

Capital Reporting Company  
In the Matter of: HML Rose, Inc. t/a Lindy's Bon Appetit 08-01-2012

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DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF: :  
 :  
HML Rose, Inc. :  
t/a Lindy's Bon Appetit :  
2040 I Street, NW :  
Retailer CR : Show Cause  
License No. 23533 : Hearing  
ANC 2A :  
Case No. 12-AUD-00010 :  
Failed to File Quarterly :  
Statements :  
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August 1, 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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<p style="text-align: right;">2</p> <p>1           P R O C E E D I N G S</p> <p>2                               11:01 a.m.</p> <p>3           CHAIRPERSON MILLER: The next case on our</p> <p>4 calendar is a show cause hearing. It's Case No. 12-</p> <p>5 AUD- 00010, Lindy's Bon Appetit, at 2040 I Street,</p> <p>6 N.W., License No. 23533, in ANC 2A.</p> <p>7           MR. STERN: Good morning. Michael Stern</p> <p>8 representing the District of Columbia.</p> <p>9           CHAIRPERSON MILLER: Good morning.</p> <p>10          MR. ECKELS: James Eckels with Lindy's.</p> <p>11          CHAIRPERSON MILLER: Okay. It's a show cause</p> <p>12 hearing. Are there any preliminary matters?</p> <p>13          MR. STERN: Yes, there are. In this case,</p> <p>14 the parties have reached an understanding, which we</p> <p>15 hope the Board will approve as an offer in compromise.</p> <p>16 The Respondent will pay a fine of \$4000. I should also</p> <p>17 inform the Board that there -- according to your</p> <p>18 records, there are two statements still outstanding</p> <p>19 from other time periods. One was filed today, is my</p> <p>20 understanding, and the other the Respondent has with</p> <p>21 him and is prepared to file today.</p> <p>22          CHAIRPERSON MILLER: Okay.</p>	<p style="text-align: right;">4</p> <p>1           MR. STERN: The one from 2011 has already</p> <p>2 been filed --</p> <p>3           CHAIRPERSON MILLER: Okay.</p> <p>4           MR. STERN: -- though it may not reflect in</p> <p>5 your records since it was filed this morning. The one</p> <p>6 from 2009 the Respondent has with him and will file as</p> <p>7 soon as he's done filling it out and signing it.</p> <p>8           CHAIRPERSON MILLER: Okay. So there -- are</p> <p>9 there outstanding ones or no?</p> <p>10          MR. STERN: No, no. Just that those are</p> <p>11 pending violations before the OAG's office.</p> <p>12          CHAIRPERSON MILLER: Okay.</p> <p>13          MR. STERN: And any penalty for those will be</p> <p>14 dealt with in those cases.</p> <p>15          CHAIRPERSON MILLER: Okay. Got it. Okay.</p> <p>16 And when is the fine going to be paid?</p> <p>17          MR. STERN: Oh, sorry, within 30 days.</p> <p>18          MR. ECKELS: I thought it was 60 days.</p> <p>19          MR. STERN: Within 60 days.</p> <p>20          CHAIRPERSON MILLER: Sixty days?</p> <p>21          MR. ECKELS: Sorry. It's a slow month for</p> <p>22 us.</p>
<p style="text-align: right;">3</p> <p>1           MR. STERN: So that should leave those -- and</p> <p>2 I understand one is pending potential show cause -- a</p> <p>3 notice show -- status in show cause with the Attorney</p> <p>4 General assigned to that case. As such, they will --</p> <p>5 any penalties or issues with those late filed ones will</p> <p>6 be dealt with in those cases. This is -- the \$4000</p> <p>7 fine, it's only for this late file case.</p> <p>8           CHAIRPERSON MILLER: So the quarterly</p> <p>9 statement has been filed that's at issue in this case?</p> <p>10          MR. STERN: Yes.</p> <p>11          CHAIRPERSON MILLER: Okay.