

Capital Reporting Company
In the Matter of: Spork, LLC t/a A n D 09-10-2012

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DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF: :
 :
Spork, LLC :
t/a A n D :
1314 9th Street, NW :
Retailer CT : Roll Call
License No. ABRA-089950 : Hearing
Case No. 12-PRO-00074 :
New Application :
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September 10, 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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1 P R O C E E D I N G S

2 10:11 a.m.

3 MS. FLETCHER: Would the parties in the
4 matter of A n D please come forward? This is Case No.
5 12-PRO- 00074, Spork, LLC, trading as A n D, 1314 9th
6 Street, N.W., License No. ABRA-089950. It's a Retail
7 CT, new application. The protest issues are adverse
8 impact on peace, order and quiet, and residential
9 parking, and vehicular and pedestrian safety.

10 My name is LaVerne Fletcher and I'll be
11 conducting the roll call hearing as the Board's Agent
12 pursuant to DC Official Code 1601.2.

13 Introductions beginning with the applicant?

14 MR. KLINE: Good morning, Ms. Fletcher.
15 Andrew Kline on behalf of the applicant. Seated to my
16 left is Daniel O'Brien, neighborhood resident and
17 principal of the applicant.

18 MS. FLETCHER: Okay. Mr. Kline, would you
19 spell your name for the court reporter?

20 MR. KLINE: Sure. Last name's spelled K-L-I-
21 N-E, first name, A-N-D-R-E-W.

22 MS. FLETCHER: And Mr. O'Brien?

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1 MR. O'BRIEN: Daniel, D-A-N-I-E-L, O'Brien,
2 capital "O," apostrophe, capital "B," R-I-E-N.

3 MS. FLETCHER: Thank you. And for the
4 protestants?

5 MR. BENARDO: Hi, Ms. Fletcher. I'm Michael
6 Benardo with ANC 2F. The last name is B-E-N-A-R-D-O.

7 MS. FLETCHER: Thank you, Mr. Benardo. And
8 you, sir?

9 MR. SALTER: Hi. I'm David Salter, S-A-L-T-
10 E-R, representing the neighborhood in the immediate
11 vicinity.

12 MS. FLETCHER: Mr. Salter, do you have
13 letters of designation from the individuals that you're
14 representing?

15 MR. SALTER: I have two letters of
16 representation for other people. I can bring them up
17 to you if you'd like.

18 MS. FLETCHER: Yes, thank you. Thank you.
19 Okay. So Mr. Salter, you are a protestant?

20 MR. SALTER: That's correct.

21 MS. FLETCHER: And you're representing
22 Orestes del Castillo, who is a protestant? I'll give

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1 the spelling of the name to the court reporter after
2 the roll call hearing. And you're representing Margita
3 Salter?

4 MR. SALTER: Right. Those two people were
5 not able to be here today and so I said that I would
6 stand up on their behalf.

7 MS. FLETCHER: Are there any other members
8 from your group present today?

9 MR. SALTER: Not that I can see.

10 MS. FLETCHER: Uh-huh.

11 MR. SALTER: I think there was a list that
12 was submitted of about ten names.

13 MS. FLETCHER: Uh-huh. Okay. So Mr. Salter,
14 what's going to have to happen here is in order for
15 your group to have standing today, at least five
16 individuals would have needed to appear or you would
17 have needed to represent at least five.

18 MR. SALTER: Right.

19 MS. FLETCHER: You're representing two so
20 that is a total of three. Your protest letter does not
21 designate a representative. If it did, you could
22 represent all 11 of your parties today.

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1 MR. SALTER: Okay.

2 MS. FLETCHER: So what I'm going to have to
3 do today is dismiss your group of 11. You make seek
4 reinstatement of your protest by filing a petition with
5 the ABC Board, asking that you be reinstated for good
6 cause, whatever the reason would be. Just state it in
7 your letter. But for the purpose of the roll call
8 hearing, your group of 11 is dismissed. But you'll
9 receive an order dismissing the protest. And you will
10 have ten days from receiving that order to seek
11 reinstatement of the protest.

12 MR. SALTER: I understand. Thank you.

13 MS. FLETCHER: So there is one protestant
14 group in this matter today. That is ANC 2F. We need
15 to set a date for a mediation, a status hearing and a
16 protest hearing. I'll give you the date for the status
17 hearing first. The status hearing is set for October
18 the 10th, 2012 at 9:30 a.m. -- October 10 at 9:30.

