

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF: :

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A.B.R.A. Agenda :

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February 8, 2012

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, 2000 14th Street, N.W., Suite 400S Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD BROOKS, Member

HERMAN JONES, Member

CALVIN NOPHLIN, Member

MIKE SILVERSTEIN, Member

JEANNETTE MOBLEY, Member

1 P-R-O-C-E-E-D-I-N-G-S

2 (8:31 p.m.)

3 CHAIRPERSON MILLER: Okay. We're  
4 going to start the agenda for February 8,  
5 2012.

6 And the first item on the agenda  
7 is a review of an email from licensee  
8 requesting a refund or a reapplication of a  
9 late fee payment. It is The Atlas Room, 1015  
10 H Street, N.E., License No. 84689, in ANC-6A.

11 I recommend that we deny pursuant  
12 to Board Policy No. 2009-027.

13 Do I have a second?

14 MEMBER JONES: Second.

15 CHAIRPERSON MILLER: All those in  
16 favor say aye.

17 ALL: Aye.

18 CHAIRPERSON MILLER: All those  
19 opposed? All those abstaining? The vote is  
20 7-0.

21 MEMBER MOBLEY: 6-0.

22 CHAIRPERSON MILLER: Oh, I'm

1       sorry. Mr. Silverstein is not here. 6-0.

2       Thank you.

3                   The next item is review of a  
4       change of hours of operation and hours of  
5       alcoholic beverage sales consumption for  
6       Pizzeria Uno at 3211 M Street, N.W., License  
7       No. 3854, in ANC-2B, for an extension of hours  
8       from what they are operating.

9                   So I would move that we approve  
10      that it's not really a substantial change  
11      under 25-762 of the D.C. Code.

12                   Do I have a second?

13                   MEMBER NOPHLIN: Second.

14                   CHAIRPERSON MILLER: All those in  
15      favor say aye.

16                   ALL: Aye.

17                   CHAIRPERSON MILLER: All those  
18      opposed? All those abstaining? And it passes  
19      6-0.

20                   No. 3, we have a review of a  
21      letter from a licensee requesting cancellation  
22      of license and refund of licensee fee payments

1 made on April 29, 2011 in the amount of \$3,900  
2 from the Restaurant Associates, 1225  
3 Connecticut Avenue, N.W., License No. 85712.

4 So there are two requests in here.  
5 The first request is to cancel the license, so  
6 I'm going to move that first that we cancel  
7 the license pursuant to their request.

8 Do I have a second?

9 MEMBER NOPHLIN: Second.

10 CHAIRPERSON MILLER: Okay. All  
11 those in favor say aye.

12 ALL: Aye.

13 CHAIRPERSON MILLER: All those  
14 opposed? All those abstaining? That passes  
15 6-0.

16 The second part is a refund for  
17 cancellation, because they paid for three  
18 years and they are requesting refund for two.

19 I would move again that we deny  
20 pursuant to the same Board Policy No. 2009-  
21 027.

22 Do I have a second?

1 MEMBER MOBLEY: Second.

2 MEMBER NOPHLIN: Second.

3 CHAIRPERSON MILLER: All those in  
4 favor say aye.

5 ALL: Aye.

6 CHAIRPERSON MILLER: All those  
7 opposed? All those abstaining? The motion  
8 passes 6-0.

9 No. 4 is another review for change  
10 of hours of operation of alcoholic beverage  
11 sales/consumption, entertainment, sidewalk  
12 cafe hours. Okay. This case is Big Bear Cafe  
13 at 1700 1st Street, N.W., License No. 84379,  
14 in ANC-5C.

15 I would move that we deny this  
16 request, because it actually conflicts with a  
17 Board order.

18 Do I have a second?

19 MEMBER MOBLEY: Second.

20 CHAIRPERSON MILLER: Okay. All  
21 those in favor of denying the request say aye.

22 ALL: Aye.

1 CHAIRPERSON MILLER: All those  
2 opposed? All those abstaining? Okay. That  
3 is denied 6-0.

4 We have next on the agenda No. 5,  
5 a review of application for safekeeping  
6 pending approval of a transfer of license to  
7 a new tenant in the same location. This is  
8 for Town Hall at 2218 Wisconsin Avenue, N.W.,  
9 License No. 72640, in ANC-3B.

