

Capital Reporting Company
In the Matter of: Sunshine Bar & Lounge, LLC 08-15-2012

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DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF: :
 :
Sunshine Bar & Lounge, LLC :
t/a Sunshine Bar & Lounge :
7331 Georgia Avenue, NW :
Retailer CR : Show Cause
License No. 85239 : Hearing
ANC 4B : (Status)
Case No. 12-CMP-00054 :
Substantial Change (Operating :
After Hours and Expansion of :
Establishment) :
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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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<p style="text-align: right;">2</p> <p>1 P R O C E E D I N G S</p> <p>2 10:22 a.m.</p> <p>3 CHAIRPERSON MILLER: The next case on our</p> <p>4 calendar is Case No. 12-CMP-00054, Sunshine Bar and</p> <p>5 Lounge, located at 7331 Georgia Avenue, N.W., License</p> <p>6 No. 85239, located in ANC 4B.</p> <p>7 And would the parties introduce themselves</p> <p>8 for the record?</p> <p>9 MR. STERN: Michael Stern representing the</p> <p>10 District of Columbia.</p> <p>11 MS. KIDANE: My name is Alganesh Kidane. I'm</p> <p>12 one of the (inaudible).</p> <p>13 CHAIRPERSON MILLER: You're the manage --</p> <p>14 MS. KIDANE: Yeah, yeah, the owner.</p> <p>15 CHAIRPERSON MILLER: Owner?</p> <p>16 MS. KIDANE: Yeah.</p> <p>17 CHAIRPERSON MILLER: Okay. And what -- did</p> <p>18 you sign in also?</p> <p>19 MS. KIDANE: Uh-huh.</p> <p>20 CHAIRPERSON MILLER: Okay. And let me ask</p> <p>21 you the preliminary questions. You might have heard me</p> <p>22 ask the other parties before you. You can have a seat.</p>	<p style="text-align: right;">4</p> <p>1 CHAIRPERSON MILLER: Did you understand it?</p> <p>2 MS. KIDANE: Not fully. I don't --</p> <p>3 CHAIRPERSON MILLER: Not fully?</p> <p>4 MS. KIDANE: Yes.</p> <p>5 CHAIRPERSON MILLER: Okay.</p> <p>6 MS. KIDANE: That's why I need --</p> <p>7 CHAIRPERSON MILLER: A lawyer?</p> <p>8 MS. KIDANE: A lawyer, yeah.</p> <p>9 CHAIRPERSON MILLER: Okay. That's fine. All</p> <p>10 right. I also just want to ask preliminary matters of</p> <p>11 -- we received a letter related to this case from the</p> <p>12 ANC, Ms. Sarah Green (ph) and Andre Carley (ph),</p> <p>13 concerned neighbors. Are they here? Okay. I just</p> <p>14 wanted to see if you were here. I understood you made</p> <p>15 a request to possibly participate in this hearing. And</p> <p>16 we'll get back to you if appropriate.</p> <p>17 Mr. Stern, the owner here has indicated that</p> <p>18 she would like a lawyer to proceed any further. So --</p> <p>19 MR. STERN: Yes, Madam Chair.</p> <p>20 CHAIRPERSON MILLER: -- perhaps you could --</p> <p>21 MR. STERN: My understanding -- I have</p> <p>22 actually discussed this case. My understanding is a</p>
<p style="text-align: right;">3</p> <p>1 Did you receive notice of this hearing?</p> <p>2 MS. KIDANE: Yes. I received my -- my</p> <p>3 lawyer, he's not working longer -- right now and I need</p> <p>4 another lawyer. I already get.</p> <p>5 CHAIRPERSON MILLER: Okay.</p> <p>6 MS. KIDANE: I already get. So I need</p> <p>7 another day to --</p> <p>8 CHAIRPERSON MILLER: You need a lawyer?</p> <p>9 MS. KIDANE: Yes.</p> <p>10 CHAIRPERSON MILLER: You want a lawyer?</p> <p>11 MS. KIDANE: Another day extension to my</p> <p>12 effort.</p> <p>13 CHAIRPERSON MILLER: Okay, okay. Let me just</p> <p>14 ask you these questions. And then we can --</p> <p>15 MS. KIDANE: Okay.</p> <p>16 CHAIRPERSON MILLER: -- address that.</p> <p>17 MS. KIDANE: Okay.</p> <p>18 CHAIRPERSON MILLER: All right. You did</p> <p>19 receive notice of the hearing?</p> <p>20 MS. KIDANE: Yes.</p> <p>21 CHAIRPERSON MILLER: Okay. Did you read it?</p> <p>22 MS. KIDANE: Yes.</p>	<p style="text-align: right;">5</p> <p>1 lawyer is preparing to enter his appearance and he is</p> <p>2 aware that you can discuss the case with Mr. Adams, who</p> <p>3 is assigned to the case, once his representation is</p> <p>4 secured.</p> <p>5 CHAIRPERSON MILLER: Okay. Mr. Stern, do you</p> <p>6 have an opinion as to this case? You know, the last</p> <p>7 case we scheduled another status?</p> <p>8 MR. STERN: Yes.</p> <p>9 CHAIRPERSON MILLER: Do you -- do you have an</p> <p>10 opinion as to whether you think we should schedule</p> <p>11 another status or just go to show cause?</p> <p>12 MR. STERN: I wouldn't ordinarily but since</p> <p>13 the Respondent indicated she didn't understand the</p> <p>14 status of the-- of the show cause --</p> <p>15 CHAIRPERSON MILLER: Uh-huh.</p> <p>16 MR. STERN: -- I think that it would be in</p> <p>17 everyone's interest to schedule something for a status</p> <p>18 hearing, keeping the same show cause date that has</p> <p>19 already been set.</p> <p>20 CHAIRPERSON MILLER: Right. Similar to the</p> <p>21 other case. I'm going to confer with Legal. Okay.</p> <p>22 This case is scheduled for hearing in September. What</p>

