

**BEFORE
THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:)

)
The Asylum Company, LLC)
t/a MCCXXIII)

)
Application for a Retailer's Class)
CT (substantial change))
at premises)
1223 Connecticut Avenue, N.W.)
Washington, D.C.)

)
Case no. 36042-02/092P)
2002-266)

Vince Micone, Chairperson, on behalf of Advisory Neighborhood Commission 2B,
Protestant

Dimitri P. Mallios, Esquire, on behalf of the Applicant

BEFORE: Roderic L. Woodson, Esquire, Chair
Vera Abbott, Member
Charles Burger, Member
Laurie Collins, Member
Judy Moy, Member
Ellen Opper-Weiner, Esquire, Member
Audrey Thompson, Member

**ORDER ON WITHDRAWN OPPOSITION
AND VOLUNTARY AGREEMENT**

The substantial change request to add a third floor to the licensed premises was protested and came before the Board on June 26, 2002, in accordance with D.C. Official Code Section 25-601 (2000 Edition). Vince Micone, Chairperson on behalf of the Advisory Neighborhood Commission 2B, filed timely opposition.

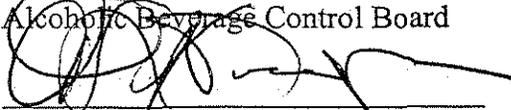
The official records of the Board reflect that the parties have reached an agreement that has been reduced to writing and has been properly executed and filed with the Board. Pursuant to the agreement, dated October 15, 2002, the protestant has agreed to withdraw the opposition, provided, however, the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the agreement.

The Asylum Company, LLC
t/a MCCXXIII
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Accordingly, it is this 13th day of November 2002, **ORDERED** that:

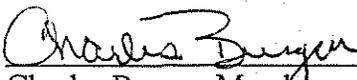
1. The opposition of Vince Micone, Chairperson, on behalf of the Advisory Neighborhood Commission 2B, is **WITHDRAWN**;
2. The substantial change request to expand the licensed premises to the third floor for The Asylum Company, LLC t/a MCCXXIII, holder a retailer's class CT license at 1223 Connecticut Avenue, N.W., Washington, D.C. is **GRANTED**;
3. The above-referenced agreement between the parties is **INCORPORATED** as part of this Order; and
4. Copies of this Order shall be sent to the Protestant and the Attorney for the Applicant.

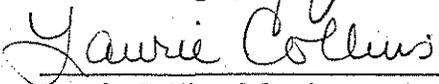
District of Columbia
Alcoholic Beverage Control Board

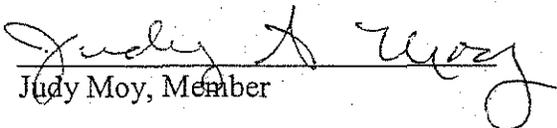

Roderic L. Woodson, Esquire, Chair

NOT VOTING

Vera Abbott, Member


Charles Burger, Member


Laurie Collins, Member


Judy Moy, Member

NOT VOTING

Ellen Opper-Weiner, Esquire, Member


Audrey E. Thompson, Member

Oct 15 02 12:14p

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VOLUNTARY AGREEMENT

This Agreement made the 15th day of October, 2002, by and between The Asylum Company, LLC t/a MCCXXIII ("Applicant") an Advisory Neighborhood Commission to be ("ANC 2B").

RECITALS

WHEREAS, Applicant is a holder of a retailer's license Class CR issued by the Alcoholic Beverage Control Board of the District of Columbia for premises known as 1223 Connecticut Avenue, NW;

WHEREAS, Applicant has applied to the Board for approval to add the third floor of the building as part of licensed premises;

WHEREAS, the Board has determined that the proposed change in the premises is a substantial change in accordance with the provisions of DC Code §25-404.

WHEREAS, ANC 2B has protested the approval the expansion of the premises in accordance with the provisions of DC Code §25-602.

WHEREAS, the parties desire to resolve the protest by voluntary agreement and to request the Alcoholic Beverage Control Board to approve of the expansion of the premises conditioned upon Applicant's compliance with the terms of this written agreement.