10 I would move that we approve this  
11 for six months.

12 Do I have a second?

13 MEMBER BROOKS: Second.

14 CHAIRPERSON MILLER: Okay. All  
15 those in favor say aye.

16 ALL: Aye.

17 CHAIRPERSON MILLER: All those  
18 opposed? All those abstaining? And the vote  
19 is 6-0 on this one.

20 No. 6 is a review of a request for  
21 reinstatement dated January 22, 2012 from  
22 Keith Spinner, the designated representative,

1 for John Wesley of the A.M.E. Zion Church.  
2 The establishment involved is Parc Deux  
3 Restaurant Partners, LLC at 1601 14th Street,  
4 N.W., License No. 88243, in ANC-3B.

5 Okay. I would move that we deny  
6 this pursuant to 25-602(a) and 23 DCMR 1605.2.  
7 This is the one in which no grounds for the  
8 protest was given.

9 Do I have a second?

10 MEMBER NOPHLIN: Second.

11 CHAIRPERSON MILLER: Okay. Any  
12 other comments on this one?

13 MEMBER MOBLEY: Madam Chair, Board  
14 Member Mobley --

15 CHAIRPERSON MILLER: Yes.

16 MEMBER MOBLEY: -- is in  
17 opposition.

18 CHAIRPERSON MILLER: Oh, you are  
19 in opposition? We didn't vote yet. Okay.

20 MEMBER MOBLEY: Okay.

21 CHAIRPERSON MILLER: That's your  
22 comment. And then okay. Any other comments

1 on that? Okay. If there are no more  
2 comments, the motion has been seconded, I  
3 believe.

4 All those in favor say aye.

5 FIVE MEMBERS: Aye.

6 CHAIRPERSON MILLER: All those  
7 opposed?

8 MEMBER MOBLEY: Oppose.

9 CHAIRPERSON MILLER: Okay. All  
10 those abstaining? And then the vote is 5-1 to  
11 deny.

12 No. 7 is just the opposition to  
13 motion for reinstatement that we just voted on  
14 and that we did consider when we were  
15 considering our vote before on the request for  
16 reinstatement.

17 No. 8 is a review of a letter  
18 dated December 6, 2011.

19 MEMBER MOBLEY: 16th.

20 CHAIRPERSON MILLER: 16th. Thank  
21 you. From Safeway requesting reinstatement  
22 after being dismissed at the Roll Call Hearing

1 for failure to appear. This is the Safeway at  
2 2845 Alabama Avenue, S.E., License No. 60504.  
3 And then also in conjunction with this we have  
4 a letter dated January 30, 2012 from ANC-7B  
5 opposing Safeway's request for reinstatement.

6 Okay. I would move that we  
7 approve the request for reinstatement, because  
8 good cause was shown. Notice wasn't provided  
9 by the Agency to counsel for the licensee and,  
10 therefore, we would approve this pursuant to  
11 23 DCMR 1602.3.

12 Do I have a second?

13 MEMBER BROOKS: Second.

14 CHAIRPERSON MILLER: Any comments?

15 All those in favor say aye.

16 ALL: Aye.

17 CHAIRPERSON MILLER: All those  
18 opposed? All those abstaining? Then the vote  
19 is 6-0.

20 No. 10 is a review of a letter  
21 dated January 26, 2012 from Palitha Kalawane,  
22 owner of Southeast Market, requesting

1 reinstatement after being dismissed at the  
2 Status Hearing for failure to appear.

3 Southeast Market is at 1500 Independence  
4 Avenue, S.E., and the License No. is 76399.

5 Okay. I would move that we  
6 approve this reinstatement because good cause  
7 was shown. A doctor's note showing that there  
8 was an illness that day was the good cause.  
9 And illness is grounds for good cause under 23  
10 DCMR 1603.3 on that.

11 Do I have a second?

12 MEMBER MOBLEY: Second.

13 CHAIRPERSON MILLER: Okay. Any  
14 other comments?

15 MEMBER ALBERTI: I'm going to  
16 oppose this motion, because I believe the  
17 applicant, even though they had a doctor's  
18 excuse, had the ability to call staff and let  
19 them know that they would not be present and  
20 they did not do so.

