

Capital Reporting Company  
In the Matter of: JH & YJ, Inc. t/a Fairfax Liquors 07-11-2012

1

DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF: :  
 :  
JH & YJ, Inc. :  
t/a Fairfax Liquors :  
3851 Pennsylvania Avenue, NE :  
Retailer A : Protest  
License No. 78013 : Hearing  
ANC 7B : (Status)  
Case No. 12-PRO-00035 :  
Renewal Application :  
-----x

July 11, 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

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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                               9:40 a.m.</p> <p>3           CHAIRPERSON MILLER: Good morning, ladies and</p> <p>4 gentlemen. I'd like to welcome you to the regularly</p> <p>5 scheduled meeting of the District of Columbia Alcoholic</p> <p>6 Beverage Control Board.</p> <p>7           Today is July 11th, 2012. My name is</p> <p>8 Ruthanne Miller. I'm the chairperson. Joining me</p> <p>9 today to my far right is Mr. Calvin Nophlin. To his</p> <p>10 immediate left is Mr. Donald Brooks. To my immediate</p> <p>11 right is Mr. Nick Alberti. To my far left is Mr.</p> <p>12 Herman Jones and to his immediate right was Mr. Mike</p> <p>13 Silverstein. The Board has six members in attendance</p> <p>14 for the conduct of business with three constituting a</p> <p>15 quorum.</p> <p>16           Copies of today's hearing calendar and agenda</p> <p>17 are available at the receptionist's desk. Please be</p> <p>18 aware that these proceedings are being recorded by a</p> <p>19 court reporter. Accordingly, we must ask you to</p> <p>20 refrain from any disruptive noises or actions in the</p> <p>21 hearing room. If you have any electronic devices,</p> <p>22 pagers, cell phones or such, please make certain that</p>	<p style="text-align: right;">4</p> <p>1 would introduce yourselves for the record, please?</p> <p>2           MS. WILLIAMS: Yes, my name is Dr. Zina D.</p> <p>3 Williams and I'm the ANC commissioner for 7B02. And</p> <p>4 I'm sitting in for ANC Commissioner Robert Jordan.</p> <p>5           CHAIRPERSON MILLER: Okay. And is -- is</p> <p>6 someone here for the applicant? I think Fairfax</p> <p>7 Liquors? Have you -- have you had any contact today or</p> <p>8 yesterday, Ms. Williams, about the applicant attending</p> <p>9 this hearing?</p> <p>10          MS. WILLIAMS: He asked -- Mr. Jordan emailed</p> <p>11 the owner and also called, I think, two days prior to.</p> <p>12          CHAIRPERSON MILLER: Okay. And did you hear</p> <p>13 anything?</p> <p>14          MS. WILLIAMS: No.</p> <p>15          CHAIRPERSON MILLER: Okay. I think what I'm</p> <p>16 going to do in the event that he may be on his way is</p> <p>17 I'm going to pass this case and -- until 10:00 and see</p> <p>18 if he comes in.</p> <p>19          MS. WILLIAMS: Okay.</p> <p>20          CHAIRPERSON MILLER: And if he does come in,</p> <p>21 could you just kind of signal me if you're here, so</p> <p>22 that we can --</p>
<p style="text-align: right;">3</p> <p>1 they're turned off to avoid any interruption of the</p> <p>2 proceedings.</p> <p>3           Please note, when you come forward for your</p> <p>4 case, there's a piece of paper on each table. We'd</p> <p>5 like you to take a seat at the table and sign in. This</p> <p>6 is to ensure that the record will reflect the accurate</p> <p>7 spelling of your name. The open meeting set up</p> <p>8 requires that the public hearing on each case be open</p> <p>9 to the public.</p> <p>10          The Board may, consistent with Section 405(b)</p> <p>11 in the open meeting set up, enter a closed meeting</p> <p>12 during or after the public hearing on a case to consult</p> <p>13 with an attorney, to obtain legal advice, discuss</p> <p>14 settlement agreements, or deliberating upon a decision</p> <p>15 in an adjudication proceeding.</p> <p>16          Okay. At this point, we will proceed with</p> <p>17 our morning calendar. And the first case on the</p> <p>18 calendar is a protest hearing status. It's Case No.</p> <p>19 12-PRO-00035, Fairfax Liquors, 3751 Pennsylvania</p> <p>20 Avenue, S.E., License No. 78013 and ANC 7B.</p> <p>21          Are the parties here on that case? If you</p> <p>22 are, come take a seat at the table. Okay. And if you</p>	<p style="text-align: right;">5</p> <p>1           MS. WILLIAMS: Okay.</p> <p>2           CHAIRPERSON MILLER: -- you know, get back to</p> <p>3 your case?</p> <p>4           MS. WILLIAMS: Okay.</p> <p>5           CHAIRPERSON MILLER: All right. Thank you.</p> <p>6           (WHEREUPON, at 9:43 a.m., the hearing went</p> <p>7 off the record until 10:03 a.m.)</p> <p>8           CHAIRPERSON MILLER: Ms. Williams can -- I'm</p> <p>9 going to call up your case again. It's 10:00. Come to</p> <p>10 the table just for a minute. I want to make sure</p> <p>11 you're not here for any other case that you're waiting</p> <p>12 here anyway for.</p> <p>13          MS. WILLIAMS: No.</p> <p>14          CHAIRPERSON MILLER: Okay. This case will --</p> <p>15 yeah, okay. I'm getting back to Case No. 12-PRO-00035.</p> <p>16 And Ms. Williams is here on behalf of ANC 7B, correct?</p> <p>17          MS. WILLIAMS: Yes.</p> <p>18          CHAIRPERSON MILLER: And I had said that we</p> <p>19 would wait to see if the applicant would appear until</p> <p>20 10:00 and it's now 10:02. So at this point I am going</p> <p>21 to dismiss this application at this point pursuant to</p> <p>22 1603.3 of our rules, failure to appear in person or</p>

