THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of:	)	
	)	
Briceno & William, LLC	)	
t/a A Spot on H	)	
	)	
Applicant for a New	)	
Retailer's Class CR License	)	License No. ABRA-089941
	)	Order No. 2012-510
at premises	)	
1255 H Street, N.E.	)	
Washington, D.C. 20002	)	
	)	

Briceno & William, LLC, t/a A Spot on H (Applicant)

David Holmes, Chairperson, Advisory Neighborhood Commission (ANC) 6A

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member

ORDER ON VOLUNTARY AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that Briceno & William, LLC, t/a A Spot on H, Applicant for a new Retailer's Class CR license, located at 1255 H Street, N.E., Washington, D.C., and ANC 6A have entered into a Voluntary Agreement (Agreement), dated September 13, 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 and Chairperson David Holmes, on behalf of ANC 6A, are signatories to the Agreement.

Accordingly, it is this 30th day of November, 2012, **ORDERED** that:

1. 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 1 (f) (Public Space Cleanliness and Maintenance) shall be removed.

   Section 2 (i) (Business Operations and Practices) shall be removed.

   Section 3 (d) (Music/Dancing/Entertainment) – The following sentence shall be modified to read as follows: "If the patio has been open for business for at least three months during the months of April through September and noise levels from the patio do not create a repeated disturbance to the neighborhood during this time period and the licensee has a record of good conduct during this time period, the ANC will consider modifying the Voluntary Agreement to allow for expanded hours on the patio."

   Section 3 (g) shall be removed.

   Section 7 (b) (Enforcement) shall be removed.

   The parties have agreed to these modifications.

2. Copies of this Order shall be sent to the Applicant and ANC 6A.

District of Columbia
Alcoholic Beverage Control Board

Ruthanne Miller, Chairperson

Nick Alberti, Member

Donald Brooks, Member

Herman Jones, Member

Mike Silverstein, 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.

District of Columbia Government
Advisory Neighborhood Commission 6A
919 Massachusetts Avenue, NE
Washington, DC 20002

November 29, 2012

Mr. Fred Moosally, Director
Alcoholic Beverage Regulation Administration
2000 14th Street, NW, Suite 400S
Washington, DC 20009

Re: Spot on H (1255 H Street, NE) #089941

Dear Sir:

At its regularly-scheduled and publicly-announced[1] monthly meeting of November 8, 2012, Advisory Neighborhood Commission 6A (ANC) voted with great reluctance, by 5-0-1, with Commissioner Alberti not voting and not present in the room, to accept the changes in our Voluntary Agreement specified in the recent letter from the ABC Board.

Several of these provisions have been previously accepted by the Board. Please tell the Commission what has changed legally or in the Board's decisions that requires these changes in our standard Voluntary Agreement. The Board is rejecting previously acceptable provisions without providing any rationale or citing any modifications in regulatory language.

Should you have any questions, please contact Commissioner Adam Healy, chair of the ANC's Alcohol Beverage Licensing Committee at healyanc6a01@gmail.com or 202.556.0215. Commissioners Healy and Holmes are authorized to represent the ANC in this matter.

On behalf of the Commission,

David Holmes

David Holmes
Chair

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[1] ANC 6A meetings are announced electronically on the anc6a-announce@yahoo.com email list and the ANC-6A@yahoogroups.com (not controlled by the ANC) email list, the ANC's own website (ANC6A.org), and through print advertisements in the *Hill Rag*.

Made this 13th day of September, 2012

by and between

The Spot on H (ABRA #089941)
1255 H Street NE
Washington DC 20002
and
Advisory Neighborhood Commission 6A

Preamble

Through this agreement, both parties aim to create an environment whereby the applicant may operate as a viable contributing business in the ANC 6A community, while concurrently curtailing any adverse effects a business such as the applicant's could have on the surrounding neighborhood.

The applicant agrees to work regularly with the ANC 6A, neighborhood associations, and residents to ensure the business operations do not adversely affect the surrounding neighborhood. All parties believe the statements and provisions contained in this agreement are reasonable and must become wholly integrated into the day-to-day operation of the business establishment.

Further, ANC 6A acknowledges that this Voluntary Agreement shall be presented to all Class CR applicants within the boundaries of ANC 6A. The community and merchants have agreed that it is in all the parties best interests to standardize the requirements for the operations of restaurant, tavern, and nightclub establishments within the boundaries of ANC 6A. To the greatest extent possible, the ANC will not insist upon or allow any significant changes to this Voluntary Agreement that will unfairly benefit or, conversely, cause competitive disadvantage to, any individual applicant or establishment within the ANC, unless such change is required by the District of Columbia government, other authorized governmental bodies, or rule of law.

The community and merchants understand and agree that the changes imposed upon the operations of all licensees within the ANC as set forth herein are important measures to protect the safety, peace, order and quiet of the neighborhood, its residents, and businesses.

