

Capital Reporting Company

In the Matter of: 2007 14th Street Productions, LLC t/a Marvin 11-19-2012

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DISTRICT OF COLUMBIA

ALCOHOL BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF: :  
: :  
2007 14th Street Productions, LLC :  
t/a Marvin :  
2007 14th Street, NW :  
Retailer CT : Roll Call  
License No. 076166 : Hearing  
Case No. 12-PRO-00081 :  
New Application :  
-----x

November 19, 2012

The Alcohol Beverage Control

Board met in the Alcohol Beverage Control Hearing room,  
Reeves Building, 2000 14th Street, N.W., Washington  
D.C.,

PRESENT

LaVerne Fletcher, presiding.

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

2 10:08 a.m.

3 MS. FLETCHER: Would the parties in the  
4 matter of Marvin please come forward, the parties in  
5 the matter of Marvin. This is Case Number 12-PRO-  
6 00081, 2007 14th Street Productions, LLC t/a Marvin,  
7 2007 14th Street, NW, License Number ABRA-076166. This  
8 is a Retailer CT Substantial Change, expansion to the  
9 second floor with an additional 87 seats.

10 The protest issues are adverse impact on  
11 peace, order and quiet, residential parking and  
12 vehicular and pedestrian safety and real property  
13 values.

14 My name is LaVerne Fletcher and I'll be  
15 conducting the roll call hearing as the board's agent,  
16 pursuant to D.C. Official Code 1601.2

17 Introductions, beginning with the applicant, please.

18 MS. FITCH: Candace Fitch, attorney for the  
19 applicant.

20 MS. FLETCHER: Ms. Fitch, would you spell  
21 your name for the court reporter, please.

22 MS. FITCH: F as in Frank, I-T-C-H.

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1 MS. FLETCHER: And your first name?

2 MS. FITCH: Candace, C-A-N-D-A-C-E.

3 MS. FLETCHER: Thank you. And your name,

4 sir?

5 MR. HILTON: Sure. Richard Hilton, H-I-L-T-

6 O-N.

7 MS. FLETCHER: H-I-L-T-O-N?

8 MR. HILTON: Yes, ma'am.

9 MS. FLETCHER: Thank you. And the first  
10 name is Richard?

11 MR. HILTON: Yes, ma'am.

12 MS. FLETCHER: Okay. Thank you. And present  
13 on behalf of the protestants?

14 MR. BURKE: My name is Clarence Burke, I go  
15 by Clay Burke. It's C-L-A-R-E-N-C-E, B-U-R-K-E, Jr.,  
16 J-R.

17 MS. FLETCHER: Thank you.

18 MR. BURKE: I reside at 1390 V Street, NW,  
19 #510.

20 MS. FLETCHER: Okay. Thank you very much.  
21 And your name, sir?

22 MR. DESANTO: Good morning. My name is

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1 Joseph DeSanto. Last name D-E capital S-A-N-T-O. And  
2 I also reside at 1390 V as in Victor Street, NW, Unit  
3 Number 422.

4 MS. FLETCHER: Okay. Thank you. Your name,  
5 sir?

6 MR. HEGEMAN: Hi. good morning. My name is  
7 Jacob Hegeman, that's spelled H-E-G-E-M-A-N and I also  
8 reside at 1390 V Street, NW, #112.

9 MS. FLETCHER: Jacob is the first name?

10 MR. HEGEMAN: Correct.

11 MS. FLETCHER: Can you spell the last name  
12 for me one more time.

13 MR. HEGEMAN: Sure. It's H-E-G-E-M-A-N.

14 MS. FLETCHER: Okay. Thank you very much.

15 And you signed the protest letter? You each signed the  
16 protest letter?

17 (No audible response.)

18 MS. FLETCHER: I have it here. Just for the  
19 record I just need you to say yes.

20 MR. HEGEMAN: Yes, I signed it.

21 MS. FLETCHER: Thank you.

22 MS. FITCH: Ms. Fletcher, I don't -- what was

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1 the second gentleman's name? I'm sorry.