Capital Reporting Company
In the Matter of: Sunshine Bar & Lounge, LLC 08-15-2012

<p style="text-align: right;">6</p> <p>1 is the date? September 12th and the -- at 10:00 a.m. 2 And there's not really a time to do another status 3 without postponing the hearing. So what the Board is 4 going to suggest is that as soon as you -- what the 5 procedures allow, Ms. Kidane -- Ms. Kidane, is that you 6 can get an attorney and you can meet with OAG. And if 7 you come to a settlement before the hearing, you can 8 still do that and then you can present it at the show 9 cause hearing. 10 If you don't come to settlement, then we'll 11 proceed with the hearing September 12th. That's about 12 -- that's almost a month away. Okay? So that's what 13 we'll do. We'll keep the dates the same and your 14 attorney can contact Mr. Stern. Now, since Ms. Green 15 and Ms. Carley - - do you want -- I'm sorry. 16 MR. CARLEY: Mr. Carley. 17 CHAIRPERSON MILLER: Mr. Carley. Do you want 18 to come forward for a minute? I want to, you know -- 19 MR. CARLEY: Sure. 20 CHAIRPERSON MILLER: -- acknowledge you. You 21 can come to the table. I understand that Mr. Stern -- 22 a letter was submitted to -- addressed to me, as Chair</p>	<p style="text-align: right;">8</p> <p>1 being made a party. 2 CHAIRPERSON MILLER: Oh, okay. I understand 3 that the letter requested party being a party in the 4 case. It did not, did it? 5 MS. GREEN: It asked -- it asked -- I'm not 6 specifically sure what it said. 7 CHAIRPERSON MILLER: Did you write the 8 letter? 9 MS. GREEN: I did. I did. My recollection - 10 - I'm sorry -- is thin and I apologize for that. 11 CHAIRPERSON MILLER: Okay. 12 MS. GREEN: We wanted input and I know we 13 wanted input into any penalty that is imposed -- that 14 is imposed on this. And that's what we want. We 15 wanted to share the community's experiences with this 16 establishment. It is not a good establishment for the 17 community. And that is -- 18 MR. SILVERSTEIN: Stop. 19 MS. GREEN: -- that is why -- I'm sorry. 20 MR. SILVERSTEIN: Stop it right there. 21 CHAIRPERSON MILLER: Okay. 22 MS. GREEN: We wanted -- we wanted to share.</p>
<p style="text-align: right;">7</p> <p>1 of the ABC Board and in our files, it's not clear that 2 you're copied or that the Licensee was copied on this 3 letter. 4 MR. STERN: I understand that Mr. Adams has -- 5 CHAIRPERSON MILLER: You can have a seat, 6 sir. 7 MR. STERN: -- been made aware of the letter. 8 I don't know if he received an actual copy of the 9 letter itself. I don't think he did read it but I know 10 he was made aware of it. And it is our position that 11 it's inappropriate for the ANCs to be a party to these 12 proceedings. They're certainly entitled to speak to 13 the Attorney General involved and decide, you know, and 14 have their concerns heard. 15 But the Attorney General represents the 16 entire District of Columbia and not just a particular 17 ANC, nor is there anything in the statute that provides 18 the ANCs to represent themselves at hearings such as 19 this. We would oppose them being made party. 20 CHAIRPERSON MILLER: You would be -- I'm 21 sorry, you drop -- your voice dropped at the end. 22 MR. STERN: I'm sorry. We would oppose them</p>	<p style="text-align: right;">9</p> <p>1 MR. SILVERSTEIN: Stop it. Madam Chair -- 2 MS. JONES: Hearing this, it's not even part -- 3 MR. SILVERSTEIN: My concern is that we not 4 get this tossed back in our lap because we hear things -- 5 MS. GREEN: I apologize. 6 MR. SILVERSTEIN: -- that are inappropriate. 7 And I think we all want to be careful that this doesn't 8 end up being reversed or whatever because it's 9 inappropriate. 10 CHAIRPERSON MILLER: Okay. All right. I 11 didn't hear anything inappropriate. But anyway, we can 12 stop there. I just wanted to acknowledge your letter 13 and put it -- that it be on the record that it is in 14 the -- it's in the form of a request to participate in 15 either, the way I understand it, the OIC proceeding, to 16 be heard on that, or the show cause hearing. 17 And Mr. Stern, I just want to clarify, when 18 you -- I mean -- yeah -- when you were speaking to it 19 being - - the rules not providing for them to 20 participate, were you referring to the OIC -- 21 MR. STERN: Well, I think -- 22 CHAIRPERSON MILLER: -- matter or --</p>

Capital Reporting Company
In the Matter of: Sunshine Bar & Lounge, LLC 08-15-2012

