

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

In the Matter of:

Quan, LLC

Applicant for a New
Retailer's Class CR License

at premises
1401 S Street, N.W.
Washington, D.C. 20009

Case No. 12-PRO-00020
License No. ABRA-088683
Order No. 2012-169

Quan, LLC (Applicant)

William Stephens, Chairperson, Advisory Neighborhood Commission (ANC) 2B

Norissa Giangola, on behalf of A Group of Five or More Individuals

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member
Jeannette Mobley, Member

**ORDER ON VOLUNTARY AGREEMENT AND WITHDRAWAL OF
PROTESTS OF ANC 2B AND A GROUP OF FIVE OR MORE INDIVIDUALS**

The Application filed by Quan, LLC (Applicant), for a new Retailer's Class CR License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on April 2, 2012, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant, ANC 2B, and A Group of Five or More Individuals have entered into a Voluntary Agreement (Agreement), dated April 20, 2012, that governs 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; Chairperson William Stephens, on behalf of ANC 2B; and Norissa Giangola, on behalf of the Group of Five or More Individuals, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protests filed by ANC 2B and the Group of Five or More Individuals.

Accordingly, it is this 9th day of May, 2012, **ORDERED** that:

1. The Application filed by Quan, LLC, for a new Retailer's Class CR License, located at 1401 S Street, N.W., Washington, D.C., is **GRANTED**;
2. The Protests of ANC 2B and the Group of Five or More Individuals in this matter are hereby **WITHDRAWN**;
3. The 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, except for the following modifications:

Section 2 (Hours of Operation) – The order of the following sentences shall be switched as follows: "Alcoholic beverages may not be carried out of the Establishment except that alcoholic beverages may be carried out to and consumed at tables on the Sidewalk Café. Alcoholic beverages may not be carried out of the Establishment except Saturday."

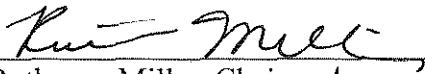
Section 14 (Cooperation with Residents) – The following language shall be removed: "Applicant agrees to meet, as needed, with the Protestants to discuss any problems arising from the operation of the Establishment."

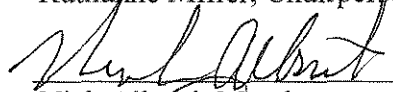
Section 21 (Amendments) – This subsection shall be modified to read as follows: "This Voluntary Agreement may only be amended by written agreement between the Applicant and the Protestants, or as allowed under DC Official Code 25-446."

The parties have agreed to these modifications.

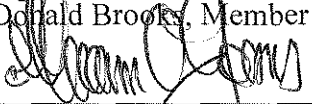
4. Copies of this Order shall be sent to the Applicant, ANC 2B, and Norissa Giangola, on behalf of the Group of Five or More Individuals.

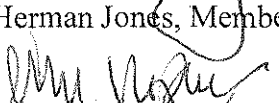
District of Columbia
Alcoholic Beverage Control Board

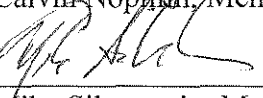

Ruthanne Miller, Chairperson

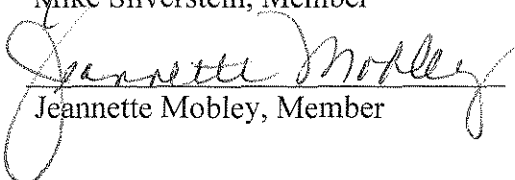

Nick Alberti, Member


Donald Brooks, Member


Herman Jones, Member


Calvin Nophlin, Member


Mike Silverstein, Member


Jeannette Mobley, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), any Party adversely affected by this Order may file a Motion for Reconsideration within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009

VOLUNTARY AGREEMENT

THIS VOLUNTARY AGREEMENT ("Voluntary Agreement") is made and entered into as of this 20 day of April, 2012, by and between QUAN, LLC/ MARK KULLER (hereinafter "Applicant"), Advisory Neighborhood Commission 2B (hereinafter "ANC 2B"), and the group of 29 neighbors who have filed a Protest as further described below (hereinafter "Neighborhood Group") (ANC 2B, Neighborhood Group hereinafter referred to collectively as the "Protestants").

WHEREAS, Applicant has filed an application with the District of Columbia Alcoholic Beverage Regulatory Agency ("ABC Board") for issuance of a retailers' alcoholic beverage license Class CR (ABRA-088683), for the premises at 1800 14th Street, NW, Washington, DC (in the building at 1401 S Street NW Washington, DC (the "Building"));

WHEREAS, ANC 2B and Neighborhood Group have each filed a Protest with the ABC Board protesting the issuance of said license; and

WHEREAS, in recognition of the ABC Board's policy of encouraging parties to a protested proceeding to settle their differences by negotiating agreements, the parties hereto being desirous of entering into an agreement whereby, subject to approval of the ABC Board, Applicant will agree to adopt certain measures to address the Protestants' concerns and protestants will agree to the issuance of the ABC license and withdraw their protests;

NOW THEREFORE, in consideration of the mutual covenants and undertakings memorialized herein, the parties agree as follows:

1. Noise Suppression: There shall be no loud or live music performed outside the Applicant's establishment (the "Establishment"). The Establishment's operation shall at all times be in compliance with the D.C. Noise Control Act. Applicant will request employees and patrons, by posting signs in the Establishment near each public exit door, to be considerate of residents in the neighborhood by keeping conversations and other noises at a level that will not cause a disturbance when departing the Establishment or smoking outside the Establishment after 10:00 p.m. Applicant agrees that there will be no outdoor disposal of glass bottles after 9:30 p.m.

