

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

In the Matter of:)

Bivco, Inc.)
t/a Banana Café And Piano Bar)

Holder of a)
Retailer's Class CR License)

at premises)
500 8th Street, S.E.)
Washington, D.C. 20003)

License No. ABRA-026006
Order No. 2013-566

Bivco, Inc., t/a Banana Café And Piano Bar (Licensee)

Brian Flahaven, Chairperson, Advisory Neighborhood Commission (ANC) 6B

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

**ORDER ON SETTLEMENT AGREEMENT AND AMENDMENT TO
SETTLEMENT AGREEMENT**

The official records of the Alcoholic Beverage Control Board (Board) reflect that Bivco, Inc., t/a Banana Café And Piano Bar (Licensee), and ANC 6B have entered into a Settlement Agreement (Agreement), dated May 19, 2013, that governs the operation of the Licensee's establishment. The Agreement was approved by the Board with modifications. The Parties then submitted an Amendment to Settlement Agreement (Amendment), dated July 9, 2013, approving and incorporating the Board's requested modifications.

The Agreement and the Amendment have been reduced to writing and have been properly executed and filed with the Board. The Licensee and Chairperson Brian Flahaven, on behalf of ANC 6B, are signatories to the Agreement and the Amendment.

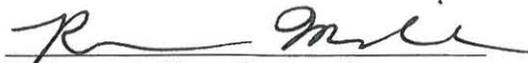
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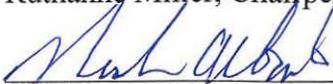
Accordingly, it is this 20th day of November, 2013, **ORDERED** that:

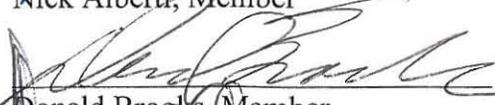
1. The above-referenced Settlement Agreement and Amendment to Settlement Agreement submitted by the Parties to govern the operations of the Licensee's establishment are **APPROVED** and **INCORPORATED** as part of this Order;
2. These Settlement Agreement and Amendment to Settlement Agreement replace and supersede all previous Settlement Agreements between the Parties; and
3. Copies of this Order shall be sent to the Licensee and ANC 6B.

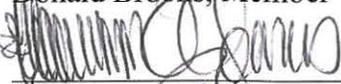
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District of Columbia
Alcoholic Beverage Control Board


Ruthanne Miller, Chairperson


Nick Alberti, Member


Donald Brooks, Member


Herman Jones, Member


Mike Silverstein, Member

Pursuant to D.C. Official Code § 25-433, 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.

AMENDMENT TO SETTLEMENT AGREEMENT

This Amendment to Settlement Agreement ("Agreement") is made this 9th day of July 2013 by and between Bivco, Inc. ("Applicant") and Advisory Neighborhood Commission 6B ("ANC 6B").

WITNESSETH

WHEREAS, Applicant is the current owner and operator of an ABC-licensed establishment located at 500 8th Street SE, Washington, DC 20003, and

WHEREAS, ANC 6B and the Applicant entered into an Agreement dated May 19, 2013, and

WHEREAS, It has come to the attention of ANC 6B that the ABC Board has approved the aforementioned Settlement Agreement with modification, and

WHEREAS, to bring the Settlement Agreement in line with the Board's modifications, the parties must agree to an Amendment to the Agreement as hereinafter set forth.

NOW, THEREFORE, the parties agree as follows:

1. **Recitals Incorporated.** The recitals set forth above are incorporated herein by reference.
2. **Nature of the Business.** The first sentence of Paragraph 2, **Nature of the Business**, is amended to read: "The Applicant shall manage and operate at the address a place that is regularly used for the sale and service of prepared food and alcoholic beverages. The license includes an entertainment and a sidewalk café endorsement and has the following conditions: "
3. **Rat and Vermin Control.** Paragraph 6, **Rats and Vermin Control**, should be deleted and amended by inserting, "The Applicant shall provide rat and vermin control for its property. Applicant shall provide proof of its rat and vermin control contract upon the request of the Board. Applicant shall have the Establishment and the area around the Premises properly cleaned at the end of each night to ensure that there are no garbage and odors present the following morning."
4. **Previous Agreements.** This Agreement is hereby amended to reflect the fact that it supersedes all previous Voluntary Agreements or Settlement Agreements between the parties.
5. **Agreement Otherwise in Full Force and Effect.** Except as otherwise explicitly provided herein, the most recent Agreement shall remain in full force effect and the Agreement and this Amendment shall constitute the agreement between the parties. The Agreement and Amendment may only be modified by written agreement of all the parties or their successors, or otherwise in accordance with law.

