

Capital Reporting Company
In the Matter of: District of Columbia CVS Pharmacy, LLC 10-09-2012

1

DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

----- :
IN THE MATTER OF: :
 :
District of Columbia CVS :
Pharmacy, LLC :
CVS Pharmacy #1354 :
2601 Connecticut Avenue, NW :
Retailer B : Roll Call
License No. ABRA-088912 : Hearing
Case No. 12-PRO-00078 :
New Application :
----- :

October 9, 2012

The Alcoholic Beverage Control

The Board's Agent met in the Alcoholic Beverage Control
Hearing Room, Reeves Building, 2000 14th Street, N.W.,
Washington, D.C.

PRESENT

LAVERNE FLETCHER, Board's Agent

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<p style="text-align: right;">6</p> <p>1 sign --</p> <p>2 MR. ARCANGELI: Thank you.</p> <p>3 MS. FLETCHER: -- did you sign the protest</p> <p>4 letter?</p> <p>5 MS. WEAVER: She's asking if you signed the</p> <p>6 letter.</p> <p>7 MR. ARCANGELI: Signing letter?</p> <p>8 MS. WEAVER: You signed the letter. She's</p> <p>9 asking you to confirm.</p> <p>10 MR. REBA: Did you sign?</p> <p>11 MR. ARCANGELI: I sign. Yeah, I mean, you</p> <p>12 (inaudible).</p> <p>13 PARTICIPANT: Yes, he signed the letter.</p> <p>14 MS. FLETCHER: I just wanted to get an</p> <p>15 affirmative response. Thank you. Thank you very much.</p> <p>16 That's fine.</p> <p>17 MR. ARCANGELI: Okay.</p> <p>18 MS. FLETCHER: Thank you.</p> <p>19 PARTICIPANT: It's okay. You're good.</p> <p>20 MS. FLETCHER: Thank you very much.</p> <p>21 MS. WHITING-ELLIS: Good morning.</p> <p>22 MS. FLETCHER: Hi.</p>	<p style="text-align: right;">8</p> <p>1 MR. HARMON: Yes.</p> <p>2 MS. FLETCHER: Thank you very much.</p> <p>3 MR. CLIFTON: My name is Robert Clifton, last</p> <p>4 name, C-L-I, "F," as in, "Frank," T-O-N.</p> <p>5 MS. FLETCHER: And you signed the protest</p> <p>6 letter, Mr. Clifton?</p> <p>7 MR. CLIFTON: Yes, ma'am. I did.</p> <p>8 MS. FLETCHER: Thank you very much.</p> <p>9 MR. DORCH: Good morning.</p> <p>10 MS. FLETCHER: Good morning.</p> <p>11 MR. DORCH: My name's Timothy Dorch.</p> <p>12 MS. FLETCHER: What's the first name?</p> <p>13 MR. DORCH: Timothy.</p> <p>14 MS. FLETCHER: Could you spell that for the</p> <p>15 reporter?</p> <p>16 MR. DORCH: Sure, T-I-M-O-T-H-Y.</p> <p>17 MS. FLETCHER: And what's the last name?</p> <p>18 MR. DORCH: Dorch, D-O-R-C-H.</p> <p>19 MS. FLETCHER: D-O-R-C-H?</p> <p>20 MR. DORCH: Yep.</p> <p>21 MS. FLETCHER: Okay. Mr. Dorch, have you</p> <p>22 signed the protest letter?</p>
<p style="text-align: right;">7</p> <p>1 MS. WHITING-ELLIS: My name is Sammie, S-A-M-</p> <p>2 M- I-E. My last name is Whiting-Ellis, W-H-I-T-I-N-G,</p> <p>3 hyphen, E-L-L-I-S.</p> <p>4 MS. FLETCHER: Thank you, Ms. Whiting-Ellis.</p> <p>5 And did you sign the protest letter?</p> <p>6 MS. WHITING-ELLIS: Yes, I did.</p> <p>7 MS. FLETCHER: Thank you.</p> <p>8 MR. HARMON: Hi. My name is Raymond, R-A-Y-</p> <p>9 M-O- N-D, Harmon, H-A-R-M-O-N.</p> <p>10 MS. FLETCHER: And did you sign the protest</p> <p>11 letter, Mr. Harmon?</p> <p>12 MR. HARMON: Yes. And my partner signed as</p> <p>13 well and wrote a letter.</p> <p>14 MS. FLETCHER: And did he sign the protest</p> <p>15 letter as well?</p> <p>16 MR. HARMON: Yes.</p> <p>17 MS. FLETCHER: Thank you very much. I have a</p> <p>18 -- this letter of summary -- okay -- designates Raymond</p> <p>19 Harmon as the representative for Michael Miller. And</p> <p>20 Michael is M-I-C-H-A-E-L, and Miller is M-I-L-L-E-R.</p> <p>21 And Mr. Harmon, Michael Miller also signed the protest</p> <p>22 letter?</p>	<p style="text-align: right;">9</p> <p>1 MR. DORCH: Yes, I did.</p> <p>2 MS. FLETCHER: Thank you very much.</p> <p>3 MS. ANDREWS: Tina Andrews, T-I-N-A, A-N-D-R-</p> <p>4 E-W-S.</p> <p>5 MS. FLETCHER: And you signed the protest</p> <p>6 letter, Ms. Andrews?</p> <p>7 MS. ANDREWS: Yes.</p> <p>8 MS. FLETCHER: Thank you. Okay.</p> <p>9 MR. PORCARO: Edward Porcaro, P-O-R-C-A-R-O.</p> <p>10 MS. FLETCHER: And the first name is Edward?</p> <p>11 MR. PORCARO: Edward.</p> <p>12 MS. FLETCHER: And Mr. Porcaro, did you sign</p> <p>13 the protest letter?</p> <p>14 MR. PORCARO: Yes, I did.</p> <p>15 MS. FLETCHER: Thank you very much. There</p> <p>16 are two protestants in this matter. ANC 3C is a</p> <p>17 protestant and has standing as a protestant. And then</p> <p>18 we have a group of approximately 113 being represented</p> <p>19 by Ruth Ellis-Morillo and Penny Weaver. Your group has</p> <p>20 standing as protestants.</p> <p>21 MR. PASCAL: I believe that sets a record for</p> <p>22 me, Ms. Fletcher.</p>