19 The date for the protest hearing is January
20 16, 2013 at 1:30 p.m. -- January 16 at 1:30. We need
21 to set a date for mediation to occur prior to October
22 10. The next available date for mediation in September

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1 is Thursday, September the 27th at 9:00, 10:00, 11:00
2 or 1:00.

3 MR. KLINE: I can't do it that day.

4 MS. FLETCHER: Okay. Move forward into
5 October.

6 MR. KLINE: October 2nd?

7 MS. FLETCHER: Let's see. October 2nd, did
8 you say?

9 MR. KLINE: Yes.

10 MS. FLETCHER: October 2nd is good at 9:00,
11 10:00, 11:00 or 1:00.

12 MR. KLINE: 1:00?

13 MS. FLETCHER: That's good for the calendar.
14 Is that good for you, Mr. Benardo?

15 MR. BENARDO: Yeah, that's good for the ANC.

16 MS. FLETCHER: What time?

17 MR. KLINE: 1:00 p.m.

18 MS. FLETCHER: 1:00 p.m. on October 2nd.

19 Okay. Mr. Benardo, is your contact information on that
20 sheet?

21 MR. BENARDO: It is.

22 MS. FLETCHER: Thank you. And yours as well,

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1 Mr. Salter?

2 MR. SALTER: Yes.

3 MS. FLETCHER: Thank you.

4 MR. BENARDO: Just if I could ask a question?

5 Like, but our letter designates any of our ANC

6 commissioners representing; that's right?

7 MS. FLETCHER: Yes.

8 MR. BENARDO: And so if I'm not available on

9 that date, someone else can be?

10 MS. FLETCHER: Yes. Your letter designates -

11 - I think it designates most of your commissioners.

12 MR. BENARDO: Yeah, it would.

13 MS. FLETCHER: Yeah. That -- so anyone would

14 be fine. I think it's all of them actually. Okay.

15 Well, any questions? Thank you for coming.

16 MR. KLINE: Thank you.

17 MS. FLETCHER: Roll call hearing concluded.

18 (WHEREUPON, at 10:18 a.m., the hearing went

19 off record until 10:44 a.m.)

20 MS. FLETCHER: I'd like to reopen Case No.

21 12- PRO-00074 in the matter of A n D. I'd like to

22 reopen the record to reflect the fact that Martin Smith

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1 appeared as a protestant in this matter totaling four
2 protestants represented for the purpose of the roll
3 call hearing. The protest is still dismissed because
4 five individuals are not present but we needed the
5 record to reflect that a total of four appeared rather
6 than a total of three.

7 And Mr. Smith, would you spell your name for
8 the court reporter, please?

9 MR. SMITH: Certainly. Martin Smith, M-A-R-
10 T-I-N, S-M-I-T-H.

11 MS. FLETCHER: Okay. Any questions?

12 MR. SALTER: And with also the understanding
13 on the record Mr. Smith is representing the 11 people
14 and had come with the understanding that the
15 (inaudible) that he had crafted for the Board hearing
16 is sufficient to be able to allow him to represent but
17 we understand it's --

18 MS. FLETCHER: Yes. And thank you very much
19 for that. Yeah, Mr. Salter, the -- your -- in your
20 letter seeking reinstatement, you can mention that as
21 well. I have to state, your letter -- your letter does
22 say that you're filing the protest on behalf of all the

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1 other individuals.

2 MR. SALTER: Certainly.

3 MS. FLETCHER: The -- and I understand why
4 that would have seemed to be sufficient. But the
5 individuals themselves needed to say that you're
6 designated -- that they're designating you. And I'm
7 sure you'll explain all that in your letter seeking
8 reinstatement.

9 MR. SALTER: Sure. And maybe while we're on
10 the record, might I also suggest that for future --
11 it's like I said, their clarification -- perhaps a
12 standard letter that does underline to people
13 (inaudible) actually turn up and (inaudible) Board
14 could have, like, this designated by another
15 representative. That's certainly --

16 MS. FLETCHER: I understand.

17 MR. SALTER: -- a lot easier.

18 MS. FLETCHER: I understand. Thank you.
19 Thank you.

20 MR. SALTER: Okay. Thank you so much.

21 MS. FLETCHER: And I'll -- and I'll pass --
22 I'll pass that along.

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1 MR. SMITH: Thank you.

2 MS. FLETCHER: Okay. Thank you. Roll call
3 hearing concluded.

4 (WHEREUPON, at 10:46 a.m., the hearing was
5 concluded.)

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1 CERTIFICATE OF NOTARY PUBLIC

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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

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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

14

MIRANDA PENNACHI
Transcriptionist

15

16

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