

Capital Reporting Company  
In the Matter of: Froggy Bottom, Inc. t/a Froggy Bottom Pub 08-15-2012

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DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF: :  
 :  
Froggy Bottom, Inc. :  
t/a Froggy Bottom Pub :  
2142 Pennsylvania Avenue, NW :  
Retailer CR : Show Cause  
License No. 60095 : Hearing  
ANC 2A : (Status)  
Case No. 11-CMP-00447 :  
Failed to File Quarterly :  
Statements :  
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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

ALSO PRESENT

MICHAEL STERN, OAG

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

2 11:07 a.m.

3 CHAIRPERSON MILLER: Okay. Moving on to the  
4 next case, which is Case No. 11-CMP-00447, the Froggy  
5 Bottom Pub, located at 2142 Pennsylvania Avenue, N.W.,  
6 License No. 60095, in ANC 2A.

7 MR. STERN: Good morning. Michael Stern  
8 representing the District of Columbia.

9 CHAIRPERSON MILLER: Good morning, Mr. Stern.

10 MS. BUI: Good morning, Madam Board [sic].  
11 Good morning, Board. The reason we come today is we  
12 ask --

13 CHAIRPERSON MILLER: Wait, I'm sorry. Did  
14 you introduce yourself for the record?

15 MS. BUI: Yes. My name is Hien Bui and I'm  
16 the owner of the Froggy Bottom.

17 CHAIRPERSON MILLER: Okay. Let me -- I need  
18 to ask you the preliminary questions before you begin,  
19 if that's --

20 MS. BUI: Yes, ma'am.

21 CHAIRPERSON MILLER: -- all right with you.  
22 Because this is a show cause status hearing, did you

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1 receive notice of the hearing?

2 MS. BUI: Yes, ma'am.

3 CHAIRPERSON MILLER: Did you read it?

4 MS. BUI: Yes, ma'am.

5 CHAIRPERSON MILLER: Did you understand it?

6 MS. BUI: Yes, ma'am.

7 CHAIRPERSON MILLER: And do you waive the  
8 Board's reading of the notice into the record?

9 MS. BUI: I wish the Board -- I come here to  
10 ask the Board a favor to understand because we filed  
11 the late quarterly and this is the second time within  
12 four years.

13 CHAIRPERSON MILLER: Did you answer my  
14 question?

15 MS. BUI: Yes.

16 CHAIRPERSON MILLER: Yes, you do waive it?

17 MS. BUI: Yeah, because then I talk -- after  
18 I talk to the agent here and I -- it's -- I mean, I  
19 think I don't have any choice but --

20 CHAIRPERSON MILLER: It's a formality.

21 MS. BUI: -- pay the fine.

22 CHAIRPERSON MILLER: Oh, no, no. Okay. Go

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1 ahead. Go say what you wanted to say.

2 MS. BUI: Yeah, I would like to say that this  
3 is the second time we late file quarterly report -- the  
4 second time after four years, the first time in 2007.  
5 And the second time is July, 2011.

6 CHAIRPERSON MILLER: Okay. Wait a minute.  
7 Let me just check with Mr. Stern. Mr. Stern, do we  
8 have any preliminary matters in this case?

9 MR. STERN: I had not thought so but  
10 apparently we do.

11 CHAIRPERSON MILLER: Okay.

12 MR. STERN: The parties have agreed that the  
13 Respondent will pay a fine of \$500 within 15 days to  
14 resolve this offense.

15 CHAIRPERSON MILLER: Now, let me ask you --  
16 Mr. Stern is representing that you have come to an  
17 agreement to pay \$500 within 15 days to resolve this  
18 case. Is that your understanding?

19 MS. BUI: He told me I can pay \$500 in 15 day  
20 or if I go to that second hearing, he might request the  
21 Board \$500 fine and one or two days' suspension.  
22 That's what I understand. So I'm coming here to -- I

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1 mean, this is the first time I've -- I mean, I don't --

2           CHAIRPERSON MILLER: Let me ask you this. I  
3 know you have a choice at this stage and before the  
4 hearing to accept a penalty or to go to hearing. If  
5 you accept the penalty, you waive your right to a  
6 hearing. You just pay and it's -- and you're finished.  
7 If you want to make a case to the Board, that's a  
8 different thing. Then you don't have --

9           MS. BUI: So either one, from beginning or  
10 today, if I waive my right whatsoever, I pay \$500? If  
11 not, I have to go another hearing? So today, I come to  
12 ask for the Board the -- I request the Board the favor  
13 in understanding the sympathy. For us, now \$500 is ten  
14 case of french fries. In this economy it's hurt. And  
15 with -- I guess mistake make consequence pay, right?

