protest issue. 17 Would you agree to that? 18 MS. GREEN: Well, in the smaller issue, yes. 19 In the larger issue, I would not agree to that because 20 we think that the sale of two packs are related to 21 peace, order and quiet issues. 22 MR. ALBERTI: Okay. But you would -- okay.</p>	9	<p>1 MS. GREEN: Two remedies, yes. 2 MR. ALBERTI: Both of those could be fairly 3 categorized as remedies? 4 MS. GREEN: Yes. 5 MR. ALBERTI: Is that right? Okay. 6 MS. GREEN: Yes. 7 MR. ALBERTI: So I think the real question -- 8 I think the Board asked -- the Chair asked this. If 9 the -- if we had a protest hearing -- we were to 10 proceed to a protest hearing, would you -- would your 11 intent -- would it be your intent to provide evidence 12 of negative impact on quality of life due to peace, 13 order and quiet issues? 14 MS. GREEN: You mean, related to Albert's? 15 MR. ALBERTI: Yes. 16 MS. GREEN: No. The straight answer is, 17 "No." It's -- 18 MR. ALBERTI: That's okay. Well, that leaves 19 me in a -- in a quandary here because your letter says 20 that you're protesting on peace, order and quiet. 21 MS. GREEN: Right. 22 MR. ALBERTI: And now, you're telling me you</p>

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10	<p>1 have no protestable issues.  2 MS. GREEN: Well, I don't see it that way. I  3 can understand how you see it that way but like I said,  4 we start -- we started this whole thing talking about  5 our geographic area, our -- the entire ANC. And so we  6 wanted to make a uniform policy and that's what we did  7 when we passed our resolution. And so since we think  8 that the sale of two packs and three packs is related  9 to peace, order and quiet, then if you don't have a  10 single sales exemption and you won't agree not to sell  11 twos and threes, we decided ANC-wide we would protest  12 on peace, order and quiet.  13 So that's the way we see it. Like I said, we  14 may have approached it wrong. There may have been a  15 better way to do this but that's what we've done.  16 That's why we're here today.  17 MR. ALBERTI: Okay. Ms. Green, I -- as a  18 fellow licensee commissioner in the -- in the District,  19 I appreciate the intent to have a universal policy  20 throughout your ANC. That's laudable. But as a Board  21 member, I have to look at each case as it comes to us.  22 And I have to look at this case in isolation to other</p>	12
11	<p>1 establishments in your ANC.  2 I mean, I -- the -- if we have a motion  3 before us that says -- basically the motion is to  4 dismiss because it's been revealed to Mr. -- sorry --  5 Ventura that there are no -- the ANC has no protestable  6 issues -- will present no protestable issues and you're  7 telling me that today. But --  8 MS. GREEN: Well, he didn't know that before  9 today.  10 MR. ALBERTI: Well, he's surmised that. I  11 mean, he seemed to surmise that because --  12 MS. GREEN: Yeah.  13 MR. ALBERTI: -- says that --  14 MS. GREEN: Right.  15 MR. ALBERTI: -- that he was told that there  16 are no -- he says in his letter he was told that there  17 were no littering, loitering and trash issues.  18 MS. GREEN: Which is true. I have to say  19 that he's done a fabulous job of cleaning up. We  20 protested the last renewal and he has done a great job  21 cleaning up. We -- I still am baffled because it seems  22 simple to go apply for a single sales exemption. And</p>	13
10	<p>1 he -- when I suggested that to him, he said, "Well, I  2 don't want to sell singles." And I said, "But you  3 don't have to. You could -- you could do that for the  4 community because this is what our community wants.  5 And you could sell two packs still. And then you would  6 be complying with our policy."  7 So I'm baffled. I guess we all are on the  8 ANC but here we are today.  9 MR. ALBERTI: I --  10 CHAIRPERSON MILLER: I'm really baffled.  11 MR. ALBERTI: I empathize with your dilemma.  12 MS. GREEN: Thank you.  13 MR. ALBERTI: I understand perfectly.  14 MS. GREEN: I feel better now.  15 MR. ALBERTI: And I really do appreciate your  16 candor here.  17 MS. GREEN: Thank you.  18 MR. ALBERTI: Thank you.  19 CHAIRPERSON MILLER: I just want to make sure  20 I understand this. Doesn't -- Mr. Ventura does not  21 want to sell singles sales?  22 MS. GREEN: He does not.</p>	13

