

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

**In the Matter of:** )  
 )  
909 New Jersey Avenue Associates, LLC )  
t/a Scarlet Oak )  
 )  
Applicant for a New )  
Retailer’s Class CR License )  
 )  
at premises )  
909 New Jersey Avenue, S.E. )  
Washington, D.C. 20003 )  
\_\_\_\_\_ )

License No. ABRA-098546  
Order No. 2015-281

909 New Jersey Avenue Associates, LLC, t/a Scarlet Oak (Applicant)

Roger Moffatt and Dr. Coralie Farlee, Advisory Neighborhood Commission (ANC) 6D

**BEFORE:** Ruthanne Miller, Chairperson  
Nick Alberti, Member  
Donald Brooks, Member  
Herman Jones, Member  
Mike Silverstein, Member  
Hector Rodriguez, Member  
James Short, Member

**ORDER ON COOPERATIVE AGREEMENT**

The official records of the Alcoholic Beverage Control Board (Board) reflect that 909 New Jersey Avenue Associates, LLC, t/a Scarlet Oak, Applicant for a new Retailer’s Class CR License, located at 909 New Jersey Avenue, S.E., Washington, D.C., and ANC 6D have entered into a Cooperative Agreement (Agreement), dated May 11, 2015, 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 Roger Moffatt and Dr. Coralie Farlee, on behalf of ANC 6D, are signatories to the Agreement.

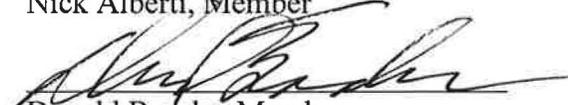
Accordingly, it is this 3rd day of June, 2015, **ORDERED** that:

1. The above-referenced Cooperative Agreement submitted by the parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order; and
2. Copies of this Order shall be sent to the Applicant and ANC 6D.

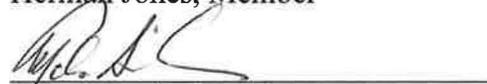
District of Columbia  
Alcoholic Beverage Control Board

  
Ruthanne Miller, Chairperson

Nick Alberti, Member

  
Donald Brooks, Member

Herman Jones, Member

  
Mike Silverstein, Member

  
Hector Rodriguez, Member

  
James Short, Member

Pursuant to D.C. Official Code § 25-433, 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, 2000 14<sup>th</sup> Street, N.W., Suite 400S, Washington, DC 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code §2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR §1719.1 (2008) stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b) (2004).

★ ★ ★ **Advisory Neighborhood**  
██████████ **Commission 6D**

11014<sup>th</sup> Street SW, Suite W130, Washington, DC 20024  
ANC Office: 202 554-1795 ■ FAX: 202 554-1774  
[office@anc6d.org](mailto:office@anc6d.org)

ALCOHOLIC BEVERAGE  
REGULATION ADMIN  
MAY 13 A 11:19  
ABRA

**COOPERATIVE AGREEMENT**

THIS COOPERATIVE AGREEMENT (“Agreement”) is made on this 11th day of May 2015 by and between 909 New Jersey Avenue Associates LLC t/a Scarlet Oak (“Applicant”), at 909 New Jersey Avenue, SE, CR License # 098546 and Advisory Neighborhood Commission 6D (“the ANC”), (collectively, the “Parties”).

**PREAMBLE**

Through this agreement both parties aim to create an environment in which the Applicant may operate as a viable contributing establishment in the ANC6D community.

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WHEREAS, Applicant has applied for a License Class CR for a business establishment (“Establishment”) serving spirits, wine, and beer, including indoor space, and a sidewalk café located at 909 New Jersey Avenue, SE, Washington, D.C. 20003 (“Premises”); and

WHEREAS, the Applicant agrees to work regularly with ANC6D and its representatives, other neighborhood organizations, and residents to ensure that the business operations facilitate the enjoyment of the surrounding neighborhood; and

WHEREAS, the Parties are desirous of entering into a Cooperative 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, within the ANC, on (1) the effect of the establishment on peace, order, and quiet, including the noise and litter provisions set forth in §§ 25-725 and 25-726; and (2) The effect of the establishment upon residential parking needs and vehicular and pedestrian safety, and to eliminate the need for the ANC to lodge a protest of the license application; and

WHEREAS, all parties believe that the statements and provisions contained in this agreement are reasonable and shall become wholly integrated into the day-to-day operation of the Establishment. The Parties agree that any change in operations is considered of great concern which they may bring to the attention of the ABC Board. The Parties acknowledge that any substantial change in operations requires prior approval by the ABC Board; and