NOW, therefore, in consideration of the Recitals set forth above, and the mutual covenants in agreements hereinafter set forth, the parties agree as follows:

1. Recitals Incorporated. The Recitals set forth above are incorporated herein by reference.
2. Trash Pick-up. Applicants shall, either immediately after the close of business each night, or before opening for business each day, pick up trash and litter which might accumulate in the area in front of its premises, in front of the adjacent premises, and on the north side of the end street from Connecticut Avenue to 1776 N Street, NW, so as to keep these areas reasonably free of trash and debris.
3. Security Procedures. Applicant has implemented the security procedures set forth in Exhibit A, attached hereto. Applicant agrees to keep its staff informed of these security procedures and advise all new security personnel of these procedures. These security procedures shall be revisited by the Applicant, as needed, but at least every two (2) years.

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p. 3

MARK LEE - promoter
EVERY MTWTF
DAVID/MANAY
- QUALITY
375 - in
78 - out

✓ 4. Telephone Contact. Applicant shall designate a representative to receive complaints concerning its business operations and provide a current telephone number to ANC 2B. Complaints or inquiries shall be responded to within twenty-four (24) hours. Applicant hereby designates David Karim (703) 627-3525 and Emanuel Mpras (703) 981-7216.

5. ANC Contact. A representative of Applicant will attend meetings of ANC 2B at least quarterly so as to be available to the Commission to discuss problems or concerns arising from the Applicant's business operations.

6. ABC Approved Capacity. The total capacity for the establishment, including the third floor, shall be limited to six hundred (600) patrons.

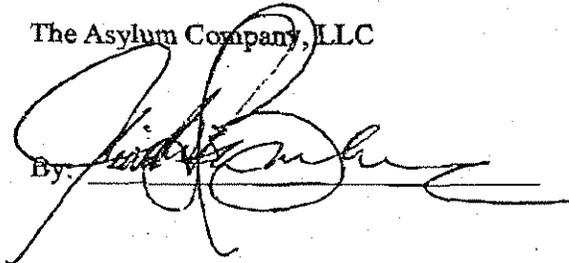
✓ 7. Valet Parking. Adequate valet parking for applicants patrons shall be provided. Vehicles shall be parked in a garage, and not on the street. Applicant shall arrange for adequate valet personnel, particularly at closing time, to minimize the number of persons congregating in front of the establishment waiting for vehicles.

2/11 9. Withdrawal of Protest. ANC 2B hereby withdraws its protest and joins with Applicant in requesting the Alcoholic Beverage Control Board to approve of the substantial change requested by Applicant, conditioned upon Applicant's compliance with the terms of this Agreement. Applicant and ANC 2B, pursuant to the provisions of 25 D.C.M.R. 1513.3, hereby requests that the Board incorporate the text of this Agreement in its order approving the substantial change.

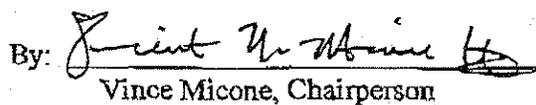
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

APPLICANT:

The Asylum Company, LLC

By: 

Advisory Neighborhood Commission 2B

By: 
Vince Micone, Chairperson

LAW OFFICES

MARGOLIUS, MALLIOS, DAVIS, RIDER & TOMAR, LLP

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CHERYL K. GRAHAM^{oo}
KENNETH A. GELFAND⁺
MELISSA S. POLITO⁺
STEPHEN C. LEWIS^{oo}

+MD ALSO; *VA ALSO
oMD ONLY
ooVA ONLY

FACSIMILE TRANSMISSION COVER SHEET

Date: 11/6/02

Please deliver the following page (s) to:

Name (s): Laura Myrd

Organization: _____

Fax Number: 442-9603

From: Dimitri Mallios, Margolius, Mallios, Davis, Rider, & Tomar, LLP

Client Number: _____

Should you have any problems with transmission, please call _____
at 202-296-1000.

1 PAGES, INCLUDING THIS COVER SHEET, ARE BEING SENT

THIS TRANSMISSION IS INTENDED SOLELY FOR THE PERSON DESIGNATED ABOVE AND ANY USE OR RECEIPT BY ANY OTHER PERSON IS STRICTLY PROHIBITED. THE CONTENTS HEREOF ARE SUBJECT TO THE ATTORNEY/CLIENT AND THE WORK PRODUCT PRIVILEGES.