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

APPLICANT:

BIVCO INC TA BANANA CRK E'
PIANO (BUS)

By: 

Date: 11/5/13

ANC 6B

By: 

Brian Flahaven, Chair

Date: 11/7/13

SETTLEMENT (COOPERATIVE) AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made on this 19 day of May 2013, by and between Bivco, Inc., t/a Banana Café and Piano Bar ("Applicant"), and Advisory Neighborhood Commission 6B, (Collectively, the "Parties").

WITNESSETH

WHEREAS, Applicant's application for a license for premises, 500 8th Street SE Washington, DC, 20003, is now pending before the District of Columbia Alcoholic Beverage Control Board (ABC); and,

WHEREAS, the premises is within the boundaries of the ANC, and,

WHEREAS, the Parties desire to enter into an agreement governing certain understandings regarding the issue of a Retailers' Class "C" Restaurant Liquor License at the subject premises; and,

WHEREAS, the Parties are desirous of entering into a Settlement Agreement pursuant to D.C. Official Code § 25-446 for the operation and maintenance of the Establishment in such a manner as to promote the peace, order and quiet of the neighborhood. Both parties recognize the importance of business neighborhoods that are safe, clean, and "pedestrian friendly".

NOW, THEREFORE, the parties agree as follows:

1. ***Recitals Incorporated.*** The recitals set forth above are incorporated herein by reference.
2. ***Nature of the Business.*** The Applicant will manage and operate a CR license with an entertainment and sidewalk café endorsement at the listed address with the following conditions:
 - a. Application agrees to maintain sound proofing of the upstairs Piano Bar so that the music and patrons voices heard outside the premises will strictly comply with D.C. Official Code § 25-725. Application also agrees to not allow the windows to be opened during the hours that the Piano Bar space is in operation.
 - b. Applicant agrees to assure that all Piano Bar patrons exit the premises through the door on 8th Street SE. To this end, Applicant agrees to maintain the side door on E Street as an emergency only door.
 - c. The establishment shall have indoor seating for 180 patrons and outside (sidewalk) seating for 32 patrons.
3. ***Hours of Operation and Sales.*** The Applicant's hours of operation and sales shall be as follows:

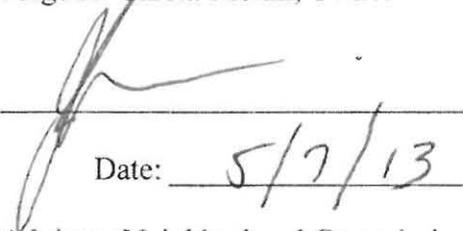
- i. Inside Premises
 1. Sunday 10:00 a.m. – 12:00 a.m.
 2. Monday through Thursday 8:00 a.m. – 12:00 a.m.
 3. Friday and Saturday 8:00 a.m. – 1:00 a.m.
 - ii. Piano Bar (entertainment endorsement)
 1. Sunday through Thursday 6:00 p.m. – 12:00 a.m.
 2. Friday and Saturday 6:00 p.m. – 1:00 a.m.
 - iii. Sidewalk Cafe
 1. Sunday 10:00 a.m. – 11:30 p.m.
 2. Monday through Thursday 8:00 a.m. – 11:30 p.m.
 3. Friday and Saturday 8:00 a.m. – 1:00 a.m.
2. **Floors Utilized and Occupancy.** The Applicant will operate its establishment according to the occupancy indicated on the Certificate of Occupancy issued by the Department of Consumer and Regulatory Affairs. The Piano Bar is located on the 2nd floor.
 3. **Sidewalk Café.** Applicant will operate its sidewalk café in accordance with the Public Space Management Branch Certification. The sidewalk café must maintain proper spacing (10 feet from the curb and 6 feet from a tree box) to allow for adequate pedestrian passage on the sidewalk. Any A-frame (“sandwich board”) or other type advertising must have a Public Space Permit and be kept off the pedestrian portion of the sidewalk. Applicant will direct that its employees inspect the sidewalk café on a regular basis to ensure its cleanliness.
 4. **Noise and Privacy.** Applicant will strictly comply with D.C. Official Code § 25-725 and to that end shall make architectural improvements to the property and take all necessary actions to ensure that music, noise and vibration from the Establishment are not audible outside the establishment at any time. Applicant agrees to keep its doors and windows closed when music is being played at the establishment. If necessary, Applicant will take reasonable steps to reduce noise emanating from the Establishment from the opening of the entry or exit doors.
 5. **Public Space and Trash.** Applicant shall keep the sidewalk (up to and including the curb), tree box(es), and curb clean and free of litter, bottles, and other debris in compliance with D.C. Code and Municipal Regulations. Applicant shall police these areas sufficiently to assure that refuse and other materials are promptly removed. Applicant shall ensure that the area around the enclosed dumpster is kept clean at all times and the dumpster is placed such that it does not encroach on the abutting property owners and that no garbage is placed on the abutting property. Applicant will ensure timely disposal that is the least disruptive to the neighbors. Commercial trash pickup in residential areas takes place between 7:00 a.m.-7:00 p.m.
 6. **Rats and Vermin Control.** The Applicant shall provide rat and vermin control for its property. Applicant shall provide proof of its rat and vermin control contract upon