16           It is -- yeah, I don't have any choice. If  
17 the Board -- I mean, the OAG in this stack I have to  
18 pay within 15 day or the Board agree with the OAG or --  
19 I mean, I don't want to risk --

20           CHAIRPERSON MILLER: I mean --

21           MS. BUI: -- one day.

22           CHAIRPERSON MILLER: -- this is not a -- this

1 is not the hearing. So if you want to make a case to  
2 the Board, you know, and try to convince the Board that  
3 we don't issue a penalty, then you wouldn't accept the  
4 offer. If you want to accept the offer, thinking that,  
5 you know, whatever -- it's your choice though. It is  
6 your choice. So not --

7 MS. BUI: Okay.

8 CHAIRPERSON MILLER: It's your choice.

9 MS. BUI: All right. So I guess then --  
10 well, if -- I don't have my English good enough to go  
11 to ask and then instead of pay for lawyer come, I just  
12 will have to pay the fine. Because they charge me  
13 three -- he charge me \$400 an hour anyway.

14 MR. STERN: The Board can understand my  
15 confusion.

16 CHAIRPERSON MILLER: Okay.

17 MR. STERN: Yeah.

18 CHAIRPERSON MILLER: Okay. I just want to  
19 make sure that that's what -- this is what you want to  
20 do.

21 MS. BUI: Yes.

22 CHAIRPERSON MILLER: Okay. All right. Then --

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1 MS. BUI: So I just go out there and --

2 CHAIRPERSON MILLER: No.

3 MS. BUI: Go ahead then.

4 CHAIRPERSON MILLER: We have to decide  
5 whether we --

6 MS. BUI: Yeah.

7 CHAIRPERSON MILLER: -- want to approve it.  
8 Okay. So as I understand it, we have a -- we have an  
9 offer in compromise of \$500 to be paid within 15 days.  
10 I would move that we accept that offer in compromise.

11 Do I have a second?

12 MR. NOPHLIN: Second.

13 CHAIRPERSON MILLER: All those in favor, say --

14 MR. ALBERTI: Well, Madam Chair --

15 CHAIRPERSON MILLER: Yeah.

16 MR. ALBERTI: -- I'm a little confused. I  
17 think I heard the Licensee say that she understands and  
18 accepts the offer in compromise but I'm not sure we had  
19 an agreement from the Licensee that she'd waive her  
20 rights to the hearing based on that offer in  
21 compromise.

22 CHAIRPERSON MILLER: Okay. I thought --

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1           MR. STERN: I thought that's what she  
2 intended.

3           CHAIRPERSON MILLER: -- I heard that.

4           MR. STERN: But you can certainly ask her.

5           MR. ALBERTI: I --

6           MS. BUI: I mean, yeah.

7           MR. ALBERTI: And that's my confusion.

8           MR. JONES: What?

9           MR. ALBERTI: It may -- my confusion.

10          MR. JONES: Stated --

11          MR. ALBERTI: It wasn't stated.

12          MR. STERN: Okay.

13          MR. ALBERTI: It's my confusion.

14          MS. BUI: I mean, that's what -- how -- and  
15 this can -- may I please ask the rest of the Board once  
16 again? The OAG offer me if I agreed to pay \$500 within  
17 15 day, then that's -- everything's fine. If not, I  
18 can go again at the second hearing and in that time,  
19 the OAG might ask the Board \$500 fine, one or two days  
20 suspense [sic]. And --

21          MR. STERN: Yes.

22          MS. BUI: That --

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1           MR. STERN: Is that what you want to do today?  
2 Do you want to pay the fine and waive your right to a  
3 hearing or do you want to go to the hearing?

4           MR. ALBERTI: Well, Madam Chair -- Madam  
5 Chair, I'm having concerns that we're hearing  
6 information that is prejudiced to this case and we --  
7 it goes to the negotiations between the OAG and the  
8 Licensee. And I don't think the Board should be  
9 hearing that.

10           CHAIRPERSON MILLER: Okay. I -- we'll do  
11 this before -- I understood that the Licensee was  
12 waiving her right to a hearing by accepting this offer  
13 in compromise. But would you clarify that for the  
14 Board, that that's what you are choosing to do?