2 MS. FLETCHER: Yeah, I'm --

3 MR. BURKE: Joseph DeSanto. He's here as a  
4 representative of Lauren Victor (ph).

5 MR. DESANTO: Lauren Victor.

6 MS. FLETCHER: Yeah, I'll -- thank you, Ms.  
7 Fitch. I'm getting the particulars right now. Clay  
8 Burke did sign the protest letter. Jacob Hegeman  
9 signed the protest letter.

10 MS. FITCH: Yes.

11 MS. FLETCHER: And Mr. DeSanto, did you say  
12 you're here on behalf of someone else?

13 MR. DESANTO: Lauren Victor.

14 MS. FLETCHER: Okay.

15 MR. DESANTO: And --

16 MS. FLETCHER: And did you sign the protest  
17 letter as well?

18 MR. DESANTO: Lauren did. I'm (inaudible).

19 MS. FLETCHER: Okay, Lauren. Okay, you have  
20 a letter designating you as her representative?

21 MR. DESANTO: I do, ma'am.

22 MS. FLETCHER: I'll take that. Thank you.

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1 MR. BURKE: And Jacob is here as the  
2 representative of a number of people as well.

3 MS. FLETCHER: Okay, thank you. I'll take  
4 all of those.

5 MS. FITCH: Yeah, I don't have a copy of the  
6 one that Jacob signed, actually.

7 MS. FLETCHER: Yeah, I'll make copies today.  
8 Thank you.

9 MR. HEGEMAN: And in the name of full  
10 disclosure, I'm not certain that I -- my signature has  
11 been placed --

12 MS. FLETCHER: Oh, okay.

13 MR. HEGEMAN: -- on the -- that document.

14 MS. FLETCHER: Exactly. That is correct.  
15 Not a problem.

16 MR. HEGEMAN: And I think that's (inaudible).

17 MS. FITCH: Right.

18 MS. FLETCHER: Not a -- it's okay.

19 MR. HEGEMAN: Is there any issue with me --

20 MS. FLETCHER: No problem.

21 MR. HEGEMAN: -- signing at this time?

22 MS. FLETCHER: Yeah, there's an issue, but it

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1 won't be necessary.

2 MR. HEGEMAN: Okay.

3 MS. FLETCHER: I think you're going to have --

4 MR. HEGEMAN: I just --

5 MS. FLETCHER: -- the requisite number of  
6 signatures.

7 Okay, so we have a letter for designation for  
8 Lauren Victor who did sign the protest letter. She's  
9 designating Joe DeSanto and Clay Burke as a  
10 representative. We've got a letter of designation from  
11 William Rorison, that's R-O-R-I-S-O-N, William. And  
12 the spelling of Lauren Victor's name is L-A-U-R-E-N, V-  
13 I-C-T-O-R.

14 William Rorison did sign the protest letter.  
15 We've got a letter of designation from Lynn Chia, L-Y-  
16 N- N-, C-H-I-A. She did sign the protest letter and  
17 she's designating Jake Hegeman or Clay Burke to  
18 represent her.

19 And Mr. Hegeman, just so that you know, it's  
20 fine that you didn't sign the protest letter. You can  
21 still be the designated representative.

22 MR. HEGEMAN: Okay.

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1 MS. FLETCHER: You may know that already, but  
2 it's not required that you sign --

3 MR. HEGEMAN: I understand.

4 MS. FLETCHER: -- the protest letter. Okay?  
5 And then we've got a letter of designation from Steve -  
6 - I'm not sure -- I can't read his writing, but I'll  
7 find it on the letter and then I'll tell you what it  
8 is.

9 MR. BURKE: I think is pronounced Daigneault.

10 MS. FLETCHER: Oh, there it is. Yes.  
11 Daigneault, that's spelled -- Steve is spelled S-T-E-V-  
12 E, and his last name is spelled D as in dog, A-I-G-N-E-  
13 A-U- L-T. And Steve did sign the protest letter.

14 There's a letter of designation from Mark  
15 Kelner. Mark Kelner did not sign the protest letter.  
16 Mark is M- A-R-K, last name K-E-L-N-E-R. Mark Kelner  
17 does not have standing as a protestant because he did  
18 not sign the protest letter.

19 MR. BURKE: Ms. Fletcher, actually I do  
20 believe he did sign it. I submitted two protest signed  
21 forms to Ms. Fashbaugh.