10	<p>1 MR. STERN: -- both of that is correct.</p> <p>2 CHAIRPERSON MILLER: -- you're referring to</p> <p>3 both?</p> <p>4 MR. STERN: I don't believe the rules provide</p> <p>5 for participation by ANCs. If they want to express</p> <p>6 their concern to the Attorney General handling the</p> <p>7 case, they may. And the Attorney General will decide</p> <p>8 what the appropriate avenue is to represent the</p> <p>9 District in this hearing considering all of the</p> <p>10 circumstances, not just the ANCs. But they can make</p> <p>11 that one of the factors that the Attorney General</p> <p>12 hears.</p> <p>13 CHAIRPERSON MILLER: Okay. I just wanted to,</p> <p>14 you know, get you all on the record. Ms. Kidane</p> <p>15 doesn't have an attorney here to represent her position</p> <p>16 on the record. And I think that it's the consensus of</p> <p>17 the Board -- and the Board can stop me if I'm wrong</p> <p>18 here -- but that an OIC is a settlement agreement</p> <p>19 between the Government and the applicant or the</p> <p>20 Licensee.</p> <p>21 And therefore, I don't think the Board would</p> <p>22 entertain your providing information on that. That's a</p>	12	<p>1 CHAIRPERSON MILLER: Okay. Thank you. Is</p> <p>2 there anything else on this case then? All right. The</p> <p>3 hearing is set --</p> <p>4 MR. STERN: Oh, I'm sorry. There is actually</p> <p>5 one other thing.</p> <p>6 CHAIRPERSON MILLER: Okay.</p> <p>7 MR. STERN: The Respondent, having not waived</p> <p>8 a reading of the information, we can, I think, delay</p> <p>9 that until the next hearing when she may be represented</p> <p>10 by counsel. But I thought that we should at least put</p> <p>11 it on the record that --</p> <p>12 CHAIRPERSON MILLER: That's correct.</p> <p>13 MR. STERN: -- it hasn't been done yet.</p> <p>14 CHAIRPERSON MILLER: That's correct. And</p> <p>15 that's why we stopped really proceeding with anything</p> <p>16 decisions. So we'll do that at the -- before the show</p> <p>17 cause hearing on that day. Anything else?</p> <p>18 (No audible response.)</p> <p>19 CHAIRPERSON MILLER: Okay. Thank you very</p> <p>20 much.</p> <p>21 MR. CARLEY: Thank you.</p> <p>22 CHAIRPERSON MILLER: And if you are going to</p>
11	<p>1 -- that's a settlement agreement. I think that the</p> <p>2 Board would just take under advisement the request to</p> <p>3 participate in the show cause hearing. And I -- the</p> <p>4 rule that I see that applies is 1701.4. "The Board may</p> <p>5 in its discretion permit interested persons other than</p> <p>6 parties as defined in this chapter to intervene in a</p> <p>7 proceeding for such general or limited purpose as the</p> <p>8 Board may specify."</p> <p>9 So if the parties want to submit anything</p> <p>10 else to that issue, feel free to do so. And that will</p> <p>11 be taken under advisement and the Board (inaudible).</p> <p>12 MS. GREEN: May I ask a quick question?</p> <p>13 Could you repeat that citation when you said, "The</p> <p>14 Board may?"</p> <p>15 CHAIRPERSON MILLER: Okay. It -- the ABRA</p> <p>16 regulations?</p> <p>17 MS. GREEN: Yes.</p> <p>18 CHAIRPERSON MILLER: 23 DCMR 1701.4. It's my</p> <p>19 understanding of authority that gives us discretion.</p> <p>20 The Board does not have to, you know. But it's -- it</p> <p>21 looks to me like the Board may consider it.</p> <p>22 MS. GREEN: Thank you.</p>	13	<p>1 -- all documents have to be served on all parties. I</p> <p>2 just wanted to -- Mr. Carey [sic].</p> <p>3 MR. SILVERSTEIN: Ms. Green? Ms. Green?</p> <p>4 CHAIRPERSON MILLER: Ms. Green, if you intend</p> <p>5 to file anything else and you should serve the document</p> <p>6 you put in the record on the other party.</p> <p>7 MS. GREEN: Thank you. Yes, we shall.</p> <p>8 CHAIRPERSON MILLER: Okay. And feel free to</p> <p>9 contact the office of the --</p> <p>10 MR. JONES: Oh, wait. But they're not a</p> <p>11 party.</p> <p>12 CHAIRPERSON MILLER: They're not a party.</p> <p>13 MR. JONES: So how are they going to submit</p> <p>14 to the other party when they're not a party?</p> <p>15 CHAIRPERSON MILLER: Excuse me, language.</p> <p>16 MS. KIDANE: I'm sorry. I'm sorry.</p> <p>17 CHAIRPERSON MILLER: Okay.</p> <p>18 MS. KIDANE: I want to say something.</p> <p>19 CHAIRPERSON MILLER: Oh, I'm sorry, ma'am.</p> <p>20 Go ahead.</p> <p>21 MS. KIDANE: But I'm telling you these people</p> <p>22 -- since I start the job, they are harassing me and</p>

Capital Reporting Company
In the Matter of: Sunshine Bar & Lounge, LLC 08-15-2012