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<p style="text-align: right;">10</p> <p>1 MS. FLETCHER: Yes. That --</p> <p>2 MR. PASCAL: A hundred and eight was my past</p> <p>3 record.</p> <p>4 MS. FLETCHER: Yes, that is a record. There</p> <p>5 are 13 individuals present today from your protestant</p> <p>6 group and that includes Mr. Miller. And what that</p> <p>7 means is that at the upcoming status hearing, only the</p> <p>8 designated representatives need to appear. At the</p> <p>9 point of the status hearing, there's a requirement that</p> <p>10 the ABC Board has seen at least five members from your</p> <p>11 protestant group.</p> <p>12 But because 13 are present today, at the</p> <p>13 upcoming status hearing -- I'll give you the date for</p> <p>14 that in a moment -- only one or both of you need to</p> <p>15 attend if you want. Only one's required. I'll give</p> <p>16 you the dates for the upcoming status hearing,</p> <p>17 protestant hearing and we've also got to have a</p> <p>18 mediation prior to the status hearing.</p> <p>19 The date of the status hearing is November</p> <p>20 the 14th.</p> <p>21 MR. PASCAL: Ms. Fletcher, I will be out of</p> <p>22 the country and not coming back until actually the 16th</p>	<p style="text-align: right;">12</p> <p>1 November 14 at 9:30. That's for the status hearing.</p> <p>2 The protest hearing is set for February 13, 2013 at</p> <p>3 1:30 p.m. I'll give you some dates that available for</p> <p>4 mediation to occur prior to November 14.</p> <p>5 MR. PASCAL: Could they be the dates prior to</p> <p>6 -- I'm leaving the country on the 26th.</p> <p>7 MS. FLETCHER: Okay. The 26th of October is</p> <p>8 when you're leaving, Mr. Pascal?</p> <p>9 MR. PASCAL: I'm leaving, yeah. So</p> <p>10 MS. FLETCHER: Okay. Let me see what's</p> <p>11 available before the 26th of October. Monday, the</p> <p>12 15th, is available at 1:00 in the afternoon. I'll keep</p> <p>13 going.</p> <p>14 MR. PASCAL: Yeah, I'm coming back --</p> <p>15 MS. FLETCHER: Okay.</p> <p>16 MR. PASCAL: -- from New York that day. I'm</p> <p>17 MS. FLETCHER: Wednesday, the 17th, is</p> <p>18 available at 9:00, 10:00, 11:00 or 1:00.</p> <p>19 MR. PASCAL: 9:00 is fine.</p> <p>20 MS. FLETCHER: And the 17th, does that work</p> <p>21 for you, Mr. Reba?</p> <p>22 MR. REBA: No. And I'm not even clear what</p>
<p style="text-align: right;">11</p> <p>1 of November.</p> <p>2 MS. FLETCHER: Okay.</p> <p>3 MR. PASCAL: So if you could push that back a</p> <p>4 week or so?</p> <p>5 MS. FLETCHER: Mr. Pascal, could you -- I'll</p> <p>6 inform the Board of that. Could you make a written</p> <p>7 request to Martha Jenkins to that effect?</p> <p>8 MR. PASCAL: November 14th is what you have?</p> <p>9 MS. FLETCHER: Yeah, November 14th --</p> <p>10 MR. PASCAL: Okay.</p> <p>11 MS. FLETCHER: -- at 9:30 is the date that I</p> <p>12 have. That's the date that I've got to provide today</p> <p>13 because that's the date I was given for the Board's</p> <p>14 calendar.</p> <p>15 MR. PASCAL: Actually I can have my associate</p> <p>16 come down for the status hearing. So</p> <p>17 MS. FLETCHER: Okay. Well, then -- okay.</p> <p>18 That will be --</p> <p>19 MR. PASCAL: Yeah, right.</p> <p>20 MS. FLETCHER: -- perfect.</p> <p>21 MR. PASCAL: Okay.</p> <p>22 MS. FLETCHER: So then we're all set then for</p>	<p style="text-align: right;">13</p> <p>1 month you're referencing.</p> <p>2 MS. FLETCHER: We're in October.</p> <p>3 MR. PASCAL: October.</p> <p>4 MS. FLETCHER: We're just -- I'm looking at</p> <p>5 dates prior to October 26th. So I'll keep moving. But</p> <p>6 Mr. Reba, October 17th is not good for you?</p> <p>7 MR. REBA: Not at 9:00.</p> <p>8 MS. FLETCHER: Okay.</p> <p>9 MR. PASCAL: Well, I'm -- any time that day</p> <p>10 is actually --</p> <p>11 MS. FLETCHER: It could be 9:00, 10:00, 11:00</p> <p>12 or 1:00.</p> <p>13 MR. REBA: Just for clarification for those</p> <p>14 that are in the room as well as the residents,</p> <p>15 protestants --</p> <p>16 MS. FLETCHER: Uh-huh.</p> <p>17 MR. REBA: -- representatives, when you're</p> <p>18 referencing status hearing, you're really referencing</p> <p>19 mediation?</p> <p>20 MS. FLETCHER: No.</p> <p>21 MR. PASCAL: No.</p> <p>22 MR. REBA: No?</p>