15           MS. BUI: Yes. But since --

16           CHAIRPERSON MILLER: Is it --

17           MS. BUI: -- I have to go another time --

18           CHAIRPERSON MILLER: No, no.

19           MS. BUI: -- then I --

20           CHAIRPERSON MILLER: We heard all this.

21 Could you just say --

22           MS. BUI: Yeah, I don't have any --

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1 MR. ALBERTI: Yes or no?

2 MS. BUI: I mean, I have to pay \$500 in order  
3 to --

4 CHAIRPERSON MILLER: Right.

5 MS. BUI: -- prevent to -- anything but --

6 MR. STERN: Yes, that's right. You can  
7 decide either to do one thing or the other. They just  
8 want to know which you decide. It's your choice.

9 CHAIRPERSON MILLER: Do you -- this is a  
10 voluntary thing. So you can either say, "I want the  
11 Board to consider this offer in compromise," or, "I  
12 don't want to waive my right to a hearing and I'm going  
13 to go for a hearing." And the hearing's going to cost  
14 you money too. We understand that. So you just -- you  
15 just need to tell us, is this what you want.

16 MS. BUI: Madam Chair, since I count every  
17 penny, I think that this is cheaper than I hire -- I  
18 hire lawyer to go to answer to the Board and to talk  
19 with the OAG.

20 MR. STERN: So the --

21 MR. NOPHLIN: Okay.

22 MR. STERN: -- answer is this is what you

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1 want or it isn't what you want?

2 MS. BUI: Sir, once again I clarify this is  
3 what I want --

4 CHAIRPERSON MILLER: Okay.

5 MS. BUI: -- in order to prevent further  
6 damage for me.

7 CHAIRPERSON MILLER: I understand that.

8 MR. STERN: Okay.

9 CHAIRPERSON MILLER: I understand that. So  
10 you are waiving your right to a hearing?

11 MS. BUI: Ma'am, yes. And I mean --

12 MR. NOPHLIN: Okay.

13 MS. BUI: -- in 15 day or not just I believe --

14 CHAIRPERSON MILLER: Okay.

15 MS. BUI: Yeah.

16 CHAIRPERSON MILLER: All right. So I have  
17 made a motion. Is everybody else clear that the --  
18 that the applicant is good about this offer in  
19 compromise? All right. Then the motion is for the  
20 Licensee to pay \$500 within 15 days to resolve this  
21 case.

22 Do I have a second?

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1 MR. NOPHLIN: Second.

2 CHAIRPERSON MILLER: All those in favor of  
3 the motion that's been seconded by Mr. Nophlin, say  
4 aye?

5 (Chorus of ayes.)

6 CHAIRPERSON MILLER: Opposed?

7 (No audible response.)

8 CHAIRPERSON MILLER: Abstaining?

9 (No audible response.)

10 CHAIRPERSON MILLER: Okay. Then the motion  
11 approving the offer in compromise passes by a vote of  
12 6-0-0.

13 MR. STERN: Thank you.

14 MR. ALBERTI: Thank you, Mr. Stern.

15 MS. BUI: Thank you.

16 (WHEREUPON, at 11:16 a.m., the hearing was  
17 concluded.)