MEMORANDUM

**BEFORE
THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:)

The Asylum Company, LLC)
t/a MCCXIII/Spank)

Application for a Retailer's Class CR)

License – substantial change)
at premises)

1223 Connecticut Avenue, NW)
Washington, D.C.)

Application no.: 36042-04/066P

Order no.: 2005-13

The Asylum Company, LLC, Applicant

Jeremiah Cohen, Vice-President, Tabard Inn; Anne DiBell, President, National League of American Women, Inc.; Oneida Khalsa, Director of Operations, Refugees International; Lawrence Ochs, Black Rock Group, LLC; R. Shapiro, Shapiro, Lifschitz and Schram; David M. Hill; Gloria Harrington, St. Mathews Cathedral; Larry Sigler, Science Service; Michael J. Pamgia; L. Owen Taggart; Irene Wang; Gabrielle Smith; Tom Sweatt, Chief of Security, NAB; Robert S. Pace; Alex Kauffman, Vice-President for Administration, Middle East Institute; and, Darren A. Bowie, Chairperson, on behalf of the Advisory Neighborhood Commission 2B, Protestants

BEFORE: Charles A. Burger, Chairperson
Vera M. Abbott, Member
Judy Moy, Member
Audrey E. Thompson, Member
Peter B. Feather, Member
Albert G. Lauber, Member
Eartha Isaac, Member

**ORDER ON AMENDMENT TO VOLUNTARY AGREEMENT AND
WITHDRAWN PROTEST**

The substantial change application for a summer garden for 54 seats on the rear of the third floor of the establishment, having been protested, came before the Board on June 9, 2004, in accordance with D.C. Official Code § 25-601 (2001). Jeremiah Cohen, Vice-President, Tabard Inn; Anne DiBell, President, National League of American Women, Inc.; Oneida Khalsa, Director of Operations, Refugees International; Lawrence Ochs, Black Rock Group, LLC; R. Shapiro, Shapiro, Lifschitz and Schram; David M.

The Asylum Company, LLC
t/a MCCXIII/Spank
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Hill; Gloria Harrington, St. Mathews Cathedral; Larry Sigler, Science Service; Michael J. Pamgia; L. Owen Taggart; Irene Wang; Gabrielle Smith; Tom Sweatt, Chief of Security, NAB; Robert S. Pace; Alex Kauffman, Vice-President for Administration, Middle East Institute; and, Darren A. Bowie, Chairperson, on behalf of the Advisory Neighborhood Commission 2B, Protestants, filed timely letters of opposition.

The official records of the Board reflect that the parties have reached two amendments to the existing voluntary agreement, dated October 15, 2002, which have been reduced to writing and have been properly executed and filed with the Board. Pursuant to the May 6, 2004 amendments to the existing voluntary agreement, the Protestants have agreed to withdraw their protests, provided, however, the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the amended agreement.

Accordingly, it is this 5th day of January 2005, **ORDERED** that:

1. The protests of Jeremiah Cohen, Vice-President, Tabard Inn; Anne DiBell, President, National League of American Women, Inc.; Oneida Khalsa, Director of Operations, Refugees International; Lawrence Ochs, Black Rock Group, LLC; R. Shapiro, Shapiro, Lifschitz and Schram; David M. Hill; Gloria Harrington, St. Mathews Cathedral; Larry Sigler, Science Service; Michael J. Pamgia; L. Owen Taggart; Irene Wang; Gabrielle Smith; Tom Sweatt, Chief of Security, NAB; Robert S. Pace; Alex Kauffman, Vice-President for Administration, Middle East Institute; and, Darren A. Bowie, Chairperson, on behalf of the Advisory Neighborhood Commission 2B, are **WITHDRAWN**;

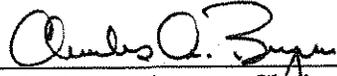
2. The substantial change application of The Asylum Company, LLC, t/a MCCXIII/Spank for a retailer's class CR license at 1223 Connecticut Avenue, N.W., Washington, D.C. is **GRANTED**;