WHEREAS, the Parties have agreed to enter into this Agreement and request 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

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. ***Recitals Incorporated.*** The recitals set forth above are incorporated herein by reference.
2. ***Nature of the Business.*** The Applicant will manage and operate a full service restaurant serving spirits, wine, and beer, a New American fusion menu with recorded background music in the indoor space. The Establishment will have one sidewalk cafe. There shall be no recorded or live music in the sidewalk café. There shall be no entertainment endorsement.
3. ***Hours of Operation and Sales.***  
The Applicant’s hours of **operation and hours for sale, service and consumption of alcohol for the inside premises** shall be as follows:  
Sunday through Thursday: 8:00 a.m. - 2:00 a.m. and  
Friday and Saturday: 8:00 a.m. – 3:00 a.m.

The Applicant’s hours for operation of and selling, serving, and consuming alcohol in the **sidewalk cafe** shall be as follows:

Sunday 10a.m. – 10p.m.  
Monday through Thursday 11:30 a.m. –10 p.m.  
Friday and Saturday 11:30 a.m. – 11 p.m.

Provided that: (a) on days designated by the DC ABC Board as “Holiday Extension of Hours” or Daylight Savings Time Extension of Hours applicant may avail itself of the extended hours so provided; (b) in the event the Council of the District of Columbia or the ABC Board grants licensees in general extended operating hours (such as for Inauguration) applicant may avail itself of such extended hours; and (c) on January 1 of each year applicant may operate until 4:00a.m. Consistent with Alcoholic Beverage Control Board interpretations, “closing hours” shall be construed as the hours at which no patrons shall remain on the premises.

4. ***Floors Utilized and Occupancy.*** The Applicant will operate its establishment on the first floor of the building consisting of approximately 3460 square feet. The Certificate of Occupancy will state the seating and occupant load; however, the Establishment shall not exceed a total interior occupancy of 120, which includes indoor seating of a maximum of 81; and seating for 75 patrons in the sidewalk cafe.

5. **Sidewalk Cafe.** Applicant plans to provide for a maximum of 75 patrons in a sidewalk cafe. No containers, cups, bottles/cans, etc. shall be permitted outside of or to leave the sidewalk cafe area regardless of content, excepting (i) properly packaged non-alcoholic beverages and “to go” food; and (ii) partially consumed bottles of wine pursuant to DC Official Code 25-113.. There shall be no live or recorded music in the sidewalk café.
6. **Parking Arrangements.** It is a concern of the Protestants that the Applicant’s operation of the Establishment does not create or exacerbate parking problems within the ANC. The Applicant shall notify patrons (through a website or other means) that there is limited parking in the vicinity and shall provide information about public transportation.
7. **Noise and Privacy.** Applicant shall strictly comply with D.C. Official Code § 25-725 and to that end shall use various means including making such architectural improvements to the property and taking all reasonably necessary actions and mitigation efforts to preclude music, noise and vibration from the Establishment becoming audible in any residential premises.

Applicant shall inform its patrons, by means of signage, that upon exiting the Establishment and walking through the neighborhood the provisions of the “Noise at Night” law prohibit persons from making “unreasonably loud noise between the hours of 10 pm and 7 am that are likely to annoy or disturb one or more persons in their residences.”

Applicant shall receive all deliveries of food, beverages, and supplies during hours between 7:00 a.m. and 7:00 p.m. Mondays to Saturdays. No deliveries excepting fresh bread products shall be accepted on Sundays.

8. **Public Space and Trash.** The Applicant shall contract with a private trash removal company. The trash and dumpster areas maintained by the Applicant in the building housing the Establishment shall be kept clean. The Applicant shall enclose its dumpsters and keep dumpster lids tightly closed and incapable of being entered by rodents, in order to limit odors and help control pest and rodent population. Applicant shall ensure that the area around the dumpster is kept clean at all times and that no garbage is placed on the abutting property. Applicant will provide for the proper (recyclable) removal of grease and oils and will not deposit these substances for removal in dumpsters or trash cans. Applicant will contract for regular rodent and pest (insect) abatement. Applicant shall have the Establishment and the area around the Premises properly cleaned at the end of each night to ensure that there are not garbage and odors present the following morning.
9. **Security Cooperation in Stemming Illegal Drugs and Public Drinking.** Applicant shall take all necessary steps to minimize problems of illegal drugs and public drinking, including, at all times a trained employee on site, 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 undertake all reasonable measures to discourage loitering in the vicinity of the Premises.