22 MS. FLETCHER: Oh, you did? Just a second,

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1 let me --

2 MR. BURKE: Yeah, and I sent her a second  
3 form --

4 MS. FLETCHER: Okay, let me take a look.

5 MR. BURKE: -- with the -- and it did have  
6 the addition of Mark.

7 MS. FLETCHER: Okay. Thank you. That is  
8 correct. So Mark Kelner does have standing as a  
9 protestant. He did sign that second letter.

10 We have a letter of designation from Nitika  
11 Tolani, that's spelled, N-I-T-I-K-A, last name T-O-L-A-  
12 N- I. She did sign the protest letter. She  
13 designated Clay Burke or Jake Hegeman as her  
14 representative.

15 We've got a letter of designation from  
16 Patrick Lucey. He did sign the protest letter. His  
17 name is spelled P-A-T-R-I-C-K, last name L-U-C-E-Y,  
18 designating Clay Burke as his representative.

19 We have a letter of designation from Richard  
20 Bell, who did sign the protest letter. The last name  
21 is B-E-L-L. He designated Clay Burke as his  
22 representative.

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1           We have a letter of designation from David M.  
2 Bearden, the first name is D-A-V-I-D, the last name is  
3 Bearden, B-E-A-R-D-E-N. He did sign the protest  
4 letter, he designates Clay Burke as his representative.

5           We have a letter from Thomas M. it looks like  
6 Spinelli. He did sign the protest letter. His first  
7 name is spelled T-H-O-M-A-S, his last name appears to  
8 be spelled S-P-I-N-E-L-L-I, Spinelli. He designated  
9 Clay Burke as his representative.

10           We have a letter of designation from Thomas  
11 Yatsco. Thomas is spelled T-H-O-M-A-S, the last name  
12 is Y-A-T-S-C-O. He did sign the protest letter, he  
13 designated Clay Burke as his representative.

14           We have a letter of designation from Jill  
15 Ferguson. J-I-L-L, F-E-R-G-U-S-O-N. She did sign the  
16 protest letter, she designated Clay Burke as her  
17 representative.

18           We have a letter from William Ferguson,  
19 that's F-E-R-G-U-S-O-N. He did sign the protest  
20 letter. He designated Clay Burke as his  
21 representative.

22           And the last letter is from Jeffery Walker,

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1 that's J-E-F-F-R-E-Y, W-A-L-K-E-R. He did sign the  
2 protest letter and he designated Clay Burke as his  
3 representative as well.

4 This individual group of protestants does  
5 have standing in this matter. At the upcoming status  
6 hearing two more from the group need to appear, that  
7 are not present today, in order to maintain standing.  
8 Today you'll be granted conditional standing because  
9 you're here, and all of these individuals that you're  
10 representing have standings as protestants. If there  
11 are any individual signatures on your letter that are  
12 not present today and who did not provide one of these  
13 for us today, those individuals are dismissed. But you  
14 have enough in your group to be granted conditions  
15 standing today.

16 MR. BURKE: Can they send a designated  
17 representative at the next hearing or do they  
18 individual --

19 MS. FLETCHER: This is the last go round for  
20 that. They could only have done that today, but if the  
21 matter goes forward then you can representative their  
22 interest at that -- throughout the remainder of the

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1 process.

2 MR. BURKE: I'm sorry, I'm confused.

3 MS. FLETCHER: Yeah. If the -- anyone who  
4 did not appear today or who did not designate a  
5 representative, those individuals are gone. There's  
6 not another opportunity for them to get in.

7 MR. BURKE: But these individuals that have  
8 sent these letters, do they have to now appear or can  
9 they send --

10 MS. FLETCHER: Just any two other than you  
11 two. Just two more, no matter how many are in the  
12 group, only two more need to show up. We only need to  
13 see five faces, that's it. So any two.

14 Ms. Fitch, is there a stipulated license in  
15 this case?

16 MS. FITCH: Yes, ma'am.

17 MS. FLETCHER: Okay. So, there is a  
18 stipulated license. And what that means is that the  
19 stipulated license has to be terminated today. It has  
20 to be terminated because pursuant to 23 DCMR Section  
21 200C, an applicant must stop serving alcoholic  
22 beverages under the stipulated license if a valid

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1 protest is filed during the 45 day protest period. A  
2 valid protest has been filed by this individual group,  
3 therefore, the applicant must stop serving alcoholic  
4 beverages immediately, until this matter is resolved.