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14	<p>1 MS. FLETCHER: No. What -- 2 MR. PASCAL: Mediation is a separate -- 3 MR. REBA: May I have Ms. Fletcher, please? 4 MS. FLETCHER: Yes. The status -- the status 5 hearing is -- well, let me start with the mediation. 6 The purpose of the mediation is for you to meet with 7 the Board's mediator in an attempt to resolve this 8 protest. If you are able to do that and you enter into 9 a voluntary agreement that resolves all of your 10 concerns, then there would not be a need for a status 11 hearing. 12 But if the matter is not resolved, at the 13 status hearing the purpose is to inform the Board of 14 the outcome of the mediation. Is this -- 15 MR. REBA: And how long -- 16 MS. FLETCHER: Hmm? 17 MR. REBA: And generally if a resolution has 18 not been -- has not been met and I unfortunately -- I 19 don't want to be a pessimist -- I don't want to be 20 pessimistic but based on the facts before me and the 21 calls and emails and all concerned, I unfortunately 22 don't see a resolution at this point.</p>	16	<p>1 MR. REBA: Right. 2 MS. FLETCHER: And then you'll tell them that 3 you've resolved the matter or not. And then they will 4 restate the protest date of February 13. If, when you 5 show up for the status hearing, there is a possibility 6 still that the matter could be resolved in mediation 7 but it has not yet, you have until the protest hearing 8 date to continue your efforts. 9 But the purpose of the status hearing is 10 we're to tell the Board the results of the mediation. 11 But as I stated, if you resolve in the mediation, 12 somehow -- although you don't expect to -- but if you 13 are able to do that prior to the status hearing and you 14 submit a voluntary agreement to the Board for review, 15 then the status hearing would be cancelled, as well as 16 the protest hearing. 17 MR. REBA: Right. Well, unfortunately, we 18 cannot enter mediation regarding the status of whether 19 or not they are a full-service grocery store. Under 20 the law, they're not. I cannot enter into a voluntary 21 agreement, not can anybody enter into a voluntary 22 agreement regarding a code or regulation within the</p>
15	<p>1 MS. FLETCHER: Uh-huh. 2 MR. REBA: I'm absolutely willing to go 3 through the process, come to mediation, discuss these 4 concerns, discuss the issues and, of course, be as 5 flexible as possible. 6 MS. FLETCHER: Uh-huh. 7 MR. REBA: But there are some issues on the 8 table that I don't see being resolved based on the 9 facts. 10 MS. FLETCHER: Uh-huh. 11 MR. REBA: So with that being said, if at the 12 status hearing -- if the -- if mediation is not 13 favorable and we come to the status hearing, how long 14 do you think we would be here? And I ask you that 15 because the 17th is a full day. And I can probably 16 work this in if you think we'd be here for an hour. 17 MS. FLETCHER: You would be here -- I don't 18 know how many status hearings are on the Board's 19 calendar right now but status hearings go by very fast. 20 They last a couple minutes because all you're going to 21 do is report to the Board that you participated in 22 mediation because that is mandatory.</p>	17	<p>1 District of Columbia. That would be superseding the 2 laws of the District. 3 So one of the issues on the table, aside from 4 peace, order and noise, which the residents are 5 protesting, the ANC, while our -- is focusing on well 6 as peace, order and noise as a secondary issue, the 7 primary issue is whether or not CVS qualifies under the 8 law as a full-service grocery store. And that's 9 something that cannot be discussed during mediation. 10 MS. FLETCHER: Yeah, that is not negotiable 11 at all. That's an ABC Board decision. None of us can 12 -- 13 MR. PASCAL: And the -- well, the Board has 14 already issued an advisory opinion. 15 MS. FLETCHER: Well, yeah, the Board has 16 issued an advisory opinion with respect to that. That 17 is -- that is not an issue that can be mediated at all. 18 And so your challenge is to whether or not the Board 19 has the authority to issue this license to CVS as a 20 full-service grocery store? That's the issue of the 21 ANC primarily? 22 MR. REBA: Correct.</p>