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14	<p>1 just want it for consistency in the -- 2 MS. GREEN: Yeah. Can you suggest a better 3 way or should I ask that after you rule? 4 CHAIRPERSON MILLER: Okay. 5 MS. GREEN: We put it in our rebuttal letter. 6 I'm sure you -- 7 CHAIRPERSON MILLER: Okay. 8 MS. GREEN: -- you've seen it, that we said 9 that applying our resolution to some but not all 10 licensees could negatively impact the enforceability 11 and effectiveness of the commission's policy. And 12 that's why we did it this way. So -- 13 CHAIRPERSON MILLER: Okay. And any other 14 questions? 15 (No audible response.) 16 CHAIRPERSON MILLER: Comments? 17 (No audible response.) 18 CHAIRPERSON MILLER: Okay. Does what -- 19 MR. SILVERSTEIN: Madam Chair -- 20 CHAIRPERSON MILLER: Yeah? 21 MR. SILVERSTEIN: -- we've -- I think we have 22 the information that we need. And perhaps we should go</p>	16	<p>1 yet, please. 2 CHAIRPERSON MILLER: Okay. 3 MR. ALBERTI: Just one more administrative 4 CHAIRPERSON MILLER: Okay. We're going to 5 read the Open Meetings Act instructions because we will 6 discuss this probably later today. All right. As 7 Chairperson of the Alcoholic Beverage Control Board for 8 the District of Columbia and in accordance with Section 9 405 of the Open Meetings Amendment Act of 2010, I move 10 that the ABC Board hold a closed meeting for the 11 purpose of seeking legal advice from our counsel on 12 Case No. 12- PRO-00043, Albert's Liquors, with respect 13 to the motion to dismiss the protestant, per Section 14 405(b)(4) of the Open Meetings Amendment Act of 2010 15 and deliberating upon this case for the reasons cited 16 in Section 405(b)(13) of the Open Meetings Amendment 17 Act of 2010. 18 Is there a second? 19 MR. NOPHLIN: Second. 20 CHAIRPERSON MILLER: Roll call. Mr. Nophlin? 21 MR. NOPHLIN: I agree. 22 CHAIRPERSON MILLER: Mr. Brooks?</p>
15	<p>1 back and discuss this matter and rule on it. 2 CHAIRPERSON MILLER: We can. Either that or 3 issue an -- issue an order afterwards. 4 MR. ALBERTI: We can take it under advisement 5 and just -- 6 CHAIRPERSON MILLER: Yeah. 7 MR. ALBERTI: -- and issue an order within 90 8 days. 9 CHAIRPERSON MILLER: Okay. Why don't we do 10 that? Is that all right with everybody? Okay. So now 11 that you've been heard and we understood it, I think at 12 this point we'll just issue an order on that at a later 13 date. 14 MS. GREEN: And did you say when? 15 CHAIRPERSON MILLER: No. But -- no. I don't 16 think it'll be too long though. 17 MS. GREEN: Okay. 18 CHAIRPERSON MILLER: All right. Thank you 19 very -- 20 MR. ALBERTI: No. No. Wait, wait. 21 CHAIRPERSON MILLER: No? 22 MR. ALBERTI: Excuse me. Just don't leave</p>	17	<p>1 MR. BROOKS: I agree. 2 CHAIRPERSON MILLER: Mr. Alberti? 3 MR. ALBERTI: I agree. 4 CHAIRPERSON MILLER: Ms. Miller agrees. Mr. 5 Silverstein? 6 MR. SILVERSTEIN: I agree. 7 CHAIRPERSON MILLER: Mr. Jones? 8 MR. JONES: I agree. 9 CHAIRPERSON MILLER: Then it appears that the 10 motion has passed by a vote of 6-0-0. I hereby give 11 notice that the ABC Board will hold a closed meeting in 12 the ABC Board conference room later today pursuant to 13 the Open Meetings Amendment Act of 2010 and issue an 14 order well within 90 days -- well within. Yeah, thank 15 you. 16 MR. ALBERTI: Ms. Green, are you saying 17 you're not running again? 18 MS. GREEN: That's right. 19 MR. ALBERTI: Well, thank you for your 20 service. 21 MS. GREEN: Thank you. 22 CHAIRPERSON MILLER: Thank you.</p>

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1 MR. ALBERTI: It's been a pleasure --

2 MS. GREEN: Thank you for --

3 MR. ALBERTI: -- working with you.

4 MS. GREEN: -- yours and Mr. Silverstein --

5 MR. ALBERTI: And the Board members have had

6 the pleasure working with you.

7 MR. JONES: And I'm going --

8 MS. GREEN: Well, thank you so much.

9 MR. JONES: Uh-huh.

10 MS. GREEN: I've enjoyed it as well.

11 MR. ALBERTI: Thank you.

12 MS. GREEN: It's one of my regrets.

13 MR. SILVERSTEIN: Thank you, commissioner,

14 and good luck.

15 MS. GREEN: Thank you.

16 MR. SILVERSTEIN: Thank you for your service.

17 MS. GREEN: Thank you.

18 (WHEREUPON, at 12:15 p.m., the hearing was

19 concluded.)

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