14	<p>1 they're coming in over there. And I don't want nobody 2 to stay for them. They stand here. They are against 3 me. They are in a neighborhood. They put -- hopefully 4 -- 5 CHAIRPERSON MILLER: Okay. Ma'am? Ma'am? 6 MS. KIDANE: I can't -- I can't take it. The 7 -- I don't know why they take my business out of 8 personal business. So the Board, it have to see -- it 9 have to see that I don't have -- I got a lawyer but my 10 heart is another thing. They do every day -- 11 MR. SILVERSTEIN: Madam Chair, this is -- 12 this is out of order. 13 MS. KIDANE: Okay. 14 CHAIRPERSON MILLER: I'm sorry. 15 MS. KIDANE: No. 16 MR. SILVERSTEIN: Thank you. 17 CHAIRPERSON MILLER: Okay. 18 MR. ALBERTI: Madam Chair, I'm concerned 19 about your instructions to Ms. Green. I am not aware 20 that Ms. Green has intended to file a motion and I'm 21 not sure under what authority that the non-parties to 22 this case would be allowed to file a motion. I -- and</p>	16	<p>1 MS. GREEN: Right. 2 CHAIRPERSON MILLER: -- been ruled on by the 3 Board, except the Board did say that not with respect 4 to settlement agreement that would -- that there -- 5 that that was not appropriate, but for a hearing we 6 would consider it. So there isn't anything for you to 7 do different. I was just saying that as a courtesy, at 8 least the people -- the parties -- the parties are the 9 Licensee and the Government -- that they should have a 10 copy as well. 11 MS. GREEN: Okay. 12 MR. ALBERTI: Madam Chair, I just want to 13 make sure for the record that this is not a ruling by 14 the Board. That letter was not on our agenda. 15 CHAIRPERSON MILLER: I -- 16 MR. ALBERTI: So I just want to make sure 17 that we are clear on the record what is being stated 18 here. 19 CHAIRPERSON MILLER: What is being stated is 20 that we got a request. It was brought up. It was 21 addressed at this hearing, not ruled on, recognized, 22 acknowledged, and that no decision on whether they</p>
15	<p>1 they may be but I would ask our general counsel staff - 2 - I would ask Ms. Green to consult with our general 3 counsel staff about what avenues are available to you. 4 Thank you, Ms. Green. 5 CHAIRPERSON MILLER: I didn't -- I don't 6 recall using the word, "Motion," if I did. And 7 anything you -- anything you thought -- anything you 8 put in the -- sent to the office is related to this 9 case, I would suggest that the parties in this case get 10 copies of it. That's all. 11 MS. GREEN: My lack of clarity here -- 12 CHAIRPERSON MILLER: Uh-huh. 13 MS. GREEN: -- is due to the -- we did submit 14 a motion. And my understanding is a request to be 15 involved in penalty issues and my request -- we haven't 16 heard a ruling on that yet. So we don't know one way 17 or the other how the Board is going to decide that. 18 And so that's why we are willing to accept any 19 direction you give us and comply with anything. 20 CHAIRPERSON MILLER: I understood you 21 submitted a letter, which was a request to participate. 22 And that hasn't --</p>	17	<p>1 could participate in the hearing was made. However, it 2 -- I said I believed it was the consensus of the Board 3 that they could not participate in settlement 4 agreements. 5 If that -- if the Board wants to overrule me 6 and say they do want them to participate in settlement 7 agreements, then somebody should make -- should say 8 that. 9 MR. ALBERTI: Thank you for that 10 clarification. 11 MR. JONES: Madam Chair, has the Board found 12 -- formally reviewed said document? 13 CHAIRPERSON MILLER: No. It's under -- I 14 said it would be taken under advisement. 15 MR. JONES: Then why are we talking about it? 16 MR. ALBERTI: It's a -- in -- 17 CHAIRPERSON MILLER: It is a letter in the 18 record requesting their participation in the case and 19 I've acknowledged it. 20 MR. ALBERTI: Well, my -- Madam Chair, my 21 point is it's not on the agenda. 22 MR. JONES: It's not on the agenda.</p>

Capital Reporting Company
In the Matter of: Sunshine Bar & Lounge, LLC 08-15-2012