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<p style="text-align: right;">6</p> <p>1 through a designated representative may result in          2 denial of the license application or dismissal of a          3 protest, unless, in the discretion of the Board, good          4 cause is show for failure to appear.          5       A request for reinstatement with the Board          6 must be filed within ten days of the dismissal or          7 denial date. So at this point it's denied, the          8 application, and they will have to start the process          9 again to file a motion for reinstatement.          10       MALE BOARD MEMBER: Motion.          11       CHAIRPERSON MILLER: Yeah, motion the Board          12 for reinstatement. So -- and then exactly -- and then          13 -- right.          14       I'm going to be presenting that to the Board          15 as a motion to vote on and -- unless, Ms. Williams, do          16 you have any -- do you have anything to say to that          17 motion? Okay. Okay. The Board did not hear that the          18 applicant was on the way or ask the Board to reschedule          19 this hearing. So that's what I would move to deny,          20 this application. So we          21       MR. ALBERTI: Madam Chair, I believe -- if I          22 understand your motion, your motion is dismiss the</p>	<p style="text-align: right;">8</p> <p>1       CHAIRPERSON MILLER: All those abstaining?          2       (No audible response.)          3       CHAIRPERSON MILLER: Okay. The motion passes          4 by a vote of 6-0-0 to dismiss the application -- okay -          5 - for failure to appear at the stand.          6       MS. WILLIAMS: Uh-huh.          7       CHAIRPERSON MILLER: Okay. Thank you very          8 much.          9       MS. WILLIAMS: Thank you.          10       CHAIRPERSON MILLER: Okay.          11       (WHEREUPON, at 10:07 a.m., the hearing was          12 concluded.)          13          14          15          16          17          18          19          20          21          22</p>
<p style="text-align: right;">7</p> <p>1 application, not necessarily to deny, but to dismiss          2 this application.          3       CHAIRPERSON MILLER: You know, the way the          4 reg is written, I put -- you know, I put, "Denial of          5 the license application."          6       MR. ALBERTI: Okay.          7       CHAIRPERSON MILLER: I mean, I'll just take a          8 look too.          9       MR. ALBERTI: Okay.          10       CHAIRPERSON MILLER: Okay. According to lead          11 counsel, we should say, "Dismiss," so we will dismiss          12 the application -- I would move to dismiss the          13 application with the recognition that the applicant has          14 a -- will have an opportunity to file a request for          15 reinstatement. Do I have a second?          16       MR. ALBERTI: Second.          17       CHAIRPERSON MILLER: Any comments? Any          18 questions? Okay. The motion is before us. All those          19 in favor, say aye?          20       (Chorus of ayes.)          21       CHAIRPERSON MILLER: All those opposed?          22       (No audible response.)</p>	<p style="text-align: right;">9</p> <p>1       CERTIFICATE OF NOTARY PUBLIC          2          3       I, NATALIA THOMAS, 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       _____          20       NATALIA THOMAS          21       Notary Public in and for          22       DISTRICT OF COLUMBIA</p>

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1           CERTIFICATE OF TRANSCRIPTION

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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