Witnesseth

Whereas, Applicant's premises is within the boundaries of ANC 6A; and,

Whereas, the parties desire to enter into an agreement governing certain requirements and understandings regarding the issuance of a Retailer's Class CR Liquor License at the subject premises; and,

The Parties Agree As Follows:

1. Public Space Cleanliness and Maintenance. Applicant will maintain the public space (minimally the front sidewalk up to and including the gutter in front of the subject premises, and the alleyway behind the subject premises) adjacent to the establishment in a clean and litter-free condition by:
   a. Picking up trash, including beverage bottles and cans, and all other trash a minimum of twice daily (once

immediately before business hours and again between 5:00 p.m. and 8:00 p.m.).
b. Maintaining regular trash garbage removal service, regularly remove trash from the trash and dumpster area, and see that the trash and dumpster area remain clean.
c. Applicant shall deposit trash and garbage only in rodent-proof dumpsters, and shall see that dumpster covers fit properly and remain fully closed except when trash or garbage is being added or removed.
d. Exercising due diligence to prevent and/or rid vermin infestation in and around the establishment, including following, minimally, the recommendations and guidelines of the Vector Control Division of the Department of Public Works.
e. Assisting in maintenance of the curb in front of the establishment to keep them free of trash and to remove snow and ice from the sidewalk and comply with all applicable D.C. laws and regulation in these respects.
f. Planting, watering, and generally tending to tree boxes directly in front of the subject premises, if any.
g. Promptly removing or painting over any graffiti written on the exterior walls of the property.
h. Requiring the owner and employees not to park on public space between the building and the curb.
i. Not locating trash bins, chairs, tables, or other equipment on public space without a valid space permit.

2. Business Operations and Practices:

a. Applicant will not, directly or indirectly, sell or deliver alcohol to any intoxicated person or to any person who appears to be intoxicated.
b. Applicant agrees to take all necessary steps to prevent patron rowdiness, including refusing admission/service to rowdy and/or unruly persons.
c. Applicant agrees to ensure that no patron bring an open container of an alcoholic beverage into the establishment from outside sources, and at no time exits the establishment with an open container of an alcoholic beverage. Wine shall be corked in accordance with Title 25-113(b)(5)(A)(B)(C) of the DC Municipal Code.
d. Applicant will not provide or sell alcoholic beverages "to go." Applicant agrees not to promote or participate in bar or pub "crawls" or any other event of this nature.
e. The licensed establishment will be managed by the applicant in person or a board licensed manager.
f. Applicant, and all employees that are designated to serve alcoholic beverages, shall attend and complete an alcoholic beverage server training course/seminar.
g. Applicant shall post a notice kept in good repair and visible from point of entry a sign, which states:
i. Proper ID required (proof of age 21 minimum to be served and assurances that ID's will be checked at all times prior to serving alcoholic beverages to patrons).
ii. Prohibition against selling alcohol to minors.
iii. Request to patrons to not litter, loiter, or make excessive noise in the neighborhood as they arrive or depart.
iv. Warning: Drinking alcoholic beverages during pregnancy can cause birth defects.
v. Request that customers do not contribute to panhandlers.
h. Applicant shall make every effort to prohibit and prevent loitering and criminal activity on or in front of the establishment premises, to include:
i. Asking loiterers to move on whenever they are observed outside the establishment,
ii. Calling the Metropolitan Police Department if illegal activity is observed,
iii. Keeping a written record of dates and times (a call log) when the MPD is called for assistance.
iv. Applicant will maintain a detailed incident log. An incident is defined as any activity by patrons of the establishment inside or immediately outside the establishment which could lead to an ABRA investigation. Each incident will contain date, time and location of each incident with a concise summary. Guests and staff involved or witnesses of the incident will be identified and listed. If there is a medical or police response, that information will also be noted.

i. Applicant's call log and incident log shall be provided to the Board during meetings or hearings involving future renewals or contested proceedings involving the Applicant's license.
j. Applicant shall not support the installation of pay phones outside of the establishment on their property.
k. Applicant will utilize and maintain high-intensity flood-lights on the exterior of its premises so as to fully light any abutting alleyway from dusk until dawn.

l. Applicant shall provide valet parking services only with valet parking companies as defined licensed and in compliance with Title 24 DCMR Chapter 16. Applicant will not engage in valet parking that results in vehicles parked in residential parking spaces.