</p> <p>12          MR. STERN: Yes, that one --</p> <p>13          CHAIRPERSON MILLER: So we know that.</p> <p>14          MR. STERN: -- is filed a little while go.</p> <p>15          CHAIRPERSON MILLER: Okay. Did you say</p> <p>16 another one was filed though as well?</p> <p>17          MR. STERN: Yes.</p> <p>18          CHAIRPERSON MILLER: Uh-huh.</p> <p>19          MR. STERN: There was another -- there were -</p> <p>20 - he -- the Respondent was also missing one from 2011</p> <p>21 and one from 2009.</p> <p>22          CHAIRPERSON MILLER: Uh-huh.</p>	<p style="text-align: right;">5</p> <p>1           MR. STERN: That's okay.</p> <p>2           CHAIRPERSON MILLER: Okay. So Mr. Eckels,</p> <p>3 it's -- I -- it's my understanding that the OIC is for</p> <p>4 a fine of \$4000 to be paid within 60 days; that</p> <p>5 correct? Is that your --</p> <p>6           MR. ECKELS: Correct.</p> <p>7           CHAIRPERSON MILLER: -- understanding?</p> <p>8           MR. ECKELS: Yes.</p> <p>9           CHAIRPERSON MILLER: And you agree to that?</p> <p>10          MR. ECKELS: Yeah.</p> <p>11          CHAIRPERSON MILLER: And you know that that</p> <p>12 waives your right to a hearing on this?</p> <p>13          MR. ECKELS: Right.</p> <p>14          CHAIRPERSON MILLER: Okay. Any comments with</p> <p>15 -- yes, Mr. Nophlin?</p> <p>16          MR. NOPHLIN: Yes. Because I'd like to ask</p> <p>17 the Licensee with the number of violations they've had,</p> <p>18 what seems to be the problem?</p> <p>19          MR. ECKELS: Procrastination. You know, if</p> <p>20 you owe -- none -- I have no idea. You know, I found</p> <p>21 out about that one two and a half years later, the one</p> <p>22 that I'm about to file within the next, you know, ten</p>

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<p>6</p> <p>1 minutes or so. You know, oh, another one just slipped 2 and that's just what happened. I'm trying to operate 3 the restaurant and bartend and cook and do everything 4 else by myself. So -- but I'm caught up right now. So 5 I'm going to -- you know, from this point forward, I'm 6 hoping to just be able to stick with, you know, a good 7 regimen, just keep, you know, just getting it done. 8 MR. NOPHLIN: Well, I hope so. Thank you. 9 MR. ECKELS: This 4000 bucks is -- 10 CHAIRPERSON MILLER: Uh-huh. Uh-huh. 11 MR. NOPHLIN: Yeah, all right. 12 BOARD MEMBER: That's a lot of burgers. 13 MR. ECKELS: That's a good vacation. 14 CHAIRPERSON MILLER: Okay. 15 MR. NOPHLIN: Thank you. Thank you, Madam 16 Chair. 17 CHAIRPERSON MILLER: Anybody else? 18 (No audible response.) 19 CHAIRPERSON MILLER: All right. Then we have 20 an offer in compromise for a fine of \$4000 to be paid 21 within 60 days. I move that we approve the offer in 22 compromise.</p>	
<p>7</p> <p>1 Do I have a second? 2 MR. NOPHLIN: Second. 3 CHAIRPERSON MILLER: Any comment? 4 (No audible response.) 5 CHAIRPERSON MILLER: All those in favor of 6 the motion, say aye? 7 (Chorus of ayes.) 8 CHAIRPERSON MILLER: All those opposed? 9 (No audible response.) 10 CHAIRPERSON MILLER: All those abstaining? 11 (No audible response.) 12 CHAIRPERSON MILLER: Then the motion passes 13 by a vote of 6-0-0. Okay. So that concludes the cases 14 on the Board's morning calendar and we'll recess until 15 1:00 for the agenda. Thank you. So this -- that 16 concludes this case. Waiting for the Order? Okay. 17 (WHEREUPON, at 11:07 a.m., the hearing was 18 concluded.) 19 20 21 22</p>	