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14

15 \_\_\_\_\_  
Date                   MIRANDA PENNACHI

16                   Transcriptionist

17

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22

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<hr/> <p style="text-align: center;">1</p> <hr/> <p><b>10:00</b> 4:17 5:9,20</p> <p><b>10:02</b> 5:20</p> <p><b>10:03</b> 5:7</p> <p><b>10:07</b> 8:11</p> <p><b>11</b> 1:10</p> <p><b>11th</b> 2:7</p> <p><b>12-PRO-00035</b> 1:8 3:19 5:15</p> <p><b>14th</b> 1:13</p> <p><b>1603.3</b> 5:22</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p><b>2000</b> 1:13</p> <p><b>2012</b> 1:10 2:7</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p><b>3751</b> 3:19</p> <p><b>3851</b> 1:6</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p><b>405(b)</b> 3:10</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p><b>6-0-0</b> 8:4</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p><b>78013</b> 1:7 3:20</p> <p><b>7B</b> 1:8 3:20 5:16</p> <p><b>7B02</b> 4:3</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p><b>9:40</b> 2:2</p> <p><b>9:43</b> 5:6</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p><b>a.m</b> 2:2 5:6,7 8:11</p>	<p><b>abstaining</b> 8:1</p> <p><b>According</b> 7:10</p> <p><b>Accordingly</b> 2:19</p> <p><b>accurate</b> 3:6</p> <p><b>action</b> 9:10,14</p> <p><b>actions</b> 2:20</p> <p><b>adjudication</b> 3:15</p> <p><b>advice</b> 3:13</p> <p><b>agenda</b> 2:16</p> <p><b>agreements</b> 3:14</p> <p><b>Alberti</b> 1:15 2:11 6:21 7:6,9,16</p> <p><b>Alcoholic</b> 1:2,11,12 2:5</p> <p><b>am</b> 5:20 9:9,11 10:3</p> <p><b>ANC</b> 1:8 3:20 4:3,4 5:16</p> <p><b>anything</b> 4:13 6:16</p> <p><b>anyway</b> 5:12</p> <p><b>appear</b> 5:19,22 6:4 8:5</p> <p><b>appearing</b> 9:5</p> <p><b>applicant</b> 4:6,8 5:19 6:18 7:13</p> <p><b>application</b> 1:9 5:21 6:2,8,20 7:1,2,5,12,13 8:4</p> <p><b>attendance</b> 2:13</p> <p><b>attending</b> 4:8</p> <p><b>attorney</b> 3:13 9:12</p> <p><b>audible</b> 7:22 8:2</p> <p><b>available</b> 2:17</p> <p><b>Avenue</b> 1:6 3:20</p> <p><b>avoid</b> 3:1</p>	<p><b>aware</b> 2:18</p> <p><b>aye</b> 7:19</p> <p><b>ayes</b> 7:20</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p><b>behalf</b> 5:16</p> <p><b>believe</b> 6:21</p> <p><b>Beverage</b> 1:2,11,12 2:6</p> <p><b>Board</b> 1:2,12 2:6,13 3:10 6:3,5,10,11,14,1 7,18</p> <p><b>Brooks</b> 1:16 2:10</p> <p><b>Building</b> 1:13</p> <p><b>business</b> 2:14</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p><b>calendar</b> 2:16 3:17,18</p> <p><b>Calvin</b> 1:17 2:9</p> <p><b>case</b> 1:8 3:4,8,12,17,18,2 1 4:17 5:3,9,11,14,15</p> <p><b>cause</b> 6:4</p> <p><b>cell</b> 2:22</p> <p><b>certain</b> 2:22</p> <p><b>CERTIFICATE</b> 9:1 10:1</p> <p><b>certify</b> 9:4 10:3</p> <p><b>Chair</b> 6:21</p> <p><b>chairperson</b> 1:13,15 2:3,8 4:5,12,15,20 5:2,5,8,14,18 6:11 7:3,7,10,17,21</p>	<p>8:1,3,7,10</p> <p><b>Chorus</b> 7:20</p> <p><b>closed</b> 3:11</p> <p><b>Columbia</b> 1:1 2:5 9:21</p> <p><b>comes</b> 4:18</p> <p><b>comments</b> 7:17</p> <p><b>commissioner</b> 4:3,4</p> <p><b>complete</b> 10:8</p> <p><b>concluded</b> 8:12</p> <p><b>conduct</b> 2:14</p> <p><b>consistent</b> 3:10</p> <p><b>constituting</b> 2:14</p> <p><b>consult</b> 3:12</p> <p><b>contact</b> 4:7</p> <p><b>Control</b> 1:2,11,12 2:6</p> <p><b>Copies</b> 2:16</p> <p><b>correct</b> 5:16 10:8</p> <p><b>counsel</b> 7:11 9:9,12</p> <p><b>court</b> 2:19 10:4,6</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p><b>D.C</b> 1:13</p> <p><b>date</b> 6:7 10:15</p> <p><b>days</b> 4:11 6:6</p> <p><b>decision</b> 3:14</p> <p><b>deliberating</b> 3:14</p> <p><b>denial</b> 6:2,7 7:4</p> <p><b>denied</b> 6:7</p> <p><b>deny</b> 6:19 7:1</p> <p><b>designated</b> 6:1</p>
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