3. Music / Dancing / Entertainment:

a. Applicant agrees to ensure that sounds originating from within the establishment are mitigated by installing adequate sound proofing.

b. Applicant shall not produce any sound, noise, or music of such intensity that it may be heard in any premises other than the licensed establishment in accordance with DC Official Code Title 25-725.

c. In order to mitigate noise on an outdoor patio or summer garden the following steps will be taken:

1) Applicant shall not offer any type of live or pre-recorded music on the patio.
2) A fence or other barrier will enclose the entire perimeter.
3) No fewer than two signs will be clearly posted to remind guests to keep their voices at normal speaking volume.
4) Staff will monitor the outdoor area to make sure guests do not raise their voices above normal speaking tones.
5) Potted plants, trees, fountains or other types of noise mitigation techniques will be incorporated into the decor.

In order to mitigate noise emanating from the rooftop venue, the following steps will be taken:

1) Seating capacity will not exceed 44 persons on the rooftop.
2) The patio will be used for seated guests only, that is, the applicant will not use the rooftop for persons standing, at a reception, etc.
3) Applicant agrees that sounds on the rooftop shall not be amplified, therefore speakers will not be used on the rooftop. This includes sounds from entertainment, a radio, jukebox, TV or microphone.
4) The Applicant will use plantings, walls, fencing, etc. to mitigate sounds from the patio.
5) The rooftop will close seating at 11:00 p.m. on Sunday through Thursday evenings and 12:00 a.m. on Friday and Saturday evenings.
6) Placards or signs will be posted to notify patrons of the hours.
7) Placards will be posted requesting patrons to respect the neighboring residents.
8) Applicant will respond quickly to noise complaints which are brought through the ANC and take appropriate action to mitigate the problems.
9) In the event that noise on the rooftop repeatedly disturbs nearby residents, the ANC and applicant will work in good faith to negotiate an addendum to this agreement to mitigate noise through additional soundproofing measures.

d. The hours of operation for a patio or summer garden on private property (excluding rooftops) are limited until 11:00 pm Sunday through Thursday evenings and 12:00 am on Friday and Saturday evenings. The sale and consumption of alcoholic beverages must end at that time and the patio must be cleared of all patrons and staff. If the patio has been open for business for at least three months during the months of April through September and noise levels from the patio do not create a repeated disturbance to the neighborhood during this time period and the licensee has a record of good conduct during this time period, the licensee may submit a change of hours application to allow for expanded hours of operation on the patio.

e. If the outdoor patio is located on public space, the hours of operation of that patio will be limited until 11:00 p.m. Sunday through Thursday evenings and 12:00 a.m. on Friday and Saturday evenings. The sale and consumption of alcoholic beverages must end at that time and the patio must be cleared of all patrons.

f. Applicant may offer facilities for dancing for patrons only with an entertainment endorsement and may have recorded and background music without an entertainment endorsement. "Entertainment" means live music or any other live performance by an actual person, including live bands, karaoke, comedy shows, poetry readings, and disc jockeys. The term "entertainment" shall not include the operation of a jukebox, a television, a radio, or other prerecorded music.

g. All CT license holders with an entertainment endorsement must have an ABRA accepted security plan in place.

4. Cooperation with ANC 6A. Applicant agrees to work on resolving issues preventing the applicant from fulfilling its obligations under this cooperative agreement with all of the following: the Single Member District (SMD) ANC Commissioner within whose boundaries the establishment is located, the Chair of the ABL Committee, and other Commissioners whose SMD's are adjacent to the location of the establishment.

5. Modifications. This agreement can be modified only by mutual agreement of all the parties with the approval of the ABC Board or by the ABC Board consistent with DC Code § 25-446. In the case of ANC6A, if applicant desires to modify the terms of this agreement, the applicant, prior to implementing the change(s), shall receive written agreement from ANC6A after a majority of the commissioners shall have voted in favor of the changes at a full public meeting.

6. Miscellaneous:
   a. Applicant shall post a copy of this voluntary agreement in the establishment in conjunction with the posting of its alcoholic beverage license.
   b. Applicant will operate in compliance with all applicable DC laws and regulations.

7. Enforcement:
   a. If either party hereto believes in good faith that the applicant is in violation of this agreement, written notice specifying the alleged violation shall be delivered to the applicant and the applicant shall have ten (10) days after receipt of such written notice to come into compliance with this agreement or respond to said alleged notice of default.
   b. Applicant and the ANC 6A Commission agree to enter into this agreement. If the applicant should breach the conditions of this agreement, it is understood by all parties that the ANC 6A, and/or its committees, or others shall immediately petition the ABC Board for a "show cause" hearing pursuant to 23 D.C.M.R. 1513.5.
   c. This cooperative agreement is binding on the applicant and its assigns and will continue in force for any and all subsequent license holders at this location.

In Witness Whereof

The parties have affixed hereto their hands and seals.

Applicant:

By: Troy D. Williams, Yvette Williams Date: 9/19/12

Signature: Troy D. Williams Yvette Williams

Advisory Neighborhood Commission 6A Representative:

By: DAVID HOLMES, CHAIR Date: 9/22/12

Signature: David Holmes