18	<p>1 MR. ALBERTI: So the Board cannot --</p> <p>2 CHAIRPERSON MILLER: What agenda?</p> <p>3 MR. ALBERTI: The Board's agenda that gets</p> <p>4 published --</p> <p>5 MR. JONES: How about we make --</p> <p>6 MR. ALBERTI: -- in the -- in --</p> <p>7 MR. JONES: You want to make a</p> <p>8 recommendation?</p> <p>9 MR. ALBERTI: -- in the public -- in the --</p> <p>10 in the DC Register. And it's not appropriate for the</p> <p>11 Board to be ruling on letters that come to it if</p> <p>12 they're not -- if they're not part of our agenda.</p> <p>13 MR. NOPHLIN: I make a recommendation, Madam</p> <p>14 Chair, that we go in the back and talk about this, seek</p> <p>15 legal counsel.</p> <p>16 CHAIRPERSON MILLER: I think that this case --</p> <p>17 MR. JONES: Thank you, Board member, Nophlin.</p> <p>18 I second that.</p> <p>19 CHAIRPERSON MILLER: Do you want to keep</p> <p>20 these people waiting on this case? I think that we</p> <p>21 have concluded this case, have we not?</p> <p>22 MR. NOPHLIN: I don't -- I'm not related with</p>	20
19	<p>1 this case so I don't know that we concluded it but --</p> <p>2 CHAIRPERSON MILLER: Okay. So if you would</p> <p>3 like to hang around, the Board will clarify in the back</p> <p>4 and come back to you. I'll read the Open Meetings</p> <p>5 instructions.</p> <p>6 As Chairperson of the Alcoholic Beverage</p> <p>7 Control Board for the District of Columbia and in</p> <p>8 accordance with Section 405 of the Open Meetings</p> <p>9 Amendment Act of 2010, I move that the ABC Board hold a</p> <p>10 closed meeting for the purpose of seeking legal advice</p> <p>11 from our counsel on Case No. 12-CMP-00054 per Section</p> <p>12 405(b)(4) of the Open Meetings Amendment Act of 2010</p> <p>13 and deliberating Case No. 12-CMP-00054 with respect to</p> <p>14 participation in this case, letters put in the record,</p> <p>15 for the reasons cited in Section 405(b)(13) of the Open</p> <p>16 Meetings Amendment Act of 2010.</p> <p>17 Is there a second?</p> <p>18 MR. NOPHLIN: Second.</p> <p>19 CHAIRPERSON MILLER: Roll call. Mr. Nophlin?</p> <p>20 MR. NOPHLIN: I agree.</p> <p>21 CHAIRPERSON MILLER: Mr. Brooks?</p> <p>22 MR. BROOKS: I agree.</p>	21
18	<p>1 CHAIRPERSON MILLER: Mr. Alberti?</p> <p>2 MR. ALBERTI: I agree.</p> <p>3 CHAIRPERSON MILLER: Ms. Miller agrees. Mr.</p> <p>4 Silverstein?</p> <p>5 MR. SILVERSTEIN: I agree.</p> <p>6 CHAIRPERSON MILLER: Mr. Jones?</p> <p>7 MR. JONES: I agree.</p> <p>8 CHAIRPERSON MILLER: Okay. So we will take a</p> <p>9 hopefully short recess and get -- come back and clarify</p> <p>10 for everyone concerned. Okay.</p> <p>11 (WHEREUPON, at 10:43 a.m., the hearing went</p> <p>12 off record until 11:05 a.m.)</p> <p>13 CHAIRPERSON MILLER: We're back on the</p> <p>14 record. Sometimes the more we say, the more confusing</p> <p>15 it is. So I am just going to say at this point that</p> <p>16 the request was sent into ABRA. It's addressed to me</p> <p>17 and the ABC Board and that request is going to be again</p> <p>18 under advisement. Thank you.</p> <p>19 And that concludes this case.</p> <p>20 MS. KIDANE: Is this finished?</p> <p>21 CHAIRPERSON MILLER: That's it.</p> <p>22 MS. KIDANE: That mean I can go?</p>	21

Capital Reporting Company
In the Matter of: Sunshine Bar & Lounge, LLC 08-15-2012

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1 - not unfortunately. I just meant unfortunately in
2 that I couldn't, like, give her my card and have her
3 call me. That's all. It's Mr. Adams, I believe.

4 CHAIRPERSON MILLER: Okay. Do you have -- do
5 you have a card or anything to give her with --

6 MR. STERN: I do have a card and she's
7 welcome to call me. But I --

8 CHAIRPERSON MILLER: I know.

9 MR. STERN: -- can only refer her to Mr.
10 Adams.

11 MS. KIDANE: Okay. Thank you.

12 MR. STERN: There you go.

13 CHAIRPERSON MILLER: You're running out of
14 cards.

15 MR. ALBERTI: You're a popular guy, Mr.
16 Stern.

17 MR. STERN: Yeah. I usually really don't
18 keep very many of these around.

19 (WHEREUPON, at 11:07 a.m., the hearing was
20 concluded.)

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Capital Reporting Company
In the Matter of: Sunshine Bar & Lounge, LLC 08-15-2012

Page 1

<hr/> <p style="text-align: center;">1</p> <hr/> <p>10:00 6:1 10:22 2:2 10:43 20:11 11:05 20:12 11:07 22:19 12 21:4,5 12-CMP-00054 1:9 2:4 19:11,13 12th 6:1,11 14th 1:15 15 1:12 1701.4 11:4,18</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2000 1:15 2010 19:9,12,16 2012 1:12 23 11:18</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>405 19:8 405(b)(13) 19:15 405(b)(4) 19:12 4B 1:8 2:6</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7331 1:7 2:5</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>85239 1:8 2:6</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>a.m 2:2 6:1 20:11,12 22:19 ABC 7:1 19:9 20:17</p>	<p>ABRA 11:15 20:16 accept 15:18 accordance 19:8 acknowledge 6:20 9:12 acknowledged 16:22 17:19 Act 19:9,12,16 actual 7:8 actually 4:22 12:4 Adams 5:2 7:4 22:3,10 address 3:16 addressed 6:22 16:21 20:16 advice 19:10 advisement 11:2,11 17:14 20:18 against 14:2 agenda 16:14 17:21,22 18:2,3,12 agreement 10:18 11:1 16:4 agreements 17:4,7 ahead 13:20 Alberti 1:19 14:18 16:12,16 17:9,16,20 18:1,3,6,9 20:1,2 22:15 Alcoholic 1:2,13,15 19:6 Alganesh 2:11 allow 6:5</p>	<p>allowed 14:22 already 3:4,6 5:19 am 14:19 20:15 Amendment 19:9,12,16 ANC 1:8 2:6 4:12 7:17 ANCs 7:11,18 10:5,10 Andre 4:12 anything 7:17 9:11 11:9 12:2,15,17 13:5 15:7,19 16:6 22:5 anyway 9:11 apologize 8:10 9:5 appearance 5:1 applicant 10:19 applies 11:4 appropriate 4:16 10:8 16:5 18:10 assigned 5:3 attorney 6:6,14 7:13,15 10:6,7,11,15 21:10,14 audible 12:18 August 1:12 authority 11:19 14:21 available 15:3 avenue 1:7 2:5 10:8 avenues 15:3 aware 5:2 7:7,10 14:19</p>	<p>away 6:12</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>Bar 1:6 2:4 believe 10:4 22:3 believed 17:2 Beverage 1:2,13,15 19:6 Board 1:2,15 6:3 7:1 10:17,21 11:2,4,8,11,14,2 0,21 14:8 15:17 16:3,14 17:2,5,11 18:1,11,17 19:3,7,9 20:17 Board's 18:3 Brooks 1:19 19:21,22 brought 16:20 Building 1:15 business 14:7,8</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>calendar 2:4 CALVIN 1:20 card 22:2,5,6 cards 22:14 careful 9:7 Carey 13:2 Carley 4:12 6:15,16,17,19 12:21 case 1:9 2:3,4 4:11,22 5:2,3,6,7,21,22 8:4 10:7 12:2 14:22 15:9 17:18</p>
--	---	--	--