5 Mr. Hilton, you have a voluntary agreement  
6 with the ANC -- or they -- not a voluntary agreement,  
7 they were in support of the issuance of the stipulated  
8 license.

9 MR. HILTON: Yes.

10 MS. FLETCHER: Okay, we need to set a date  
11 for a mediation, a status hearing and a protest  
12 hearing. I'll give you the dates for the status  
13 hearing and the protest hearing first.

14 The date of the status hearing before the ABC  
15 Board is scheduled for January 9, 2013 at 9:30 a.m.  
16 The protest hearing is set for March the 13th, 2013 at  
17 4:00 p.m. We need to set a date for the mediation  
18 prior to the January 9th status hearing and I'll give  
19 you some dates that are available. Is anybody  
20 available the month of November, at all, towards the  
21 end of the month? Or should I move into December for  
22 the mediation?

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1 MR. HILTON: What time is it?

2 MS. FLETCHER: At 9:00, 10:00, 11:00 or 1:00.

3 So there are a couple of dates at the end of November,  
4 otherwise we can just move to December.

5 MR. HILTON: I think December.

6 MS. FLETCHER: December is good? Okay.

7 MS. FITCH: Yeah, just starting December 3rd.

8 MS. FLETCHER: Is that better?

9 MS. FITCH: I'd like to give them an  
10 opportunity to get together before the mediation --

11 MS. FLETCHER: Yes. That would be perfect.

12 MS. FITCH: -- and see what they can do on  
13 their own.

14 MS. FLETCHER: If you can resolve the matter  
15 prior to mediation, that would be fine, too. You don't  
16 have to -- if you can resolve this matter outside of  
17 this process, that's perfect. And then if you have a  
18 voluntary agreement, then you can submit it to the ABC  
19 Board for review, so you don't have to come to  
20 mediation.

21 MR. BURKE: Via email to Sarah Fashbaugh?  
22 Would that be (inaudible)?

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1 MS. FLETCHER: You would need to send that to  
2 me. You can send it to Sarah as well. I'm the board's  
3 mediator, so I would need to know that you have a  
4 voluntary agreement, but you should copy Sarah  
5 Fashbaugh on it also, or in the reverse, it doesn't  
6 matter, so long as I know not to expect you. She needs  
7 to know also.

8 So then, for December the dates available,  
9 the first week in December are December the 4th and  
10 December 6th. That's Tuesday and Thursday. Those two  
11 dates --

12 MS. FITCH: December 4th is good for us.

13 MR. BURKE: Tuesdays are typically not very  
14 good for me. Is there any way we could do the 6th?

15 MS. FLETCHER: We could do -- so we all --  
16 let me just tell you the Thursdays that are good in  
17 December, then. Thursday, December 6th, Thursday,  
18 December 13.

19 MS. FITCH: The 6th. Yeah.

20 MS. FLETCHER: Is the 6th good for you, too,  
21 Mr. --

22 (No audible response.)

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1 MS. FLETCHER: Okay. Do you prefer nine,  
2 ten, eleven, one?

3 MR. BURKE: How about ten?

4 MS. FLETCHER: Ten? Is that good for you  
5 too, Ms. Fitch and Mr. Hilton? Ten o'clock on the 6th?

6 (No audible response.)

7 MS. FLETCHER: Okay. So, then mediation is  
8 set for Thursday, December 6th at 10:00. And if  
9 there's a voluntary agreement before that I'll cancel  
10 that and the status hearing and the protest hearing.

11 MS. FITCH: Ms. Fletcher, just for the  
12 record, the members of the LLC, 2007 14th Street  
13 Productions, LLC, would like to designate Sheldon Scott  
14 to do mediation on their behalf. He has full power to  
15 bind and we'll submit a letter to that effect, but --

16 MS. FLETCHER: Okay.

17 MS. FITCH: -- he's part of management of the  
18 operation, so we'd like him involved to make sure that  
19 he complies with what needs to be complied with.