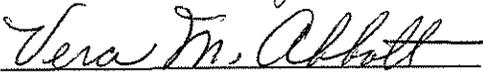
3. The above-referenced amendments to the voluntary agreement, dated October 15, 2002, are **INCORPORATED** as part of this Order; and

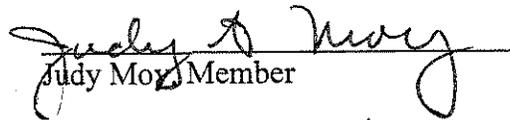
4. Copies of this Order shall be sent to the Protestants and the Applicant.

The Asylum Company, LLC
t/a MCCXIII/Spunk
Case no. 36042-04/066P
Page three

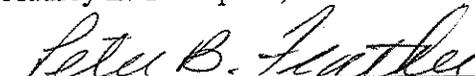
District of Columbia
Alcoholic Beverage Control Board

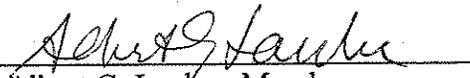

Charles A. Burger, Chairperson


Vera M. Abbott, Member


Judy Moy, Member

NON VOTING
Audrey E. Thompson, Member


Peter B. Feather, Member


Albert G. Lauber, Member

NON VOTING
Eartha Isaac, 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, 941 North Capitol Street, N.E., Suite 7200, Washington, D.C. 20002.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Dupont Circle Advisory Neighborhood Commission 2B



FACSIMILE TRANSMISSION COVER SHEET

TO: Fred Moosally, Esq.
ABRA

FACSIMILE
TRANSMISSION NUMBER: 202-442-9563

FROM: Darren A. Bowie
Chair, Dupont Circle ANC 2B
(202) 326-2018

SUBJECT: 6/7/04 Hearing - THE
Asylum Company T/A MCCXIII

Date of
transmission: 6/7/04

Total number of pages
transmitted, including
this cover sheet: 6

Fred - we have negotiated amendments to
the applicant's existing voluntary agreement and
we are withdrawing our protest. Accordingly, ANC 2B
will not send a representative to the hearing on

IN CASE OF TRANSMISSION ERRORS, Wednesday, 7/14/04.
CALL SENDER AT (202) 326-2018.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
~~Dupont Circle Advisory Neighborhood Commission 2B~~



June 7, 2004

Mr. Charles Burger
Chairperson, Alcoholic Beverage Control Board
941 North Capitol Street, NE, 7th Floor
Washington, DC 20002

Re: ABC Application No. 36042 by The Asylum Company, LLC, T/A MCCXXIII

Dear Mr. Burger:

The Dupont Circle Advisory Neighborhood Commission (Commission or ANC 2B) and the applicant in the above-referenced matter have negotiated two amendments to the applicant's existing Voluntary Agreement to resolve the Commission's concerns about this application. Accordingly, the Commission withdraws its protest, provided that the two amendments to the applicant's Voluntary Agreement are incorporated into the Board's order in this matter, which order is thereby conditioned upon compliance with the Voluntary Agreement as amended.

Commissioner Mike Silverstein is the Commission's representative on this matter. Commissioner Silverstein may be reached at (202) 833-4440 or at Mike.Silverstein@DupontCircleANC.net for additional information or assistance.

ON BEHALF OF THE COMMISSION.

Sincerely,

A handwritten signature in cursive script that reads "Darren A. Bowie".

Darren A. Bowie
Chairperson

Encl. (Voluntary Agreement Amendments)

cc: Emanuel N. Mpras
The Asylum Company, LLC

AMENDMENT TO VOLUNTARY AGREEMENT

AGREEMENT made this ^{June} 6 Day of May, 2004

WHEREAS, a Voluntary Agreement was signed on October 15, 2002, by and between The Asylum Company, LLC, t/a MCCXXIII (Applicant), and Advisory Neighborhood Commission 2B (ANC 2B); and

WHEREAS, Applicant has filed a request for a substantial change with the ABC Board for the approval of an additional 54 seats in the rear of the third floor of the building; and