request. Applicant shall have the Establishment and the area around the Premises properly cleaned at the end of each night to ensure that there are no garbage and odors present overnight or the following morning.

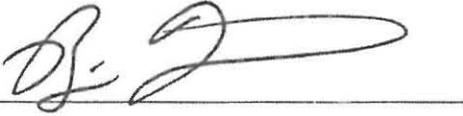
7. ***Security Cooperation in Stemming Illegal Drugs and Public Drinking.*** Applicant agrees that it shall take all necessary steps to minimize such problems, including, without limitation, designating a sufficient number of employees to assure adequate security and to control unruly patrons, whether inside or in the immediate outside area; monitoring for and prohibiting sales or use of illegal drugs within or about the Premises, maintaining contact and cooperating with MPD and other enforcement officials when known or suspected drug activities occur. Applicant shall to the full extent permissible by law discourage loitering in the vicinity of the Premises. Applicant shall be responsible for ensuring that any individuals who are simply loitering are asked to move along.
8. ***Compliance with ABRA Regulations.*** Applicant promises that it shall abide by all Alcoholic Beverage Regulations Administration (ABRA) regulations regarding the ownership of the license and all other provisions applicable to liquor licensees.

IN WITNESS WHEREOF, the parties have affixed hereunto their signatures.

Applicant: Bivco, Inc.
t/a Banana Café and Piano Bar
ABRA-026006
500 8th Street SE
Washington, DC 20003
Jorge A. Garcia-Meitin, Owner


Date: 5/7/13

ANC: Advisory Neighborhood Commission
921 Pennsylvania Ave, SE
Washington, DC 20003
Brian Flahaven, Chairperson
(202) 543-3344
Fax (202) 543-3507


Date: 5/19/13


ANC 6B
Capitol Hill / Southeast

921 Pennsylvania Avenue SE
Suite 305
Washington, DC 20003-2141
202-543-3344 (office)
202-543-3507 (fax)
office@anc6b.org

Executive Director
Susan Eads Role

May 19, 2013

Ruthanne Miller, Chair
Alcoholic Beverage Control Board
2000 14th Street NW, Suite 400S
Washington, DC 20009

VIA E-MAIL: sarah.fashbaugh@dc.gov

OFFICERS

Chair
Brian Flahaven

Vice-Chair
Ivan Frishberg

Secretary
Philip Peisch

Treasurer
Brian Pate

Parliamentarian
Nichole Opkins

RE: ABRA-026006, Banana Café and Piano Bar, 500 8th Street SE, License
Renewal

Dear Ms. Miller:

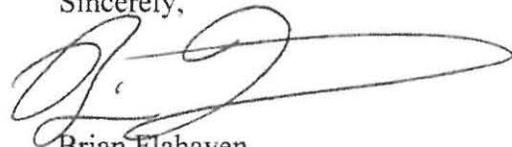
At its regularly called, properly noticed meeting on May 14, 2013, with a quorum present, Advisory Neighborhood Commission (ANC) 6B voted 10-0 in support of the above-referenced request.

For your review and approval, please find enclosed a Settlement Agreement, which was executed by both parties.

Please contact ANC 6B's Executive Director Susan Eads Role if you have questions or need further information. Thank you.

SMD 1 *David Gamson*
SMD 2 *Ivan Frishberg*
SMD 3 *Philip Peisch*
SMD 4 *Kirsten Oldenburg*
SMD 5 *Brian Pate*
SMD 6 *Nichole Opkins*
SMD 7 *Sara Loveland*
SMD 8 *Chander Jayaraman*
SMD 9 *Brian Flahaven*
SMD 10 *Francis Campbell*

Sincerely,



Brian Flahaven
Chair

Enclosure