

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
 :
S & W D.C., LLC :
t/a Smith & Wollensky : Show Cause
1112 19th Street, NW : Hearing
Retailer CR - ANC-2B : (Status)
License No. 60001 :
Case #13-AUD-00027 :
 :
(Failed to File Quarterly :
Statements-4th Quarter 2012) :
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October 30, 2013

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller,

presiding.

PRESENT:
RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member

DONALD BROOKS, Member
MIKE SILVERSTEIN, Member

ALSO PRESENT:
LOUISE PHILLIPS, OAG

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

(10:00 a.m.)

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3 CHAIRPERSON MILLER: Sir, you
4 might as well come forward. I think that you
5 are --

6 MR. LAVERY: Smith & Wollensky.

7 CHAIRPERSON MILLER: Okay. You
8 are the next case anyway.

9 MS. PHILLIPS: No. 2.

10 CHAIRPERSON MILLER: I'm calling
11 Case No. 13-AUD-00027, Smith & Wollensky
12 located at 1112 19th Street, N.W., License No.
13 60001, in ANC-2B.

14 MS. PHILLIPS: Louise Phillips,
15 Assistant Attorney General for the District of
16 Columbia. Good morning again.

17 MR. LAVERY: I'm sorry, David
18 Lavery. I'm the general manager, Smith &
19 Wollensky.

20 CHAIRPERSON MILLER: You're the
21 general manager. Do you have authorization to
22 represent the establishment at this hearing?

1 MR. LAVERY: I do.

2 CHAIRPERSON MILLER: Do you have
3 written authorization?

4 MR. LAVERY: I'm afraid not, no.
5 I think it was verbal.

6 CHAIRPERSON MILLER: What?

7 MR. LAVERY: It was verbal. Our
8 corporate office is in Boston.

9 CHAIRPERSON MILLER: Okay. So I
10 think at this point all we can do today is set
11 it for hearing. I didn't know if there were
12 any preliminary matters on this case?

13 MS. PHILLIPS: There are no
14 preliminary matters.

15 CHAIRPERSON MILLER: Okay.

16 MS. PHILLIPS: I don't have any
17 note that they were contacted or were able to
18 reach anyone at the establishment.

19 CHAIRPERSON MILLER: Do you know
20 if your establishment received notice of this
21 hearing?

22 MR. LAVERY: Yes.

1 CHAIRPERSON MILLER: Okay.

2 MR. LAVERY: I assumed it was to
3 Boston. Our legal department would have
4 contacted the Attorney General's office --

5 CHAIRPERSON MILLER: Right.

6 MR. LAVERY: -- regarding
7 settlement. We don't dispute that the filing
8 was late.

9 CHAIRPERSON MILLER: Okay.

10 MR. LAVERY: I thought they had
11 taken care of that and this was just to find
12 out what the fine was and go ahead and settle.

13 CHAIRPERSON MILLER: Okay.

14 MR. LAVERY: Consider that as a
15 mistake.

16 CHAIRPERSON MILLER: Okay. So you
17 certainly read the notice and understood it?

18 MR. LAVERY: Yes.

19 CHAIRPERSON MILLER: All right.
20 Okay. I'm going to make that notice part of
21 the record, if there are no objections.

22 (Whereupon, the document was

1 marked as Exhibit 1 for
2 identification.)

3 CHAIRPERSON MILLER: And then I
4 think like the previous case, if you can --
5 Ms. Phillips, who is the Assistant Attorney
6 General on this?

7 MS. PHILLIPS: Ms. Gephardt is the
8 Assistant Attorney General, paragraph 2 of the
9 notice on the first page. Her number is the
10 top line of the second page.

11 MR. LAVERY: Can I see that? I
12 don't see her name. Ah, I see Chrissy
13 Gephardt.

14 MS. PHILLIPS: Yeah.

15 MR. LAVERY: Okay. So I just need
16 to contact her and make arrangements to come
17 back on the 15th?

18 CHAIRPERSON MILLER: No. Okay.
19 So what happens is because we are not being
20 presented with an offer in compromise or
21 settlement at this stage, I'm setting the case
22 for a Show Cause Hearing on January 15, 2014

1 at 2:30 p.m. That would be a hearing on the
2 merits. However, in the meantime, you can
3 contact Ms. Gephardt and try to work out a
4 settlement. And if that happens, we will see
5 you on a Wednesday before that to consider the
6 settlement.

