

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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2	1 PROCEEDINGS 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	4	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
3	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	5	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

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6	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 --	8	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 --
7	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 --	9	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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<p style="text-align: right;">10</p> <p>1 MR. ALBERTI: Yes or no?</p> <p>2 MS. BUI: I mean, I have to pay \$500 in order</p> <p>3 to --</p> <p>4 CHAIRPERSON MILLER: Right.</p> <p>5 MS. BUI: -- prevent to -- anything but --</p> <p>6 MR. STERN: Yes, that's right. You can</p> <p>7 decide either to do one thing or the other. They just</p> <p>8 want to know which you decide. It's your choice.</p> <p>9 CHAIRPERSON MILLER: Do you -- this is a</p> <p>10 voluntary thing. So you can either say, "I want the</p> <p>11 Board to consider this offer in compromise," or, "I</p> <p>12 don't want to waive my right to a hearing and I'm going</p> <p>13 to go for a hearing." And the hearing's going to cost</p> <p>14 you money too. We understand that. So you just -- you</p> <p>15 just need to tell us, is this what you want.</p> <p>16 MS. BUI: Madam Chair, since I count every</p> <p>17 penny, I think that this is cheaper than I hire -- I</p> <p>18 hire lawyer to go to answer to the Board and to talk</p> <p>19 with the OAG.</p> <p>20 MR. STERN: So the --</p> <p>21 MR. NOPHLIN: Okay.</p> <p>22 MR. STERN: -- answer is this is what you</p>	<p style="text-align: right;">12</p> <p>1 MR. NOPHLIN: Second.</p> <p>2 CHAIRPERSON MILLER: All those in favor of</p> <p>3 the motion that's been seconded by Mr. Nophlin, say</p> <p>4 aye?</p> <p>5 (Chorus of ayes.)</p> <p>6 CHAIRPERSON MILLER: Opposed?</p> <p>7 (No audible response.)</p> <p>8 CHAIRPERSON MILLER: Abstaining?</p> <p>9 (No audible response.)</p> <p>10 CHAIRPERSON MILLER: Okay. Then the motion</p> <p>11 approving the offer in compromise passes by a vote of</p> <p>12 6-0-0.</p> <p>13 MR. STERN: Thank you.</p> <p>14 MR. ALBERTI: Thank you, Mr. Stern.</p> <p>15 MS. BUI: Thank you.</p> <p>16 (WHEREUPON, at 11:16 a.m., the hearing was</p> <p>17 concluded.)</p> <p>18</p> <p>19</p>
<p style="text-align: right;">11</p> <p>1 want or it isn't what you want?</p> <p>2 MS. BUI: Sir, once again I clarify this is</p> <p>3 what I want --</p> <p>4 CHAIRPERSON MILLER: Okay.</p> <p>5 MS. BUI: -- in order to prevent further</p> <p>6 damage for me.</p> <p>7 CHAIRPERSON MILLER: I understand that.</p> <p>8 MR. STERN: Okay.</p> <p>9 CHAIRPERSON MILLER: I understand that. So</p> <p>10 you are waiving your right to a hearing?</p> <p>11 MS. BUI: Ma'am, yes. And I mean --</p> <p>12 MR. NOPHLIN: Okay.</p> <p>13 MS. BUI: -- in 15 day or not just I believe --</p> <p>14 CHAIRPERSON MILLER: Okay.</p> <p>15 MS. BUI: Yeah.</p> <p>16 CHAIRPERSON MILLER: All right. So I have</p> <p>17 made a motion. Is everybody else clear that the --</p> <p>18 that the applicant is good about this offer in</p> <p>19 compromise? All right. Then the motion is for the</p> <p>20 Licensee to pay \$500 within 15 days to resolve this</p> <p>21 case.</p> <p>22 Do I have a second?</p>	

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<hr/> <p style="text-align: center;">\$</p> <hr/> <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> <hr/> <p style="text-align: center;">1</p> <hr/> <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> <hr/> <p style="text-align: center;">2</p> <hr/> <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> <hr/> <p style="text-align: center;">6</p> <hr/> <p><b>6-0-0</b> 12:12</p> <p><b>60095</b> 1:8 2:6</p> <hr/> <p style="text-align: center;">A</p> <hr/> <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> <hr/> <p style="text-align: center;">B</p> <hr/> <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> <hr/> <p style="text-align: center;">C</p> <hr/> <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> <hr/> <p style="text-align: center;">D</p> <hr/> <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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