

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF: :

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Case# 11-CC-00060 :

Yes Organic Petwork, Inc. : Show Cause

t/a Yes Organic Market : Hearing

4100 Georgia Avenue NW : (Status)

License #81925 :

Retailer B :

ANC-4C :

Sale to Minor, No ABC :

Manager on Duty :

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January 18, 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

CALVIN NOPHLIN, Member

NICK ALBERTI, Member

DONALD BROOKS, Member

MIKE SILVERSTEIN, Member

HERMAN JONES, Member

JEANNETTE MOBLEY, Member

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

2 11:51 a.m.

3 CHAIRPERSON MILLER: The next case
4 will be case #11-CC-00060, Yes Organic
5 Petwork, Inc., trading as Yes Organic Market,
6 4100 Georgia Avenue NW, License #81925 in ANC-
7 4C.

8 Will the parties introduce
9 themselves.

10 MR. STERN: Yes. Michael Stern
11 representing the District of Columbia.

12 MR. CHA: My name is Gary Cha. I
13 am the owner of the Yes Organic Market and
14 Petwork.

15 CHAIRPERSON MILLER: Okay. Are
16 there any preliminary matters?

17 MR. STERN: Yes, there are. I
18 believe the respondent has received a copy of
19 the notice and will waive a formal reading
20 thereof. The parties have entered into an
21 agreement that will resolve this matter. We
22 hope the Board will accept.

1 CHAIRPERSON MILLER: I'm sorry.
2 Mr. Jones.

3 MEMBER JONES: I apologize.

4 CHAIRPERSON MILLER: Do you want
5 me to clarify --

6 MEMBER JONES: Yes. I would like
7 to hear that from the licensee, please. Thank
8 you.

9 CHAIRPERSON MILLER: Okay. Mr.
10 Cha, did you receive the Notice to Show Cause?

11 MR. CHA: Yes, I did.

12 CHAIRPERSON MILLER: Did you read
13 the notice?

14 MR. CHA: Yes, I did.

15 CHAIRPERSON MILLER: And did you
16 understand it?

17 MR. CHA: Yes, I did.

18 CHAIRPERSON MILLER: Do you waive
19 my reading of the notice into the record or
20 would you like it read into the record? There
21 is a requirement that I read the notice that
22 you got into the record, that I read it now

1 unless you waive that. You have a notice and
2 you read it?

3 MR. CHA: Yes.

4 CHAIRPERSON MILLER: Do you know
5 what I mean when I say waive it?

6 MR. CHA: I'm not quite sure what
7 I'm waiving. What I do know is that what we
8 have done are clear violations and willing to
9 pay what we are responsible for, the penalties
10 and the cause. We have done whatever is
11 needed so that it wouldn't happen in the
12 future. If you would allow me to say a few
13 words.

14 CHAIRPERSON MILLER: Not yet.
15 This is --

16 MR. CHA: It's a show cause
17 hearing.

18 CHAIRPERSON MILLER: No, no.
19 You'll get to address but they want it to go
20 in the right order. There were just a few
21 preliminary questions like did you get it and
22 did you read it.

1 MR. CHA: Yes.

2 CHAIRPERSON MILLER: Okay.

3 MEMBER ALBERTI: Do you waive?

4 CHAIRPERSON MILLER: He doesn't
5 understand waive.

6 MEMBER ALBERTI: Mr. Cha, what the
7 Chair is asking you is whether you will allow
8 her to skip the requirement --

9 MR. CHA: Yes, that's fine.

10 MEMBER ALBERTI: -- to read this
11 whole notice into the record. And that is
12 agreeable to you?

13 MR. CHA: Yes.

14 CHAIRPERSON MILLER: Okay.

15 MEMBER ALBERTI: Thank you very
16 much.

17 CHAIRPERSON MILLER: Okay. Now we
18 can go back to Mr. Stern.

19 MR. STERN: Yes. The parties
20 entered into an agreement which we hope the
21 Board will accept as an Offer-in-Compromise.
22 The agreement is that the respondent will pay

1 a fine of \$3,250 for both charges.