7 MR. LAVERY: Okay. Good. Fine.

8 CHAIRPERSON MILLER: In which
9 case, it would -- the hearing would come off
10 the calendar.

11 MR. LAVERY: Okay.

12 CHAIRPERSON MILLER: Okay. Are
13 you clear about that?

14 MR. LAVERY: I think so. Which
15 Wednesday before is that?

16 CHAIRPERSON MILLER: So what I'm
17 saying is January 15th is the hearing date.
18 If you don't reach a settlement, you go to
19 hearing on the 15th.

20 MR. LAVERY: Right.

21 CHAIRPERSON MILLER: So you have
22 until then if you want to meet with Ms.

1 Gephardt. If you reach a settlement with her,
2 then any Wednesday before then --

3 MR. LAVERY: Oh, okay.

4 CHAIRPERSON MILLER: -- you can
5 come. We will get you on the calendar if you
6 have a settlement to propose and then we will
7 consider it on that date.

8 MR. LAVERY: Understood.

9 CHAIRPERSON MILLER: Okay.

10 MS. PHILLIPS: Madam Chair?

11 CHAIRPERSON MILLER: And Ms.

12 Gephardt understands. Yes?

13 MS. PHILLIPS: Yes, does Mr.
14 Lavery have something written in the record?
15 He needs to get that before he can appear.

16 CHAIRPERSON MILLER: If you are
17 going to appear on behalf of the establishment
18 with respect to any kind of a settlement, you
19 need to get in writing authorization for you,
20 but you need to do that.

21 MR. LAVERY: Does that need to be
22 notarized?

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CHAIRPERSON MILLER: No, I don't think so.

MS. PHILLIPS: I have not seen them notarized.

CHAIRPERSON MILLER: No, no.

MR. LAVERY: Okay. That's fine. That's fine. Not a problem.

CHAIRPERSON MILLER: Okay. Thank you.

MR. LAVERY: Thank you.

(Whereupon, the Show Cause (Status) Hearing in the above-entitled matter was concluded at 10:04 a.m.)