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18	<p>1 MS. FLETCHER: Yeah, that's -- that does not 2 meet the -- that's non-negotiable with respect to 3 mediation. So that's fine. We still have to go 4 through the mediation process. And that's something 5 you can challenge of the ABC Board beyond mediation. 6 You may have to go through the motions anyway, just see -- 7 MR. REBA: Right. Understood. 8 MS. FLETCHER: -- what we can do. But I do 9 understand that's an issue for the ANC. And -- 10 MR. PASCAL: That indicates to me that 11 mediation may be short. 12 MS. FLETCHER: Yes. In that case, mediation 13 could be very short. That -- or if you get there and 14 decide there are some issues you'd like to resolve, 15 you're -- we can do that at that time. But it's not 16 mandatory that you resolve the matter of course, just 17 that you appear for the mediation. Any other concerns, 18 Mr. Reba? 19 MR. REBA: No, Ms. Fletcher. Thank you. 20 MS. FLETCHER: Uh-huh. Ms. Morillo, Ms. 21 Weaver, is October 17 -- Ms. Weaver, is October 17 good 22 for you? I didn't ask if it's good for you.</p>	20	<p>1 MS. FLETCHER: Okay. 2 MR. REBA: Ms. Fletcher, I apologize -- 3 MS. FLETCHER: Yeah. 4 MR. REBA: -- for the delay. Mr. Pascal, I 5 apologize to you as well for the delay. That week at 6 UDC is homecoming. 7 MS. FLETCHER: Uh-huh. 8 MR. REBA: And there's a lot of activities 9 that I'm overseeing and responsible for that week. And 10 I was trying to pull up the conflict that I had on the 11 17th. So I'm going to ask you as well as Mr. Pascal if 12 the 18th works for you because I believe I have more 13 flexibility on that day. 14 MR. PASCAL: The 18th? 15 MS. FLETCHER: It works for me. 16 MR. PASCAL: All day 18th is fine. 17 MR. REBA: Okay. 18 MS. FLETCHER: 9:00, 10:00, 11:00, 1:00, 19 anytime -- either one of those times or any time in- 20 between is good. 21 MR. PASCAL: 10:00 would -- starting at 10:00 22 would be okay.</p>
19	<p>1 MR. REBA: After. 2 MS. FLETCHER: It could be at 9:00, 10:00, 3 11:00 or 1:00. The 18th is also available. 4 MR. PASCAL: That's fine for me also. 5 MS. FLETCHER: The 18th is good -- is also 6 available if that would be better, which is Thursday. 7 MR. REBA: Okay. Would you bear with me for 8 one moment? 9 MS. FLETCHER: Yeah. 10 MR. REBA: I apologize. 11 MS. FLETCHER: Yeah. 12 MR. REBA: I just need to confirm. I -- bear 13 with me for one second. 14 MS. FLETCHER: Okay. 15 MR. REBA: I just need to apologize. 16 MS. FLETCHER: And Mr. Reba, just to throw 17 that out there for you to consider, the 17th, 18th and 18 19th are available, that Wednesday, Thursday, and 19 Friday. 20 MR. PASCAL: Midday on the 19th is bad but 21 certainly in the afternoon or first thing in the 22 morning.</p>	21	<p>1 MR. REBA: Oh, well, I was going to say I 2 have morning appointments that day. I could -- we 3 could be here at 11:00. 4 MR. PASCAL: That's fine. 5 MR. REBA: And that works for -- 6 MS. FLETCHER: Is that good? 7 MR. REBA: -- the party -- yeah. 8 MR. PASCAL: 11:00 is fine. 9 MS. FLETCHER: Okay. 10 MR. PASCAL: 11:00 a.m. on the 18th. 11 MS. FLETCHER: Yes. 11:00 a.m. on the 18th. 12 MR. REBA: Oh, that's October 18th? 13 MS. FLETCHER: Yes. 14 MR. PASCAL: Yes. 15 MR. REBA: Yeah, okay. October 18th. And 16 then November 14th is the status hearing? 17 MS. FLETCHER: Yes. 18 MR. PASCAL: Correct. And I'll have my 19 associate attend that. 20 MS. FLETCHER: Okay. And the mediation takes 21 place here, maybe in this room, but you can just check 22 in with the receptionist and we'll -- I'll take you</p>