2 It will be divided \$2,500 for the
3 sale to minor charge and \$750 for the no ABC
4 manager violation. They do have priors for no
5 ABC manager. In addition, that will be paid
6 within 60 days.

7 In addition, there would be a
8 five-day suspension which would be stayed for
9 a period of one year and then dismissed if
10 there are no further violations in one year.

11 CHAIRPERSON MILLER: Mr. Cha, is
12 that your understanding? Correct me if I'm
13 wrong. I'm going to repeat what the Offer-in-
14 Compromise is and you tell us whether you
15 agree to that.

16 As I understand it, it's a total
17 fine of \$3,250. \$2,500 was for the first
18 offense, sale to a minor, and then \$750 was
19 for operating without the presence of a
20 manager. That you will pay within 60 days

21 MR. CHA: Yes.

22 CHAIRPERSON MILLER: That a five-

1 day suspension is stayed for a period of one
2 year pending no further violations from
3 today's hearing.

4 MR. CHA: Yes.

5 CHAIRPERSON MILLER: That is your
6 understanding and you agree to it. Okay. Any
7 questions?

8 MEMBER ALBERTI: Ask him if he
9 waives his right to a hearing.

10 CHAIRPERSON MILLER: And do you
11 waive -- he doesn't know the word waive.

12 You know you won't have a hearing.
13 This is instead of a hearing.

14 MR. CHA: Right.

15 CHAIRPERSON MILLER: That's okay
16 with you?

17 MR. CHA: That's fine.

18 CHAIRPERSON MILLER: Any other
19 comments or questions?

20 The Board is going to take a short
21 recess and we'll be right back. You stay
22 right at the table and we'll get back to you.

1 As Chairperson of the Alcoholic
2 Beverage Control Board for the District of
3 Columbia and in accordance with Section 405 of
4 the Open Meetings Amendment Act of 2010, I
5 move that the ABC Board hold a closed meeting
6 for the purpose of seeking legal advice from
7 our counsel on case #11-CC-00060 and/or
8 deliberation.

9 Is there a second?

10 MEMBER NOPHLIN: Second.

11 CHAIRPERSON MILLER: All those in
12 favor say aye.

13 BOARD MEMBERS: Aye.

14 CHAIRPERSON MILLER: All those
15 opposed? All those abstaining? The vote is
16 seven zero zero.

17 If you need to take a five-minute
18 break anybody, feel free. We are off the
19 record now.

20 (Whereupon, at 11:57 a.m. off the
21 record until 12:03 p.m.)

22 CHAIRPERSON MILLER: We are back

1 on the record.

2 Anything else from the parties
3 before the Board acts on the matter?

4 MR. CHA: Can I please make a
5 statement? I know I need to pay the fine.
6 What we have done there is no excuse for
7 selling to underage person but the lady who
8 sold to underage minor, she is battling breast
9 cancer and we have been paying her for a full
10 salary for over a year and on that day she
11 feels obligated that she should come in to
12 work whenever she feels better from the affect
13 of the chemotherapy.

14 On that day she came to work and
15 perhaps she should have stayed home. Even
16 then she had done everything that we have
17 trained her to do. Checked the ID and checked
18 the age. If you have any doubts, ask for the
19 information on the ID.

20 She calculated 19 and she said, "I
21 don't know why I said 19 was okay." She
22 apologized. Normally anyone who violates we

1 would terminate the employee but because she
2 needs the job and she is a divorcee with no
3 other income so she still works for us.
4 Again, I'm not using this as an excuse but we
5 are doing all we can so that this kind of
6 thing doesn't happen.