WHEREAS, the parties desire to enter into a Voluntary Agreement pertaining to said request;

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Paragraph marked 9 is changed to read Paragraph No. 8, and Paragraph No. 9 is added, as follows:

"9. Permission is hereby granted to the Applicant for a substantial change in its operation whereby the applicant is hereby permitted to expand the third floor usage by adding 54 seats on the rear of the third floor of the premises. Applicant agrees to build a sound barrier wall to enclose the patio such that the noise from the outdoor seating is not amplified by the hard surfaces of the high-rise buildings that surround the patio. This barrier will be designed in consultation with St. Matthew's Cathedral to their specifications. Applicant agrees that, in the event they are contacted by representatives of St. Matthew's Cathedral indicating that the Church has an event, and noise from this third floor is intrusive on the event, then no music will be played on this location during the event. Applicant agrees that the music featured in the outdoor area will be (by nature) soft "lounge" music; should the music level exceed that which is deemed acceptable by St. Matthew's Cathedral, the music will be terminated. There will be no live entertainment, D.J., Karaoke or otherwise loud performances in the outside area. Except in emergencies, there will be no exit from the Night Club MCCXXIII into St. Matthew's Court. Special considerations will be given to St. Matthew's Cathedral when the Cathedral is hosting major events. St. Matthews will make an effort to notify the Night Club MCCXXIII when the Cathedral is hosting such events."

Handwritten signature and date: JMA 5/25/04

"10. In consideration of the above, ANC 2B , pursuant to the provisions of 25 D.C.M.R. 1513.3, hereby agrees not to oppose said request, and requests that the Board incorporate the text of this Agreement in its order approving the substantial change."

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year above written.

APPLICANT:

ADVISORY NEIGHBORHOOD
COMMISSION 2B

THE ASYLUM COMPANY, LLC

By Emanuel M. M...

By Steve A. Bowil 6/6/04
Chair, ANC 2B

ST. MATTHEWS CATHEDRAL

By Mary H. Ronald Jensen

Handwritten note: MA 5/25/04

SECOND AMENDMENT TO VOLUNTARY AGREEMENT

Agreement made this 6th Day of June, 2004

WHEREAS, a Voluntary Agreement was signed on October 15, 2002, by and between The Asylum Company, LLC t/a MCCXXIII (Applicant) and Advisory Neighborhood Commission 2B (ANC 2B); and

WHEREAS, Applicant has filed a request for a substantial change with the ABC Board for the approval of an additional 54 seats in the rear of the third floor of the building; and

WHEREAS, the parties desire to enter into a Voluntary Agreement pertaining to said request, and have accordingly executed this Second Amendment to Voluntary Agreement;

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

✓ 1. Paragraph 2 is amended to read as follows:

“2. Trash Pick-Up. Applicant shall, either immediately after the close of business each night, or before opening for business each day, pick up trash and litter which might accumulate in the area in front of its premises, in front of the adjacent premises, and on N Street to St. Matthew’s Court, so as to keep these areas reasonably free of trash and debris.”

✓ 2. A new Paragraph 2(a) is amended to read as follows:

“2a. Cooperation with ANC 2B Regarding Broader Trash Pick-Up. Applicant shall in good faith work with ANC 2B and other nearby businesses to develop a plan so that said businesses, including Applicant, will contribute equitably to hire staff to pick up trash and litter that accumulates in the immediate neighborhood, including the 1700 block of N Street NW.”

3. A new Paragraph 10 is added as follows:

3 security
“10. Closing Procedures. Applicant shall make every reasonable effort to prevent or disperse loitering or any other source of noise or disturbance near its premises at closing, including assigning at least two individuals to the exit 30 minutes prior to closing time for this purpose.”

In consideration of the above, ANC 2B hereby agrees not to oppose said request, and requests that the Board incorporate the text of this Agreement in its order approving the substantial change.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year above written.

APPLICANT:

~~THE ASYLUM COMPANY, LLC~~

By Emanuel Moses

~~ADVISORY NEIGHBORHOOD
COMMISSION 2B~~

By James A. Bowler 6/5/04
Chair, ANC 2B