Applicant shall have sufficient number of recording cameras of good photographic quality which maintain information for at least 30 days. These recording cameras shall cover exterior of the premises and summer garden areas, including all entrances and exits. This information shall be made available to representatives of ABRA and/or MPD as requested.

10. ***License Ownership and Compliance with ABRA Regulations.*** Applicant promises to Protestants 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, and agrees that Protestants shall have standing to ask the ABC Board to enforce any violations of the agreement.
11. ***Participation in the Community.*** Applicant agrees to seek to maintain open communication with the Protestants, and the community for which the ANC acts.
12. ***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 30 days of the date of such notice. If Applicant or the licensee fails to cure within the 30-day period (or, with respect to a breach which reasonably requires more than 30-days to cure, fails to commence cure of such breach and diligently pursues such cure) failure shall constitute a cause for filing a complaint with the ABC Board pursuant to D.C. Official Code § 25-446(e).

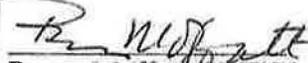
If to Applicant: 909 New Jersey Avenue Associates LLC, t/a Scarlet Oak  
909 New Jersey Avenue, SE  
Washington, DC 20003  
Attn: Peter V. Lupo, Managing Member  
Phone: 571-484-4942  
e-mail: luposchophouse@gmail.com

If to Protestants: Advisory Neighborhood Commission 6D  
1101 4<sup>th</sup> Street, SW, Suite W130  
Washington, DC 20024  
Attn: Chair, ANC  
Phone: (202) 202 554-1795  
Fax (202) 202 554-1774  
e-mail: office@ANC6D.org

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.

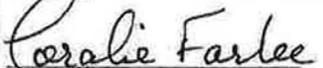
**PROTESTANT:**

**Chair, ANC6D**

  
Roger Moffatt SMD05

5/11/15  
Date

**Chair, ABC Committee, ANC6D**

  
Coralie Farlee  
cfarlee@mindspring.com

11 May 15  
Date

**APPLICANT:**

909 New Jersey Avenue Associates, LLC t/a  
Scarlet Oak

  
By: Peter V. Lupo  
Managing Member

5/11/15  
Date



ALCOHOLIC BEVERAGE  
REGULATION ADMIN

**Near Southeast/Southwest**  
Advisory Neighborhood Commission 6D

2015 MAY 13 A 11:19  
ABRA

May 11, 2015

1101 Fourth Street, SW  
Suite W130  
Washington, DC 20024  
202.554.1795  
Email: [office@anc6d.org](mailto:office@anc6d.org)  
Website: [www.anc6d.org](http://www.anc6d.org)

Ruthanne Miller, Chair  
Alcohol Beverage Control Board  
2000 14<sup>th</sup> Street, NW, Suite 400S  
Washington, DC 20009

**OFFICERS**

**Chairman**  
Roger Moffatt

**Vice Chairman**  
Andy Litsky

**Secretary**  
Stacy Cloyd

**Treasurer**  
Rachel Reilly Carroll

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SMD 2 - Stacy Cloyd  
SMD 3 - Rachel Reilly Carroll  
SMD 4 - Andy Litsky  
SMD 5 - Roger Moffatt  
SMD 6 - Rhonda Hamilton  
SMD 7 - Vacant

**RE: ANC6D Cooperative Agreement for new application/license: 909 New Jersey Avenue, LLC, t/a Scarlet Oak, CR License #098546, 909 New Jersey Avenue, SE, Washington, DC 20003.**

Dear Ms. Miller:

At its regularly scheduled, properly noticed meeting on May 11, 2015, with a quorum present, the Advisory Commission 6D voted 6 to 0 to 0 to recommend approval of a Cooperative Agreement for applicant, Scarlet Oak, new CR License # 098546.

Please note that ANC6D has concerns about persons just "standing around" in sidewalk café areas in nearby establishments and does not want this practice to spread. In an effort to try to discourage patrons congregating in the outside area, the ANC proposed and the applicant has agreed that there will be no live or recorded music in the sidewalk café. A signed CA is attached.

Please contact Commissioner Moffatt or Dr. Coralie Farlee, Chair, ABC Committee, ANC6D at 202-554-4407, [cfarlee@mindspring.com](mailto:cfarlee@mindspring.com) if you have any questions or concerns.

Sincerely,

  
Roger Moffatt, Chair  
ANC6D

  
Coralie Farlee, Chair  
ABC Committee, ANC6D

Cc: Martha Jenkins

Attachment: CA 5/11/15