7 CHAIRPERSON MILLER: Thank you.
8 I'm going to move that we accept the Offer-in-
9 Compromise that is being presented to us in
10 this case. The fine of \$3,250, \$2,500 for the
11 offense regarding sale to a person under the
12 age of 21, and \$750 pertaining to the offense
13 of not having a Board-approved manager
14 present.

15 Payment will be made within 60
16 days of today's hearing. Five days suspension
17 will be stayed for one year pending no further
18 violations, that one year starting from
19 today's hearing date.

20 Do I have a second?

21 MEMBER NOPHLIN: Second.

22 CHAIRPERSON MILLER: Does anybody

1 want to speak to the motion before we vote?

2 MEMBER ALBERTI: I would.

3 CHAIRPERSON MILLER: Mr. Alberti.

4 MEMBER ALBERTI: Mr. Cha, I will
5 note that your history -- Mr. Cha?

6 MR. CHA: Yes.

7 MEMBER ALBERTI: I will note that
8 in your history there are -- in the last two
9 years there are three instances where you did
10 not have at this store a Board-approved ABC
11 manager on duty. There was one -- I'm
12 troubled that in this instance there wasn't
13 one.

14 Given your record with your other
15 licenses that you hold for many other markets,
16 I'm a little shocked at this pattern and I
17 suspect better of you really. I urge you to
18 look at what is going on at this particular
19 location and try to remedy that situation
20 because it's not good. The Board really
21 frowns upon the service of alcohol without an
22 ABC approved manager on duty. Thank you.

1 MR. CHA: You are absolutely
2 right. I have a minimum of four people that
3 are certified ABC licensed.

4 CHAIRPERSON MILLER: Okay. Any
5 other comments? Then there is a motion that
6 has been seconded. All those in favor say
7 aye.

8 BOARD MEMBERS: Aye.

9 CHAIRPERSON MILLER: All those
10 opposed? All those abstaining? Then the vote
11 is seven zero zero to accept the Offer-in-
12 Compromise. Thank you very much.