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<hr/> <p style="text-align: center;">\$</p> <hr/> <p><b>\$4000</b> 2:16 3:6 5:4 6:20</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p><b>00010</b> 2:5</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p><b>1</b> 1:12</p> <p><b>1:00</b> 7:15</p> <p><b>11:01</b> 2:2</p> <p><b>11:07</b> 7:17</p> <p><b>12</b> 2:4</p> <p><b>12-AUD-00010</b> 1:9</p> <p><b>14th</b> 1:15</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p><b>2000</b> 1:15</p> <p><b>2009</b> 3:21 4:6</p> <p><b>2011</b> 3:20 4:1</p> <p><b>2012</b> 1:12</p> <p><b>2040</b> 1:7 2:5</p> <p><b>23533</b> 1:8 2:6</p> <p><b>2A</b> 1:8 2:6</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p><b>30</b> 4:17</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p><b>4000</b> 6:9</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p><b>60</b> 4:18,19 5:4 6:21</p> <p><b>6-0-0</b> 7:13</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p><b>a.m</b> 2:2 7:17</p>	<p><b>able</b> 6:6</p> <p><b>abstaining</b> 7:10</p> <p><b>according</b> 2:17</p> <p><b>agenda</b> 7:15</p> <p><b>ALBERTI</b> 1:18</p> <p><b>Alcoholic</b> 1:2,13,14</p> <p><b>already</b> 4:1</p> <p><b>ANC</b> 1:8 2:6</p> <p><b>Anybody</b> 6:17</p> <p><b>Appetit</b> 1:6 2:5</p> <p><b>approve</b> 2:15 6:21</p> <p><b>assigned</b> 3:4</p> <p><b>Attorney</b> 3:3</p> <p><b>AUD</b> 2:5</p> <p><b>audible</b> 6:18 7:4,9,11</p> <p><b>August</b> 1:12</p> <p><b>aye</b> 7:6</p> <p><b>ayes</b> 7:7</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p><b>bartend</b> 6:3</p> <p><b>Beverage</b> 1:2,13,14</p> <p><b>Board</b> 1:2,14 2:15,17 6:12</p> <p><b>Board's</b> 7:14</p> <p><b>Bon</b> 1:6 2:5</p> <p><b>BROOKS</b> 1:18</p> <p><b>bucks</b> 6:9</p> <p><b>Building</b> 1:15</p> <p><b>burgers</b> 6:12</p> <hr/> <p style="text-align: center;">C</p> <hr/>	<p><b>calendar</b> 2:4 7:14</p> <p><b>CALVIN</b> 1:19</p> <p><b>case</b> 1:9 2:3,4,13 3:4,7,9 7:16</p> <p><b>cases</b> 3:6 4:14 7:13</p> <p><b>caught</b> 6:4</p> <p><b>cause</b> 1:7 2:4,11 3:2,3</p> <p><b>Chair</b> 6:16</p> <p><b>Chairperson</b> 1:15,17 2:3,9,11,22 3:8,11,13,15,18, 22 4:3,8,12,15,20 5:2,7,9,11,14 6:10,14,17,19 7:3,5,8,10,12</p> <p><b>Chorus</b> 7:7</p> <p><b>Columbia</b> 1:1 2:8</p> <p><b>comment</b> 7:3</p> <p><b>comments</b> 5:14</p> <p><b>compromise</b> 2:15 6:20,22</p> <p><b>concluded</b> 7:18</p> <p><b>concludes</b> 7:13,16</p> <p><b>Control</b> 1:2,13,14</p> <p><b>cook</b> 6:3</p> <p><b>correct</b> 5:5,6</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>days</b> 4:17,18,19,20 5:4 6:21</p> <p><b>dealt</b> 3:6 4:14</p> <p><b>District</b> 1:1 2:8</p>	<p><b>DONALD</b> 1:18</p> <p><b>done</b> 4:7 6:7</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p><b>Eckels</b> 2:10 4:18,21 5:2,6,8,10,13,19 6:9,13</p> <p><b>else</b> 6:4,17</p> <p><b>everything</b> 6:3</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p><b>Failed</b> 1:9</p> <p><b>favor</b> 7:5</p> <p><b>file</b> 1:9 2:21 3:7 4:6 5:22</p> <p><b>filed</b> 2:19 3:5,9,14,16 4:2,5</p> <p><b>filling</b> 4:7</p> <p><b>fine</b> 2:16 3:7 4:16 5:4 6:20</p> <p><b>forward</b> 6:5</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p><b>General</b> 3:4</p> <p><b>getting</b> 6:7</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p><b>half</b> 5:21</p> <p><b>happened</b> 6:2</p> <p><b>hearing</b> 1:8,14 2:4,12 5:12 7:17</p> <p><b>HERMAN</b> 1:19</p> <p><b>he's</b> 4:7</p> <p><b>HML</b> 1:6</p> <p><b>hope</b> 2:15 6:8</p> <p><b>hoping</b> 6:6</p>