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Capital Reporting Company
In the Matter of: Sunshine Bar & Lounge, LLC 08-15-2012

Page 2

<p>18:16,20,21 19:1,11,13,14 20:19</p> <p>cause 1:7 5:11,14,18 6:9 9:16 11:3 12:17</p> <p>certainly 7:12</p> <p>Chair 4:19 6:22 9:1 14:11,18 16:12 17:11,20 18:14</p> <p>Chairperson 1:16,18 2:3,13,15,17,20 3:5,8,10,13,16,1 8,21 4:1,3,5,7,9,20 5:5,9,15,20 6:17,20 7:5,20 8:2,7,11,21 9:10,22 10:2,13 11:15,18 12:1,6,12,14,19, 22 13:4,8,12,15,17, 19 14:5,14,17 15:5,12,20 16:2,15,19 17:13,17 18:2,16,19 19:2,6,19,21 20:1,3,6,8,13,21 21:1,3,6,12,17,2 0 22:4,8,13</p> <p>Change 1:9</p> <p>chapter 11:6</p> <p>circumstances 10:10</p> <p>citation 11:13</p> <p>cited 19:15</p> <p>clarification 17:10</p>	<p>clarify 9:17 19:3 20:9</p> <p>clarity 15:11</p> <p>clear 7:1 16:17</p> <p>closed 19:10</p> <p>Columbia 1:1 2:10 7:16 19:7</p> <p>coming 14:1</p> <p>community 8:17</p> <p>community's 8:15</p> <p>comply 15:19</p> <p>concern 9:3 10:6</p> <p>concerned 4:13 14:18 20:10</p> <p>concerns 7:14</p> <p>concluded 18:21 19:1 22:20</p> <p>concludes 20:19</p> <p>confer 5:21</p> <p>confusing 20:14</p> <p>consensus 10:16 17:2</p> <p>consider 11:21 16:6</p> <p>considering 10:9</p> <p>consult 15:2</p> <p>contact 6:14 13:9</p> <p>Control 1:2,13,15 19:7</p> <p>copied 7:2</p> <p>copies 15:10</p> <p>copy 7:8 16:10</p> <p>correct 10:1 12:12,14</p> <p>counsel 12:10</p>	<p>15:1,3 18:15 19:11</p> <p>courtesy 16:7</p> <p>CR 1:7</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>D.C 1:16</p> <p>date 5:18 6:1</p> <p>dates 6:13</p> <p>day 3:7,11 12:17 14:10</p> <p>DC 18:10</p> <p>DCMR 11:18</p> <p>decide 7:13 10:7 15:17</p> <p>decision 16:22</p> <p>decisions 12:16</p> <p>defined 11:6</p> <p>delay 12:8</p> <p>deliberating 19:13</p> <p>different 16:7</p> <p>direction 15:19</p> <p>discretion 11:5,19</p> <p>discuss 5:2</p> <p>discussed 4:22</p> <p>District 1:1 2:10 7:16 10:9 19:7</p> <p>document 13:5 17:12</p> <p>documents 13:1</p> <p>DONALD 1:19</p> <p>done 12:13</p> <p>drop 7:21</p> <p>dropped 7:21</p> <p>due 15:13</p>	<hr/> <p style="text-align: center;">E</p> <hr/> <p>effort 3:12</p> <p>either 9:15</p> <p>else 11:10 12:2,17 13:5</p> <p>enter 5:1</p> <p>entertain 10:22</p> <p>entire 7:16</p> <p>entitled 7:12</p> <p>establishment 1:10 8:16</p> <p>everyone 20:10</p> <p>everyone's 5:17</p> <p>except 16:3</p> <p>Excuse 13:15</p> <p>Expansion 1:10</p> <p>experiences 8:15</p> <p>express 10:5</p> <p>extension 3:11</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>factors 10:11</p> <p>feel 11:10 13:8</p> <p>file 13:5 14:20,22</p> <p>files 7:1</p> <p>fine 4:9</p> <p>finished 20:20</p> <p>form 9:14</p> <p>formally 17:12</p> <p>forward 6:18</p> <p>free 11:10 13:8</p> <p>fully 4:2,3</p> <hr/> <p style="text-align: center;">G</p> <hr/>
--	--	--	---

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Capital Reporting Company
In the Matter of: Sunshine Bar & Lounge, LLC 08-15-2012