20 MS. FLETCHER: Okay. And Sheldon, did you  
21 say Scott?

22 MS. FITCH: Yes.

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1 MS. FLETCHER: Is that S-H-E-L-T-O-N?

2 MS. FITCH: D-O-N.

3 MS. FLETCHER: D-O-N? So, it would be  
4 Sheldon Scott that appears for mediation?

5 MS. FITCH: For mediation on behalf of the  
6 members.

7 MR. HILTON: Okay.

8 MS. FLETCHER: And would you be coming, Ms.  
9 Fitch?

10 MS. FITCH: Yes, I will.

11 MS. FLETCHER: Okay. And Mr. Burke, you'll  
12 be present for -- if there's going to be a mediation,  
13 you'll be present for mediation?

14 MR. BURKE: Yes.

15 MS. FLETCHER: What about -- one second.  
16 Okay, so enough individuals designated you that you  
17 could represent the entire group or you, Mr. Hegeman,  
18 you're representing some people. You can come. It  
19 doesn't matter. I'm just trying to get some idea who  
20 would appear from mediation. I know you would be here,  
21 Mr. Burke --

22 MR. BURKE: And I guess you'll need some

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1 other faces to show.

2 MS. FLETCHER: No, the fewer the better.

3 Yeah.

4 MR. BURKE: I'm sorry?

5 MS. FLETCHER: The fewer the better.

6 MR. BURKE: The fewer the better?

7 MS. FLETCHER: Yes. So you could -- anybody  
8 can come, anybody that filed the protest can come, but  
9 everybody can't be at the table.

10 MR. BURKE: I understand.

11 MS. FLETCHER: So, it just -- we prefer a  
12 designated representative. I know that you're one, I  
13 know that Mr. Hegeman is one. Mr. DeSanto, you're  
14 representing?

15 MR. DESANTO: Lauren Victor.

16 MS. FLETCHER: Right. So, the three of you  
17 would be fine, or one of you, it doesn't matter, but  
18 this is a good number.

19 MR. BURKE: Okay. Would it be -- if these  
20 two individuals couldn't come it would be (inaudible).

21 MS. FLETCHER: That would be fine, too.

22 MR. BURKE: Okay. Great.

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1 MS. FLETCHER: Yeah. If any one of you come,  
2 that'll be fine. Mr. DeSanto, you're representing --  
3 any one of you representing at least five people can  
4 come. Mr. DeSanto, if you came solo, you would be  
5 representing one person, so you need not come solo.  
6 But either one of you can come solo. If I recall  
7 correctly, Mr. Hegeman, you're representing at least  
8 five people? Everything is around a group of five.

9 MR. BURKE: Okay.

10 MS. FLETCHER: So, I'll see somebody on the  
11 6th, well maybe nobody if you can resolve the matter.

12 So, has everybody at the protestant table  
13 filled out that contact sheet?

14 MR. BURKE: Yes.

15 MS. FLETCHER: And you'll receive a letter  
16 from Sarah Fashbaugh with all these dates that we  
17 talked about today, but if the matter's resolved, as I  
18 said, those will all be cancelled.

19 And there's my card on the table. I serve the  
20 board's mediator. If you have the mediation, when you  
21 come on that day just check in with the receptionist  
22 and I'll come out.

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1 Any questions? Okay. Thanks for coming.

2 Roll call hearing concluded.

3 MS. FLETCHER: Thank you.

4 MR. BURKE: Thank you.

5 MS. FLETCHER: Thank you.

6 (The hearing was concluded at 10:28 a.m.)

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CERTIFICATE OF NOTARY PUBLIC

I, ANDREW KNOUS, the officer before whom the foregoing hearing was taken, do hereby certify that the testimony appearing in the foregoing pages was recorded by me and thereafter reduced to typewriting under my direction; that said transcription is a true record of the testimony given by said parties; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

\_\_\_\_\_

ANDREW KNOUS

Notary Public in and for the  
District of Columbia

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CERTIFICATE OF TRANSCRIPTION

I, SUSAN LaPOOH, hereby certify that I am not the Court Reporter who reported the proceeding and that I have typed the transcript of the proceeding using the Court Reporter's notes and recordings. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

\_\_\_\_\_  
Date  
SUSAN LaPOOH  
Transcriptionist

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