21 CHAIRPERSON MILLER: Okay. Any  
22 other comments? All right.

1 All those in favor of approving  
2 the reinstatement say aye.

3 FOUR MEMBERS: Aye.

4 CHAIRPERSON MILLER: All those  
5 opposed?

6 MEMBER JONES: Nay.

7 MEMBER ALBERTI: I oppose.

8 CHAIRPERSON MILLER: Okay. Then  
9 the vote is 4-2. Okay.

10 MEMBER MOBLEY: Can we go off the  
11 record?

12 MEMBER ALBERTI: Wait.

13 CHAIRPERSON MILLER: Are you  
14 kidding?

15 MEMBER ALBERTI: Just off the  
16 record for a second.

17 (Whereupon, at 8:40 p.m. a recess  
18 until 8:41 p.m.)

19 CHAIRPERSON MILLER: Okay. We are  
20 now up to No. 11, which is a review of a  
21 letter dated January 24, 2012 from T. Carlton  
22 Richardson requesting reinstatement as a

1 protestant of Pennsylvania Avenue Market's  
2 application. Pennsylvania Avenue Market is  
3 located at 1501 Pennsylvania Avenue, S.E.,  
4 License No. 79255.

5 I would move that we deny the  
6 request because Mr. Richardson does not have  
7 standing under 25-601, as he is not an  
8 abutting property owner.

9 Do I have a second?

10 MEMBER BROOKS: Second.

11 MEMBER MOBLEY: Second.

12 CHAIRPERSON MILLER: Any other  
13 comments?

14 All those in favor say aye.

15 ALL: Aye.

16 CHAIRPERSON MILLER: All those  
17 opposed? The motion passes to deny  
18 reinstatement by a vote of 6-0.

19 Okay. The next three, 12, 13 and  
20 14, involve Jimmy Valentine's Lonely Hearts  
21 Club located at 1103 Bladensburg Road, N.E.,  
22 License No. 76330. There is a request from

1 Kathy Henderson for reinstatement of the Group  
2 of Five's protest after being dismissed for  
3 failure to appear at the Status Hearing.

4 There is an opposition to that  
5 reinstatement from Matthew LeFande of Jimmy  
6 Valentine's Lonely Hearts Club.

7 And there is an email that we had  
8 to review that is No. 14 related to this  
9 request for reinstatement.

10 I would move that we deny the  
11 request because I don't believe good cause was  
12 shown in this case under 23 DCMR 1603.3. Any  
13 comments on this one? Okay.

14 All those in favor of denying the  
15 request for reinstatement say aye.

16 ALL: Aye.

17 CHAIRPERSON MILLER: All those  
18 opposed? All those abstaining? Then the  
19 motion passes by a vote of 6-0.

20 That brings us to No. 15 on the  
21 agenda, a review of a letter dated January 25,  
22 2012 requesting that Dimitrios Lontiris

1 become the sole owner of the license.

2 Okay. This involves Jamaican  
3 Joe's at 2420 18th Street, N.W., License No.  
4 84390.

5 I would suggest that we have a  
6 Fact-Finding Hearing on March 7, 2012 at 1:30  
7 p.m. Okay. Any comments?

8 Do I have a second?

9 MEMBER MOBLEY: Second.

10 CHAIRPERSON MILLER: Okay. All  
11 those in favor say aye?

12 ALL: Aye.

13 CHAIRPERSON MILLER: All those  
14 opposed? All those abstaining? The vote is  
15 6-0 for the Fact-Finding.

16 No. 16 is a review of a letter  
17 dated January 25, 2012 from Michael Hibey  
18 requesting ABRA investigators to review  
19 Marrakesh's security plan and check the  
20 installation of cameras to determine whether  
21 it is in compliance with Board Order 2011-402.  
22 This involves Marrakesh Palace Pasha Lounge,

1 2147 P Street, N.W., License No. 60695.

2 This involves the establishment  
3 that we accepted in an offer in compromise on  
4 this morning in which, okay, did involve  
5 security cameras being in order before they  
6 open again. And so I would say also for  
7 background on this that we were going with a  
8 security plan that does comply with Board  
9 Order 2011-402 that was reviewed by our legal  
10 counsel.

11 So at this point, I would  
12 recommend that we refer to enforcement  
13 investigation of the cameras prior to their  
14 reopening. They are going to be closed for at  
15 least 30 days. Okay. So what's on the table  
16 is referring to enforcement for investigation  
17 of the cameras, as requested by this letter  
18 prior to their reopening.