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<p style="text-align: center;"><u>        </u> \$ <u>        </u></p> <p><b>\$400</b> 6:13</p> <p><b>\$500</b> 4:13,17,19,21 5:10,13 7:9 8:16,19 10:2 11:20</p> <p style="text-align: center;"><u>        </u> 1 <u>        </u></p> <p><b>11:07</b> 2:2</p> <p><b>11:16</b> 12:16</p> <p><b>11-CMP-00447</b> 1:9 2:4</p> <p><b>14th</b> 1:15</p> <p><b>15</b> 1:12 4:13,17,19 5:18 7:9 8:17 11:13,20</p> <p style="text-align: center;"><u>        </u> 2 <u>        </u></p> <p><b>2000</b> 1:15</p> <p><b>2007</b> 4:4</p> <p><b>2011</b> 4:5</p> <p><b>2012</b> 1:12</p> <p><b>2142</b> 1:7 2:5</p> <p><b>2A</b> 1:8 2:6</p> <p style="text-align: center;"><u>        </u> 6 <u>        </u></p> <p><b>6-0-0</b> 12:12</p> <p><b>60095</b> 1:8 2:6</p> <p style="text-align: center;"><u>        </u> A <u>        </u></p> <p><b>a.m</b> 2:2 12:16</p> <p><b>Abstaining</b> 12:8</p> <p><b>accept</b> 5:4,5 6:3,4 7:10</p> <p><b>accepting</b> 9:12</p> <p><b>accepts</b> 7:18</p> <p><b>agent</b> 3:18</p>	<p><b>agreed</b> 4:12 8:16</p> <p><b>agreement</b> 4:17 7:19</p> <p><b>ahead</b> 4:1 7:3</p> <p><b>ALBERTI</b> 1:18 7:14,16 8:5,7,9,11,13 9:4 10:1 12:14</p> <p><b>Alcoholic</b> 1:2,13,14</p> <p><b>ANC</b> 1:8 2:6</p> <p><b>answer</b> 3:13 10:18,22</p> <p><b>anything</b> 10:5</p> <p><b>anyway</b> 6:13</p> <p><b>apparently</b> 4:10</p> <p><b>applicant</b> 11:18</p> <p><b>approve</b> 7:7</p> <p><b>approving</b> 12:11</p> <p><b>audible</b> 12:7,9</p> <p><b>August</b> 1:12</p> <p><b>Avenue</b> 1:7 2:5</p> <p><b>aye</b> 12:4</p> <p><b>ayes</b> 12:5</p> <p style="text-align: center;"><u>        </u> B <u>        </u></p> <p><b>based</b> 7:20</p> <p><b>begin</b> 2:18</p> <p><b>beginning</b> 5:9</p> <p><b>believe</b> 11:13</p> <p><b>Beverage</b> 1:2,13,14</p> <p><b>Board</b> 1:2,14 2:10,11 3:9,10 4:21 5:7,12,17,18 6:2,14 8:15,19</p>	<p>9:8,14 10:11,18</p> <p><b>Board's</b> 3:8</p> <p><b>Bottom</b> 1:6 2:5,16</p> <p><b>BROOKS</b> 1:19</p> <p><b>Bui</b> 2:10,15,20 3:2,4,6,9,15,17,2 1 4:2,19 5:9,21 6:7,9,21 7:1,3,6 8:6,14,22 9:15,17,19,22 10:2,5,16 11:2,5,11,13,15 12:15</p> <p><b>Building</b> 1:15</p> <p style="text-align: center;"><u>        </u> C <u>        </u></p> <p><b>CALVIN</b> 1:20</p> <p><b>case</b> 1:9 2:4 4:8,18 5:7,14 6:1 9:6 11:21</p> <p><b>cause</b> 1:7 2:22</p> <p><b>certainly</b> 8:4</p> <p><b>Chair</b> 7:14 9:4,5 10:16</p> <p><b>Chairperson</b> 1:15,18 2:3,9,13,17,21 3:3,5,7,13,16,20, 22 4:6,11,15 5:2,20,22 6:8,16,18,22 7:2,4,7,13,15,22 8:3 9:10,16,18,20 10:4,9 11:4,7,9,14,16 12:2,6,8,10</p> <p><b>charge</b> 6:12,13</p> <p><b>cheaper</b> 10:17</p>	<p><b>check</b> 4:7</p> <p><b>choice</b> 3:19 5:3,16 6:5,6,8 10:8</p> <p><b>choosing</b> 9:14</p> <p><b>Chorus</b> 12:5</p> <p><b>clarify</b> 9:13 11:2</p> <p><b>clear</b> 11:17</p> <p><b>Columbia</b> 1:1 2:8</p> <p><b>coming</b> 4:22</p> <p><b>compromise</b> 7:9,10,18,21 9:13 10:11 11:19 12:11</p> <p><b>concerns</b> 9:5</p> <p><b>concluded</b> 12:17</p> <p><b>confused</b> 7:16</p> <p><b>confusion</b> 6:15 8:7,9,13</p> <p><b>consequence</b> 5:15</p> <p><b>consider</b> 10:11</p> <p><b>Control</b> 1:2,13,14</p> <p><b>convince</b> 6:2</p> <p><b>cost</b> 10:13</p> <p><b>count</b> 10:16</p> <p><b>CR</b> 1:7</p> <p style="text-align: center;"><u>        </u> D <u>        </u></p> <p><b>D.C</b> 1:15</p> <p><b>damage</b> 11:6</p> <p><b>day</b> 4:19 5:18,21 8:17 11:13</p> <p><b>days</b> 4:13,17,21 7:9 8:19 11:20</p> <p><b>decide</b> 7:4 10:7,8</p> <p><b>different</b> 5:8</p>
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