Page 3

<p>general 7:13,15 10:6,7,11 11:7 15:1,2 21:11,15</p> <p>Georgia 1:7 2:5</p> <p>gets 18:3</p> <p>gives 11:19</p> <p>Government 10:19 16:9</p> <p>Green 4:12 6:14 8:5,9,12,19,22 9:5 11:12,17,22 13:3,4,7 14:19,20 15:2,4,11,13 16:1,11</p> <p>guy 22:15</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>handling 10:6</p> <p>hang 19:3</p> <p>harassing 13:22</p> <p>haven't 15:15</p> <p>having 12:7</p> <p>hear 9:4,11</p> <p>heard 2:21 7:14 9:16 15:16</p> <p>hearing 1:8,15 3:1,19 4:15 5:18,22 6:3,7,9,11 9:2,16 10:9 11:3 12:3,9,17 16:5,21 17:1 20:11 21:17 22:19</p> <p>hearings 7:18</p> <p>hears 10:12</p> <p>heart 14:10</p>	<p>HERMAN 1:20</p> <p>he's 3:3</p> <p>hold 19:9</p> <p>hopefully 14:3 20:9</p> <p>Hours 1:10</p> <p>huh 21:18</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>I'll 19:4</p> <p>I'm 2:11 5:21 6:15 7:20,22 8:5,10,19 10:17 12:4 13:16,19,21 14:14,18,20 18:22 21:3</p> <p>imposed 8:13,14</p> <p>inappropriate 7:11 9:6,9,11</p> <p>inaudible 2:12 11:11</p> <p>indicated 4:17 5:13</p> <p>information 10:22 12:8</p> <p>input 8:12,13</p> <p>instructions 14:19 19:5</p> <p>intend 13:4</p> <p>intended 14:20</p> <p>interest 5:17</p> <p>interested 11:5</p> <p>intervene 11:6</p> <p>introduce 2:7</p> <p>involved 7:13 15:15</p> <p>isn't 16:6</p>	<p>issue 11:10</p> <p>issues 15:15</p> <p>it's 7:1,11 9:2,8,14 10:16 11:18,20 17:13,16,21,22 18:10 20:16 21:22 22:3</p> <p>I've 17:19</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>job 13:22</p> <p>Jones 1:20 9:2 13:10,13 17:11,15,22 18:5,7,17 20:6,7</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>Kidane 2:11,14,16,19 3:2,6,9,11,15,17, 20,22 4:2,4,6,8 6:5 10:14 13:16,18,21 14:6,13,15 20:20,22 21:2,4,8,16,19 22:11</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>lack 15:11</p> <p>language 13:15</p> <p>lap 9:4</p> <p>last 5:6</p> <p>lawyer 3:3,4,8,10 4:7,8,18 5:1 14:9 21:5,10,13</p> <p>least 12:10 16:8</p> <p>legal 5:21 18:15 19:10</p> <p>letter 4:11 6:22</p>	<p>7:3,7,9 8:3,8 9:12 15:21 16:14 17:17</p> <p>letters 18:11 19:14</p> <p>License 1:8 2:5</p> <p>Licensee 7:2 10:20 16:9</p> <p>limited 11:7</p> <p>LLC 1:6</p> <p>located 2:5,6</p> <p>longer 3:3</p> <p>Lounge 1:6 2:5</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>ma'am 13:19 14:5</p> <p>Madam 4:19 9:1 14:11,18 16:12 17:11,20 18:13</p> <p>manage 2:13</p> <p>matter 1:5 9:22</p> <p>matters 4:10</p> <p>may 10:7 11:4,8,12,14,21 12:9 15:1</p> <p>mean 9:18 20:22</p> <p>meant 22:1</p> <p>meet 6:6 21:5</p> <p>meeting 1:3 19:10</p> <p>Meetings 19:4,8,12,16</p> <p>member 1:19,20,21 18:17</p> <p>met 1:15</p> <p>Michael 1:22 2:9</p> <p>microphone 21:7</p> <p>MIKE 1:21</p>
---	---	---	---

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Capital Reporting Company
In the Matter of: Sunshine Bar & Lounge, LLC 08-15-2012