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<p style="text-align: center;"><u>I</u></p> <p><b>I'd</b> 5:16  <b>idea</b> 5:20  <b>I'm</b> 5:22 6:2,4,5  <b>Inc</b> 1:6  <b>inform</b> 2:17  <b>issue</b> 3:9  <b>issues</b> 3:5  <b>it's</b> 2:4,11 3:7 4:21                      5:3</p> <p style="text-align: center;"><u>J</u></p> <p><b>James</b> 2:10  <b>JONES</b> 1:19</p> <p style="text-align: center;"><u>L</u></p> <p><b>late</b> 3:5,7  <b>later</b> 5:21  <b>leave</b> 3:1  <b>License</b> 1:8 2:6  <b>Licensee</b> 5:17  <b>Lindy's</b> 1:6 2:5,10  <b>little</b> 3:14  <b>lot</b> 6:12</p> <p style="text-align: center;"><u>M</u></p> <p><b>Madam</b> 6:15  <b>MATTER</b> 1:5  <b>matters</b> 2:12  <b>may</b> 4:4  <b>MEETING</b> 1:3  <b>Member</b>                      1:18,19,20 6:12  <b>met</b> 1:14  <b>Michael</b> 1:21 2:7</p>	<p><b>MIKE</b> 1:20  <b>Miller</b> 1:15,17                      2:3,9,11,22                      3:8,11,13,15,18,                      22                      4:3,8,12,15,20                      5:2,7,9,11,14                      6:10,14,17,19                      7:3,5,8,10,12</p> <p><b>minutes</b> 6:1  <b>missing</b> 3:20  <b>month</b> 4:21  <b>morning</b> 2:7,9 4:5                      7:14  <b>motion</b> 7:6,12  <b>move</b> 6:21  <b>myself</b> 6:4</p> <p style="text-align: center;"><u>N</u></p> <p><b>N.W</b> 1:15 2:6  <b>NICK</b> 1:18  <b>none</b> 5:20  <b>Nophlin</b> 1:19                      5:15,16                      6:8,11,15 7:2  <b>notice</b> 3:3  <b>NW</b> 1:7</p> <p style="text-align: center;"><u>O</u></p> <p><b>OAG</b> 1:21  <b>OAG's</b> 4:11  <b>offer</b> 2:15 6:20,21  <b>office</b> 4:11  <b>oh</b> 4:17 6:1  <b>OIC</b> 5:3  <b>ones</b> 3:5 4:9  <b>operate</b> 6:2</p>	<p><b>opposed</b> 7:8  <b>Order</b> 7:16  <b>outstanding</b> 2:18                      4:9  <b>owe</b> 5:20</p> <p style="text-align: center;"><u>P</u></p> <p><b>paid</b> 4:16 5:4 6:20  <b>parties</b> 2:14  <b>passes</b> 7:12  <b>pay</b> 2:16  <b>penalties</b> 3:5  <b>penalty</b> 4:13  <b>pending</b> 3:2 4:11  <b>periods</b> 2:19  <b>point</b> 6:5  <b>potential</b> 3:2  <b>preliminary</b> 2:12  <b>prepared</b> 2:21  <b>PRESENT</b>                      1:17,20  <b>presiding</b> 1:16  <b>problem</b> 5:18  <b>Procrastination</b>                      5:19</p> <p style="text-align: center;"><u>Q</u></p> <p><b>quarterly</b> 1:9 3:8</p> <p style="text-align: center;"><u>R</u></p> <p><b>reached</b> 2:14  <b>recess</b> 7:14  <b>records</b> 2:18 4:5  <b>Reeves</b> 1:15  <b>reflect</b> 4:4</p>	<p><b>regimen</b> 6:7  <b>representing</b> 2:8  <b>Respondent</b>                      2:16,20 3:20 4:6  <b>response</b> 6:18                      7:4,9,11  <b>restaurant</b> 6:3  <b>Retailer</b> 1:7  <b>Room</b> 1:15  <b>Rose</b> 1:6  <b>Ruthanne</b> 1:15,17</p> <p style="text-align: center;"><u>S</u></p> <p><b>second</b> 7:1,2  <b>seems</b> 5:18  <b>signing</b> 4:7  <b>SILVERSTEIN</b>                      1:20  <b>Sixty</b> 4:20  <b>slipped</b> 6:1  <b>slow</b> 4:21  <b>sorry</b> 4:17,21  <b>statement</b> 3:9  <b>statements</b> 1:10                      2:18  <b>status</b> 3:3  <b>Stern</b> 1:21 2:7,13                      3:1,10,12,14,17,                      19                      4:1,4,10,13,17,1                      9 5:1  <b>stick</b> 6:6  <b>Street</b> 1:7,15 2:5</p> <p style="text-align: center;"><u>T</u></p> <p><b>t/a</b> 1:6</p>
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<p><b>ten</b> 5:22</p> <p><b>Thank</b> 6:8,15 7:15</p> <p><b>that's</b> 3:9 5:1 6:2,12,13</p> <p><b>they've</b> 5:17</p> <p><b>today</b> 2:19,21</p> <p><b>trying</b> 6:2</p> <hr/> <p>U</p> <hr/> <p><b>Uh-huh</b> 3:18,22 6:10</p> <p><b>understand</b> 3:2</p> <p><b>understanding</b> 2:14,20 5:3,7</p> <hr/> <p>V</p> <hr/> <p><b>vacation</b> 6:13</p> <p><b>violations</b> 4:11 5:17</p> <p><b>vote</b> 7:13</p> <hr/> <p>W</p> <hr/> <p><b>Waiting</b> 7:16</p> <p><b>waives</b> 5:12</p> <p><b>Washington</b> 1:15</p> <p><b>we'll</b> 7:14</p> <p><b>WHEREUPON</b> 7:17</p>			
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