THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of:	)	
Burger 1300 Conn. Ave., LLC t/a Rogue States	)	License Number: 83378 ORDER NUMBER: 2010-043
Application for a New Retailer's Class CR License at premises 1300 Connecticut Avenue, N.W. Washington, D.C. 20036	)	

Burger 1300 Conn. Ave., LLC, t/a Rogue States, Applicant

Mike Silverstein, Chair, Advisory Neighborhood Commission 2B (ANC 2B)

BEFORE: Charles Brodsky, Chairperson
Mital M. Gandhi, Member
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member

ORDER ON VOLUNTARY AGREEMENT

The official records of the Alcoholic Control Board (Board) reflect that Burger 1300 Conn. Ave., LLC, t/a Rogue States, Applicant for a new Retailer's Class CR License located at 1300 Connecticut Avenue, N.W., Washington D.C., and Mike Silverstein, Chair, ANC 2B (collectively, the "Parties"), have entered into a Voluntary Agreement (Agreement), dated February 28, 2010, setting forth the terms and conditions that govern the operation of the Applicant's establishment.

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant and Chairperson Silverstein are signatories to the Agreement.

Accordingly, it is this 10th day of March 2010, **ORDERED** that:

1. The Application filed by Burger 1300 Conn. Ave., LLC, t/a Rogue States, for a new Retailer's Class CR License located at 1300 Connecticut Avenue, N.W., Washington D.C., is **GRANTED**;

2. This above-referenced Voluntary Agreement submitted by the Parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order; and

3. Copies of this Order shall be sent to the Applicant and ANC 2B.

District of Columbia
Alcoholic Beverage Control Board

Mital M. Gandhi, Member

Nick Alberti, Member

Donald Brooks, Member

Herman Jones, Member

I dissent from the position taken by the majority of the Board.

Charles Brodsky, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 1250 U Street, N.W., 3rd Floor, Washington, D.C. 20009.

Rec'd 3/1/10 [illegible]

THIS VOLUNTARY AGREEMENT ("Agreement") is made on this **28th** day of February 2010 by and between Burger 1300 Conn. Ave. LLC, a D.C. limited liability company t/a Rogue States, located at 1300 Connecticut Ave, NW, Washington, D.C. 20036, ABC License application # 083378 (Applicant), and Advisory Neighborhood Commission (ANC) 2B ("ANC"), (collectively, the "Parties").

WHEREAS, Applicant has applied for a License Class CR establishment ("Establishment") located at 1300 Connecticut Ave, NW, Washington, D.C. ("Premises"); 20036

WHEREAS, Protestants, who filed a timely protest (the "Protest") against the issuance of the Applicant's license application pursuant to D.C. Official Code § 25-601(1) and 601(4), respectively, have agreed to withdraw their protest subject to the execution of this voluntary agreement between the ANC and the Applicant;

WHEREAS, the Parties have agreed that the Applicant and the ANC will enter into this Agreement and the Protestants will withdraw their protest and request, together with the ANC that the Alcoholic Beverage Control Board ("ABC Board") approve the Applicant's license application conditioned upon the Applicant's compliance with the terms of this written Agreement; and

WHEREAS, the Parties are desirous of entering into a Voluntary Agreement pursuant to D.C. Official Code § 25-446 for the operation and maintenance of the Establishment in such a manner as to minimize the effect on (i) the peace, order and quiet of the neighborhood and (ii) pedestrian safety and vehicular traffic, and to eliminate the need for a Protest Hearing regarding the license application.

NOW, THEREFORE, in consideration of the recitals set forth above and the mutual covenants and conditions set forth below, the Parties agree as follows:

1. Seating. There will be no outside seating.

2. Alcohol service. Applicant shall not serve alcoholic beverages after 1:00 am.

3. Crowd control. Customers shall not be permitted to form a line outside of the premises waiting to order burgers after 12:00 am. If crowds do form outside of the establishment after 12:00 am the Applicant will provide security outside of the premises or sign up for Police Detail/Security.

4. Littering. Applicant agrees to put a trash can outside the facility during operating hours after 12:00 a.m. Applicant shall, either immediately after the close of

business each night, or before opening for business each day, pick up any trash and litter that accumulates on the sidewalk in the area in front of its premises, so as to keep these areas reasonably free of trash and debris

5. Noise. Applicant will comply with all D.C. Code § 25-725 regarding noise abatement. In addition, applicant will not permit noise to emanate from the premises and will not install exterior speakers. The doors and windows of the premises will be kept closed at all times during business hours when music is being played or a sound amplification device is being employed in the premises, except when persons are in the act of using the door for ingress to or egress from the premises.

6. Binding Effect. This Voluntary Agreement shall be binding upon and enforceable against the successors and assigns of the Applicant during the term of the license to which the Voluntary Agreement applies.

7. Notice and Opportunity to Cure. In the event that any of the parties is in breach of this Agreement, it shall be entitled to reasonable notice and opportunity to cure, as a condition precedent to seeking enforcement of the Agreement. Unless the breach is of an emergency nature or is a repetition of a prior breach, reasonable notice and opportunity shall provide for a cure within 10 days of the date of such notice. If Applicant or the licensee fails to cure within the 10-day period (or, with respect to a breach which reasonably requires more than 10-days to cure, fails to commence cure of such breach and diligently pursues such cure) failure shall constitute a cause for seeking a Show Cause Order from the ABC Board pursuant to D.C. Official Code § 25-447. Unless otherwise noted above, any notices required to be made under this Agreement shall be in writing and mailed via first-class mail, postage prepaid, or hand delivered, to the other parties to this Agreement at the following addresses. Notice shall be deemed given as of the time of receipt or refusal of receipt:

Name of Establishment: Burger 1300 Conn Ave, LLC
Address 1300 Connecticut Ave, NW
Washington, DC 20036
Attn: Raynold Mendizabal
Phone: (202) 296-2242

Advisory Neighborhood Commission (ANC) 2B
Address: #9 Dupont Circle, NW
Washington, DC 20036
Phone: NA
Attn: The Chair

Failure to give notice shall not constitute waiver or acquiescence to the violation, but notice shall be a prerequisite to the filing of a complaint with the ABC Board or any other enforcement action.

7. Withdrawal of Protest. Upon execution of this Agreement by the Parties and its acceptance by the ABC Board, Protestants shall withdraw the Protest. The withdrawal of the Protest is contingent upon the text of this Voluntary Agreement being incorporated in an Order of the ABC Board granting Applicant's application.

Applicant: **1300 Conn Ave, LLC**

By: _____
Raynold Mendizabal, Manager

Advisory Neighborhood Commission (ANC) 2B

By: _____
Mike Silverstein – Chair (ANC) 2B 2/28/10