2. Hours of Operation: The Establishment's hours of operation shall be as follows:

Sunday: 8:00 a.m. to no later than 2:00 a.m.

Monday – Thursday: 11:00 a.m. to no later than 2:00 a.m.

Friday - Saturday: 11:00 a.m. to no later than 3:00 a.m.

Notwithstanding the foregoing there shall be no food or alcoholic beverages served to tables on the Sidewalk Café after 11:00 p.m. Sunday – Thursday, and 12:00 a.m. Friday and Saturday. Alcoholic beverages may not be carried out of the Establishment except

and Saturday. Alcoholic beverages may not be carried out of the Establishment except that alcoholic beverages may be carried out to and consumed at tables on the Sidewalk Cafe.

3. Special Events: The Establishment will not advertise or host events that require a cover charge and/or utilize an outside promoter for any such event. Fundraisers, charitable events, nonprofit events, and private celebrations are exempt from this provision.

4. Deliveries: Applicant will request and encourage all of its vendors to make all deliveries of food, beverages and supplies between the hours of 9:00 a.m. and 6:00 p.m. Furthermore, Applicant will request and encourage all of its vendors to make all deliveries through the front entrance on 14th Street or from the Building loading dock through the interior service corridor entrances, and that they not park their delivery vehicles on S Street or, if possible, in the alley adjacent to the Building loading dock. Applicant will use its best efforts to prevent any delivery or trash trucks servicing the Establishment from blocking residents' ingress to or egress from S Street.

5. Trash Pick-Up and Removal: Applicant will maintain regular trash/garbage removal service a minimum of 4 times per week (days to be decided by owner and business necessity) only during the hours from 8:00 a.m. to 6:00 p.m. Applicant shall keep all trash and recycling dumpsters indoors in the designated trash room in the Building. Applicant shall keep dumpster lids tightly closed and resistant to pests and rodents. Applicant will conduct regular rodent, pest, and insect abatement.

6. Removal of Grease and Oils: Applicant will store cooking grease and fatty oils in proper containers with tightly fitting lids and make sure containers are free and clean of grease from the outside, as required by the District department of the Environment (DDOE). Additionally, Applicant will provide for the proper removal of grease and fatty oils from the Establishment and will not deposit grease or fatty oils in dumpsters or down drains.

7. Litter and Debris Removal: Applicant will maintain the street and public space in front of all Establishment entrances free of trash and litter in accordance with applicable D.C. regulations, and will inspect said areas a minimum of once daily to maintain a clean, tidy, and professional presence in these areas. Applicant, or its landlord, shall place appropriate containers outside the 14th Street entrance for disposal of smoking material and trash, and shall empty such containers daily.

8. Food Service to Liquor Ratio: Applicant will comply in all respects with the requirements of the ABC license or other requirements of law, including maintaining the appropriate ratio between food sales and liquor sales. Applicant shall refuse to sell alcohol to any underage person, and refuse to sell alcohol to inebriated persons.

9. Seating: Applicant estimates that the interior floors of the Establishment will contain between 185 and 200 seats (to be finalized by DCRA upon issuance of the

Establishment's Certificate of Occupancy) and that the Sidewalk Patio will contain no more than 48 seats on the landscaped patio area on S Street and no more than 12 additional seats along the portion of 14th Street that is north of the southern wall of the Establishment (to be finalized by DDOT upon issuance of the Certificate of Use and Public Space Permit for the Sidewalk Café). Applicant agrees that it will not maintain a standing bar in the Sidewalk Café and further agrees that all patrons on the Sidewalk Café will be sat at tables for waiter service of food and/or beverages. Applicant may not expand its seating above the maximum specified above by more than five percent (5%) without written amendment of this Voluntary Agreement. Notwithstanding anything herein to the contrary, occupancy shall not exceed the limit mandated by the Fire Marshal.

10. Additional Sidewalk Café Provisions: Applicant shall not maintain a standing bar in the Sidewalk Café. All patrons at the Sidewalk Café will be sat at tables for waiter service of food and/or beverages, will be provided menus, and will generally be encouraged to consume food. Applicant shall post a sign by the Sidewalk Café advising patrons to see the main dining room hostess to be seated on the Sidewalk Café. The Applicant shall have no separate hostess stand on S Street for seating on the Sidewalk Café, nor a separate line on S Street for patrons waiting to be seated on the Sidewalk Café.