<p style="text-align: center;">A</p> <p>able 3:17 above-entitled 8:12 afraid 3:4 Ah 5:12 ahead 4:12 ALBERTI 1:19 Alcoholic 1:2,13,14 ANC-2B 1:8 2:13 anyway 2:8 appear 7:15,17 arrangements 5:16 Assistant 2:15 5:5 5:8 assumed 4:2 Attorney 2:15 4:4 5:5,8 authorization 2:21 3:3 7:19 a.m 2:2 8:13</p> <hr/> <p style="text-align: center;">B</p> <p>back 5:17 behalf 7:17 Beverage 1:2,13,14 Board 1:2,14 Boston 3:8 4:3 BROOKS 1:20 Building 1:14</p> <hr/> <p style="text-align: center;">C</p> <p>calendar 6:10 7:5 calling 2:10 care 4:11 case 1:9 2:8,11 3:12 5:4,21 6:9 Cause 1:6 5:22 8:11 certainly 4:17 Chair 7:10 Chairperson 1:15 1:19 2:3,7,10,20 3:2,6,9,15,19 4:1 4:5,9,13,16,19 5:3 5:18 6:8,12,16,21 7:4,9,11,16 8:1,5 8:8</p>	<p>Chrissy 5:12 clear 6:13 Columbia 1:1 2:16 come 2:4 5:16 6:9 7:5 compromise 5:20 concluded 8:13 consider 4:14 6:5 7:7 contact 5:16 6:3 contacted 3:17 4:4 Control 1:2,13,14 corporate 3:8 CR 1:8</p> <hr/> <p style="text-align: center;">D</p> <p>date 6:17 7:7 David 2:17 department 4:3 dispute 4:7 District 1:1 2:15 document 4:22 DONALD 1:20 D.C 1:6,15</p> <hr/> <p style="text-align: center;">E</p> <p>establishment 2:22 3:18,20 7:17 Exhibit 5:1</p> <hr/> <p style="text-align: center;">F</p> <p>Failed 1:10 File 1:10 filing 4:7 find 4:11 fine 4:12 6:7 8:6,7 first 5:9 forward 2:4</p> <hr/> <p style="text-align: center;">G</p> <p>general 2:15,18,21 5:6,8 General's 4:4 Gephardt 5:7,13 6:3 7:1,12 go 4:12 6:18 going 4:20 7:17 Good 2:16 6:7</p>	<p style="text-align: center;">H</p> <p>happens 5:19 6:4 hearing 1:7,14 2:22 3:11,21 5:22 6:1,9 6:17,19 8:12</p> <hr/> <p style="text-align: center;">I</p> <p>identification 5:2</p> <hr/> <p style="text-align: center;">J</p> <p>January 5:22 6:17</p> <hr/> <p style="text-align: center;">K</p> <p>kind 7:18 know 3:11,19</p> <hr/> <p style="text-align: center;">L</p> <p>late 4:8 Lavery 2:6,17,18 3:1,4,7,22 4:2,6 4:10,14,18 5:11 5:15 6:7,11,14,20 7:3,8,14,21 8:6,10 legal 4:3 License 1:8 2:12 line 5:10 LLC 1:6 located 2:12 Louise 1:23 2:14</p> <hr/> <p style="text-align: center;">M</p> <p>Madam 7:10 manager 2:18,21 marked 5:1 matter 1:5 8:12 matters 3:12,14 meet 6:22 MEETING 1:3 Member 1:19,20 1:21 merits 6:2 met 1:14 MIKE 1:21 Miller 1:15,19 2:3 2:7,10,20 3:2,6,9 3:15,19 4:1,5,9,13 4:16,19 5:3,18 6:8 6:12,16,21 7:4,9</p>	<p>7:11,16 8:1,5,8 mistake 4:15 morning 2:16</p> <hr/> <p style="text-align: center;">N</p> <p>name 5:12 need 5:15 7:19,20 7:21 needs 7:15 NICK 1:19 notarized 7:22 8:4 note 3:17 notice 3:20 4:17,20 5:9 number 5:9 NW 1:7 N.W 1:15 2:12</p> <hr/> <p style="text-align: center;">O</p> <p>OAG 1:23 objections 4:21 October 1:12 offer 5:20 office 3:8 4:4 Oh 7:3 okay 2:7 3:9,15 4:1 4:9,13,16,20 5:15 5:18 6:7,11,12 7:3 7:9 8:6,8</p> <hr/> <p style="text-align: center;">P</p> <p>page 5:9,10 paragraph 5:8 part 4:20 Phillips 1:23 2:9,14 2:14 3:13,16 5:5,7 5:14 7:10,13 8:3 point 3:10 preliminary 3:12 3:14 PRESENT 1:18,22 presented 5:20 presiding 1:16 previous 5:4 problem 8:7 propose 7:6 P-R-O-C-E-E-D-... 2:1</p>	<p>p.m 6:1</p> <hr/> <p style="text-align: center;">Q</p> <p>Quarter 1:10 Quarterly 1:10</p> <hr/> <p style="text-align: center;">R</p> <p>reach 3:18 6:18 7:1 read 4:17 received 3:20 record 4:21 7:14 Reeves 1:14 regarding 4:6 represent 2:22 respect 7:18 Retailer 1:8 right 4:5,19 6:20 Room 1:14 Ruthanne 1:15,19</p> <hr/> <p style="text-align: center;">S</p> <p>S 1:6 saying 6:17 second 5:10 see 5:11,12,12 6:4 seen 8:3 set 3:10 setting 5:21 settle 4:12 settlement 4:7 5:21 6:4,6,18 7:1,6,18 Show 1:6 5:22 8:11 SILVERSTEIN 1:21 Sir 2:3 Smith 1:6 2:6,11,18 sorry 2:17 stage 5:21 Statements-4th 1:10 Status 1:8 8:12 Street 1:7,15 2:12 Suite 1:15</p> <hr/> <p style="text-align: center;">T</p> <p>taken 4:11 Thank 8:8,10 think 2:4 3:5,10 5:4</p>
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