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<p style="text-align: right;">22</p> <p>1 wherever we're going to be but most likely, right here 2 in this room. 3 MR. REBA: Okay. 4 MS. FLETCHER: Okay. So we're set. 5 MR. PASCAL: Thank you. 6 MS. FLETCHER: Any questions at all? Thank 7 you for coming. Oh, and one other thing before we go 8 off the record. The designated -- this is with respect 9 to the group you're representing, Ms. Morillo and Ms. 10 Weaver. For the purpose of mediation, only the 11 designated representatives need to -- need to come or 12 either one of you. If there are any other members from 13 the group that would want to come, of course they could 14 come. 15 But we would want one of the designated 16 representatives at the table so to speak, as opposed to 17 everybody. 18 MS. MORILLO: Okay. Thank you. 19 MS. FLETCHER: I just wanted to let you know, 20 anybody is welcome to come. 21 MS. MORILLO: Okay. Thank you. 22 MR. PASCAL: Thanks a lot.</p>	<p style="text-align: right;">24</p> <p style="text-align: center;">1 CERTIFICATE OF NOTARY PUBLIC 2 3 I, BRADLEY ANGLIN, the officer before whom the 4 foregoing hearing was taken, do hereby certify that the 5 testimony appearing in the foregoing transcript was 6 recorded by me and thereafter reduced to typewriting 7 under my direction; that said transcription is a true 8 record of the testimony given by said parties; that I 9 am neither counsel for, related to, nor employed by any 10 of the parties to the action in which this was taken; 11 and, further, that I am not a relative or employee of 12 any counsel or attorney employed by the parties hereto, 13 nor financially or otherwise interested in the outcome 14 of this action. 15 16 17 18 _____ 19 BRADLEY ANGLIN 20 Notary Public in and for the 21 District of Columbia 22</p>
<p style="text-align: right;">23</p> <p>1 MS. FLETCHER: Okay. Roll call hearing 2 concluded. Thank you. 3 (WHEREUPON, at 10:25 a.m., the hearing was 4 concluded.) 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p>	<p style="text-align: right;">25</p> <p style="text-align: center;">1 CERTIFICATE OF TRANSCRIPTION 2 3 I, MIRANDA PENNACHI, hereby certify that I am not 4 the Court Reporter who reported the following 5 proceeding and that I have typed the transcript of this 6 proceeding using the Court Reporter's notes and 7 recordings. The foregoing/attached transcript is a 8 true, correct and complete transcription of said 9 proceeding. 10 11 12 _____ 13 Date MIRANDA PENNACHI 14 Transcriptionist 15 16 17 18 19 20 21 22</p>

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