11. Ingress, Egress and Queuing: No person shall be allowed to ingress or egress the Establishment at any location except at designated front and side entrances (except for delivery personnel and staff, who may enter the Establishment through the door in the Building's service corridor). Applicant will post a sign near any S Street entrance where queuing might occur advising any queuing patrons to be considerate of residents in the neighborhood by keeping conversations and other noises at a level that will not cause a disturbance.

12. Parking: Applicant recognizes the importance of parking not only for its success and the convenience of its patrons, but also the Protestants' concern as to the potential impact of Applicant's patrons on street parking in the surrounding residential community. Applicant agrees that it shall follow a policy which includes notifying patrons and potential patrons on the Establishment's website of (i) nearby available public parking options and (ii) nearby public transportation, including subway and bus lines. In the event Applicant chooses to contract with a valet parking service, said valet shall, if permitted by DDOT, be staged on 14th Street, and if not then on S Street, but in all cases as close as practical to the Establishment's main entrance. All chairs on the Sidewalk Café will be stacked and secured, or brought inside the Establishment, each night, and all tables will be secured each night, to avoid nighttime use of same outside of business hours.

13. Public Space Usage: Other than tables, chairs, and service stations for patio and sidewalk dining, and other than plantings and structures for which approval has been received by the Building, no tables or other structures shall be placed outside the

Building without proper licensing and notification.

14. Cooperation with Residents: Applicant agrees to meet, as needed, with the Protestants to discuss any problems arising from the operation of the Establishment. The Applicant agrees to work in good faith with the Protestants to resolve any such problems.

15. Withdrawal of Protest: Protestants agree to the issuance of the license and the withdrawal of their protests upon execution of this Agreement and provided that this Voluntary Agreement is incorporated into the ABC Board's order issuing, amending, or renewing the license, which order is thereby conditioned upon compliance with this Voluntary Agreement.

16. Informal Dispute Resolution: In the event any member of Neighborhood Group I or Neighborhood Group II has a concern regarding the operation of the Establishment, prior to involving the ANC, District of Columbia agencies or officials, or law enforcement agencies, or instituting proceedings under this Voluntary Agreement, they shall first contact the Establishment's general manager and meet and negotiate in good faith to resolve said concern.

17. Cure Period and Enforcement Before ABC Board: In the event of an alleged violation by Applicant of this Voluntary Agreement, Applicant shall be notified in writing by the person alleging such violation and given an opportunity to cure such violation within thirty (30) days thereafter before action against Applicant on the basis of such violation may be undertaken, unless the violation be of such a nature that more immediate action is necessary, in which case, the period for opportunity to cure shall be reduced to a reasonable time commensurate with the violation, but no less than 10 days (such 30-day or shorter period is hereinafter referred to as the "cure period"). The parties agree that if after such cure period, the alleging party believes Applicant is still in breach of this Voluntary Agreement said party may petition the ABC Board for issuance of an Order to Show cause, as provided in the DC Regulations.

18. Notice: Notice under this Voluntary Agreement shall be in writing, and may be given by registered mail, return receipt requested or by hand delivery. Mail notice shall be deemed effective as of three days after mailing and hand delivery upon actual delivery. Notices shall be addressed:

If to Applicant, to:

Mark Kuller
c/o Estadio
1520 14th Street NW
Washington, DC 20005

If to ANC 2B, to:

Dupont Circle ANC 2B
9 Dupont Circle
Washington, DC, 20036
Att: Chairman (as named on website)

If to Neighborhood Group to:

Norissa Giangola
1402 S Street NW
Washington, DC 20009

Applicant and other parties may change the notice address listed above by written notice to the other parties at the addresses listed above. Failure to give notice shall not constitute waiver of or acquiescence to the violation, but notice shall be a prerequisite to the filing of a show cause request with the ABC Board.

19. Counterparts: This Voluntary Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

20. Representative of Neighborhood Groups: If the party executing this Voluntary Agreement as Neighborhood Group sells residence, the rights and obligations of such party under this Voluntary Agreement shall terminate and said party shall notify the ABC Board and other parties to this Voluntary Agreement in writing prior thereto. Such notice shall designate another member of such group or groups, as said group's representative, which designation shall include each such other member's mailing address, and following such notice said designated person or persons shall assume all rights and obligations under this Voluntary Agreement of the terminated representative.

21. Amendments: This Voluntary Agreement may only be amended by written agreement between the Applicant, and the Protestants. Any such amendment shall become effective only upon acceptance by the ABC Board.

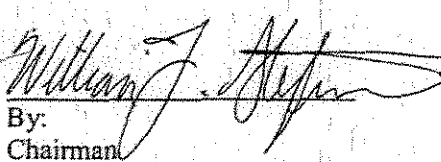
IN WITNESS WHEREOF, the parties below have executed this Voluntary Agreement as of the date and year first written above.

APPLICANT:
QUAN, LLC



By: Mark A. Kuller
Managing Member

PROTESTANTS:
ADVISORY NEIGHBORHOOD COMMISSION 2B



By:
Chairman

NEIGHBORHOOD GROUP



By: Norissa Giangola
Group Representative