Page 4

<p>Miller 1:16,18 2:3,13,15,17,20 3:5,8,10,13,16,18,21 4:1,3,5,7,9,20 5:5,9,15,20 6:17,20 7:5,20 8:2,7,11,21 9:10,22 10:2,13 11:15,18 12:1,6,12,14,19,22 13:4,8,12,15,17,19 14:5,14,17 15:5,12,20 16:2,15,19 17:13,17 18:2,16,19 19:2,19,21 20:1,3,6,8,13,21 21:1,3,6,12,17,20 22:4,8,13</p> <p>minute 6:18</p> <p>month 6:12</p> <p>motion 14:20,22 15:6,14</p> <p>move 19:9</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>N.W 1:15 2:5</p> <p>neighborhood 14:3</p> <p>neighbors 4:13</p> <p>NICK 1:19</p> <p>nobody 14:1</p> <p>non-parties 14:21</p> <p>Nophlin 1:20 18:13,17,22 19:18,19,20</p> <p>nor 7:17</p>	<p>notice 3:1,19</p> <p>NW 1:7</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>OAG 1:22 6:6</p> <p>office 13:9 15:8 21:11,14</p> <p>Oh 8:2 12:4 13:10,19</p> <p>OIC 9:15,20 10:18</p> <p>Open 19:4,8,12,15</p> <p>Operating 1:9</p> <p>opinion 5:6,10</p> <p>opportunity 21:14</p> <p>oppose 7:19,22</p> <p>order 14:12</p> <p>ordinarily 5:12</p> <p>overrule 17:5</p> <p>owner 2:14,15 4:17</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>participate 4:15 9:14,20 11:3 15:21 17:1,3,6</p> <p>participation 10:5 17:18 19:14</p> <p>particular 7:16</p> <p>parties 2:7,22 11:6,9 13:1 15:9 16:8</p> <p>party 7:11,19 8:1,3 13:6,11,12,14</p> <p>penalty 8:13 15:15</p> <p>people 13:21 16:8 18:20</p>	<p>per 19:11</p> <p>perhaps 4:20</p> <p>permit 11:5</p> <p>personal 14:8</p> <p>persons 11:5</p> <p>ph 4:12</p> <p>point 17:21 20:15</p> <p>popular 22:15</p> <p>position 7:10 10:15</p> <p>possibly 4:15</p> <p>postponing 6:3</p> <p>preliminary 2:21 4:10</p> <p>preparing 5:1</p> <p>present 1:18,21 6:8</p> <p>presiding 1:16</p> <p>procedures 6:5</p> <p>proceed 4:18 6:11</p> <p>proceeding 9:15 11:7 12:15</p> <p>proceedings 7:12</p> <p>process 21:8,10</p> <p>provide 10:4</p> <p>provides 7:17</p> <p>providing 9:19 10:22</p> <p>public 18:9</p> <p>published 18:4</p> <p>purpose 11:7 19:10</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>question 11:12</p>	<p>questions 2:21 3:14</p> <p>quick 11:12</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>reading 12:8</p> <p>really 6:2 12:15 22:17</p> <p>reasons 19:15</p> <p>recall 15:6</p> <p>receive 3:1,19</p> <p>received 3:2 4:11 7:8</p> <p>recess 20:9</p> <p>recognized 16:21</p> <p>recollection 8:9</p> <p>recommendation 18:8,13</p> <p>record 2:8 9:13 10:14,16 12:11 13:6 16:13,17 17:18 19:14 20:12,14</p> <p>Reeves 1:15</p> <p>refer 22:9</p> <p>referring 9:20 10:2</p> <p>Register 18:10</p> <p>regulations 11:16</p> <p>related 4:11 15:8 18:22</p> <p>repeat 11:13</p> <p>represent 7:18 10:8,15</p> <p>representation 5:3</p> <p>represented 12:9</p>
---	---	--	--

(866) 448 - DEPO

Capital Reporting Company
 In the Matter of: Sunshine Bar & Lounge, LLC 08-15-2012

<p>representing 2:9 represents 7:15 request 4:15 9:14 11:2 15:14,15,21 16:20 20:16,17 requested 8:3 requesting 17:18 respect 16:3 19:13 Respondent 5:13 12:7 response 12:18 Retailer 1:7 reversed 9:8 reviewed 17:12 Roll 19:19 Room 1:15 rule 11:4 ruled 16:2,21 rules 9:19 10:4 ruling 15:16 16:13 18:11 running 22:13 Ruthanne 1:16,18</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>Sarah 4:12 schedule 5:10,17 scheduled 5:7,22 seat 2:22 7:5 second 18:18 19:17,18 Section 19:8,11,15 secured 5:4 seek 18:14 seeking 19:10</p>	<p>sent 15:8 20:16 September 5:22 6:1,11 21:2,4,5 serve 13:5 served 13:1 settlement 6:7,10 10:18 11:1 16:4 17:3,6 share 8:15,22 she's 22:6 short 20:9 sic 13:2 sign 2:18 Silverstein 1:21 8:18,20 9:1,3,6 13:3 14:11,16 20:4,5 Similar 5:20 sir 7:6 somebody 17:7 sorry 6:15 7:21,22 8:10,19 12:4 13:16,19 14:14 21:3 speak 7:12 21:7,13,14 speaking 9:18 specifically 8:6 specify 11:8 staff 15:1,3 stand 14:2 start 13:22 stated 16:17,19 status 1:8 5:7,11,14,17 6:2 statute 7:17</p>	<p>stay 14:2 Stern 1:22 2:9 4:17,19,21 5:5,8,12,16 6:14,21 7:4,7,22 9:17,21 10:1,4 12:4,7,13 21:20,22 22:6,9,12,16,17 stop 8:18,20 9:1,12 10:17 stopped 12:15 Street 1:15 submit 11:9 13:13 15:13 submitted 6:22 15:21 Substantial 1:9 suggest 6:4 15:9 Sunshine 1:6 2:4 sure 6:19 8:6 14:21 16:13,16</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>t/a 1:6 table 6:21 talk 18:14 talking 17:15 Thank 11:22 12:1,19,21 13:7 14:16 15:4 17:9 18:17 20:18 21:19 22:11 that's 4:6,9 6:11,12 8:14 10:22 11:1 12:12,14,15 15:10,18 20:21 22:3</p>	<p>themselves 2:7 7:18 therefore 10:21 there's 6:2 they're 7:12 13:10,12,14 14:1 18:12 thin 8:10 tossed 9:4</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>Uh 21:18 Uh-huh 2:19 5:15 15:12 understand 4:1 5:13 6:21 7:4 8:2 9:15 understanding 4:21,22 11:19 15:14 understood 4:14 15:20 unfortunately 21:22 22:1 usually 22:17</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>voice 7:21</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>wait 13:10 waiting 18:20 waived 12:7 Washington 1:16 welcome 22:7 we'll 4:16 6:10,13 12:16</p>
---	--	--	---

Capital Reporting Company
In the Matter of: Sunshine Bar & Lounge, LLC 08-15-2012

Page 6

<p>We're 20:13 whatever 9:8 WHEREUPON 20:11 22:19 whether 5:10 16:22 willing 15:18 working 3:3 21:9 write 8:7 wrong 10:17</p> <hr/> <p>Y</p> <hr/> <p>yet 12:13 15:16 you'll 21:12</p>			
--	--	--	--