13 (Whereupon, at 12:07 p.m. the
14 hearing was adjourned.)
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<p style="text-align: center;">A</p> <p>ABC 1:13 6:3,5 8:5 11:10,22 12:3 absolutely 12:1 abstaining 8:15 12:10 accept 2:22 5:21 10:8 12:11 Act 8:4 acts 9:3 addition 6:5,7 address 4:19 adjourned 12:14 advice 8:6 affect 9:12 age 9:18 10:12 agree 6:15 7:6 agreeable 5:12 agreement 2:21 5:20,22 Alberti 1:22 5:3,6 5:10,15 7:8 11:2,3 11:4,7 alcohol 11:21 Alcoholic 1:3,16,17 8:1 allow 4:12 5:7 Amendment 8:4 ANC 2:6 ANC-4C 1:12 and/or 8:7 anybody 8:18 10:22 apologize 3:3 apologized 9:22 approved 11:22 asking 5:7 Avenue 1:10 2:6 aye 8:12,13 12:7,8 a.m 2:2 8:20</p> <hr/> <p style="text-align: center;">B</p> <p>B 1:12 back 5:18 7:21,22 8:22 battling 9:8 believe 2:18</p>	<p>better 9:12 11:17 Beverage 1:3,16,17 8:2 Board 1:3,17 2:22 5:21 7:20 8:2,5,13 9:3 11:20 12:8 Board-approved 10:13 11:10 break 8:18 breast 9:8 BROOKS 1:22 Building 1:17</p> <hr/> <p style="text-align: center;">C</p> <p>calculated 9:20 CALVIN 1:21 cancer 9:9 case 1:9 2:3,4 8:7 10:10 cause 1:9 3:10 4:10 4:16 certified 12:3 Cha 2:12,12 3:10 3:11,14,17 4:3,6 4:16 5:1,6,9,13 6:11,21 7:4,14,17 9:4 11:4,5,6 12:1 Chair 5:7 Chairperson 1:18 1:21 2:3,15 3:1,4 3:9,12,15,18 4:4 4:14,18 5:2,4,14 5:17 6:11,22 7:5 7:10,15,18 8:1,11 8:14,22 10:7,22 11:3 12:4,9 charge 6:3 charges 6:1 checked 9:17,17 chemotherapy 9:13 clarify 3:5 clear 4:8 closed 8:5 Columbia 1:1 2:11 8:3 come 9:11 comments 7:19</p>	<p>12:5 Compromise 6:14 10:9 12:12 Control 1:3,16,17 8:2 copy 2:18 Correct 6:12 counsel 8:7</p> <hr/> <p style="text-align: center;">D</p> <p>date 10:19 day 7:1 9:10,14 days 6:6,20 10:16 10:16 deliberation 8:8 dismissed 6:9 District 1:1 2:11 8:2 divided 6:2 divorcee 10:2 doing 10:5 DONALD 1:22 doubts 9:18 duty 1:13 11:11,22 D.C 1:18</p> <hr/> <p style="text-align: center;">E</p> <p>employee 10:1 entered 2:20 5:20 excuse 9:6 10:4</p> <hr/> <p style="text-align: center;">F</p> <p>favor 8:12 12:6 feel 8:18 feels 9:11,12 fine 5:9 6:1,17 7:17 9:5 10:10 first 6:17 five 6:22 10:16 five-day 6:8 five-minute 8:17 formal 2:19 four 12:2 free 8:18 frowns 11:21 full 9:9 further 6:10 7:2 10:17</p>	<p>future 4:12</p> <hr/> <p style="text-align: center;">G</p> <p>Gary 2:12 Georgia 1:10 2:6 Given 11:14 go 4:19 5:18 going 6:13 7:20 10:8 11:18 good 11:20</p> <hr/> <p style="text-align: center;">H</p> <p>happen 4:11 10:6 hear 3:7 hearing 1:10,17 4:17 7:3,9,12,13 10:16,19 12:14 HERMAN 1:23 history 11:5,8 hold 8:5 11:15 home 9:15 hope 2:22 5:20</p> <hr/> <p style="text-align: center;">I</p> <p>ID 9:17,19 income 10:3 information 9:19 instance 11:12 instances 11:9 introduce 2:8</p> <hr/> <p style="text-align: center;">J</p> <p>January 1:15 JEANNETTE 1:24 job 10:2 Jones 1:23 3:2,3,6</p> <hr/> <p style="text-align: center;">K</p> <p>kind 10:5 know 4:4,7 7:11,12 9:5,21</p> <hr/> <p style="text-align: center;">L</p> <p>lady 9:7 legal 8:6 License 1:11 2:6 licensed 12:3 licensee 3:7</p>	<p>licenses 11:15 little 11:16 location 11:19 look 11:18</p> <hr/> <p style="text-align: center;">M</p> <p>manager 1:13 6:4,5 6:20 10:13 11:11 11:22 Market 1:10 2:5,13 markets 11:15 matter 1:8 2:21 9:3 matters 2:16 mean 4:5 meeting 1:5 8:5 Meetings 8:4 Member 1:21,22 1:22,23,23,24 3:3 3:6 5:3,6,10,15 7:8 8:10 10:21 11:2,4,7 MEMBERS 8:13 12:8 met 1:17 Michael 2:10 MIKE 1:23 Miller 1:18,21 2:3 2:15 3:1,4,9,12,15 3:18 4:4,14,18 5:2 5:4,14,17 6:11,22 7:5,10,15,18 8:11 8:14,22 10:7,22 11:3 12:4,9 minimum 12:2 minor 1:13 6:3,18 9:8 MOBLEY 1:24 motion 11:1 12:5 move 8:5 10:8</p> <hr/> <p style="text-align: center;">N</p> <p>name 2:12 need 8:17 9:5 needed 4:11 needs 10:2 NICK 1:22 NOPHLIN 1:21 8:10 10:21</p>
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