19 Do I have a second?

20 MEMBER ALBERTI: Second.

21 CHAIRPERSON MILLER: Any other  
22 comments? Okay.

1 All those in favor say aye.

2 ALL: Aye.

3 CHAIRPERSON MILLER: All those  
4 opposed? All those abstaining? The motion  
5 passes then 6-0.

6 No. 17 is a review of a request  
7 from licensee to cancel a pending transfer  
8 application from Bouzid, Inc. to MAD, LLC due  
9 to nonpayment and to place the license in  
10 safekeeping because the licensee no longer has  
11 a valid lease.

12 This involves Marrakesh Palace  
13 Pasha Lounge again at 2147 P Street, N.W. in  
14 ANC-2B. This is covered, I believe, by the  
15 offer in compromise that I referred to earlier  
16 from the Show Cause Case No. 11-251-000197, so  
17 I don't believe there is any other action for  
18 us to take on that.

19 No. 18 is a review of letters from  
20 residents requesting reconsideration of the  
21 Summary Suspension Hearing decision for Mood  
22 located at 1318 9th Street, N.W., License No.

1 86037.

2 I would move that we deny the  
3 request for reconsideration because the  
4 residents that are making this request don't  
5 have standing to seek reconsideration pursuant  
6 to 25-433 and 1719.1. They were not a party  
7 to this matter.

8 I would also like to comment  
9 though that they have recourse in other  
10 proceedings by making complaints to the Agency  
11 and there is also, I believe, a Show Cause  
12 Hearing pending regarding their noise  
13 complaints.

14 So I have a motion. Is there a  
15 second?

16 MEMBER BROOKS: Second.

17 CHAIRPERSON MILLER: Any other  
18 comments on this? Okay. So the motion is to  
19 deny the request for reconsideration for lack  
20 of standing. Okay.

21 All those in favor say aye.

22 ALL: Aye.

1 CHAIRPERSON MILLER: All those  
2 opposed? All those abstaining? The motion  
3 passes 6-0.

4 No. 19 is a review of a motion to  
5 reconsider dated October 21, 2011 for K Street  
6 Lounge at 1301 K Street, N.W., License No.  
7 72225. Okay.

8 I would move that we schedule a  
9 Remand/Motion for Reconsideration Hearing on  
10 this issue for February 22, 2012 at 11:00 a.m.

11 Do I have a second?

12 MEMBER MOBLEY: Second.

13 CHAIRPERSON MILLER: Any comments?

14 All those in favor say aye.

15 ALL: Aye.

16 CHAIRPERSON MILLER: All those  
17 opposed? All those abstaining? The motion  
18 passes 6-0.

19 No. 20 is a review of opposition  
20 to the motion to reconsider that we just voted  
21 on and that was certainly considered by us  
22 previously before we voted on this, so we can

1 move on to 21.

2 21 is a review of a letter dated  
3 January 26, 2012 from Randy Alan Weis  
4 requesting clarification for 23 DCMR ^U 1902,  
5 ^U 25-371 and 25-372. And this is a request  
6 for an advisory opinion.

7 And I would recommend that the  
8 Board not issue an advisory opinion. The  
9 Board is not obligated to issue advisory  
10 opinions. And I would cite 23 DCMR 1902.

11 So I have a motion to deny. Do I  
12 have a second?

13 MEMBER MOBLEY: Second.

14 CHAIRPERSON MILLER: Okay. Any  
15 other comments before we vote?

16 All those in favor say aye.

17 ALL: Aye.

18 CHAIRPERSON MILLER: All those  
19 opposed? All those abstaining? And the vote  
20 is 6-0 to deny the request for the advisory  
21 opinion.

22 Okay. That concludes our agenda.

1                   MEMBER MOBLEY: Madam Chair, we  
2                   have more.

3                   CHAIRPERSON MILLER: Oh, we have  
4                   two more. Thank you.

5                   We have two requests to approve  
6                   two license cancellations.

7                   The first one is ABRA-085712,  
8                   Restaurant Associates. We did do that one  
9                   previously. So we have done that when we  
10                  considered their request for a refund with  
11                  that.

12                  So we only have one more to  
13                  consider and that is ABRA-071802, The Olympic  
14                  at 1206 H Street, N.E.

15                  I move that we grant the request  
16                  to cancel.

17                  Do I have a second?

18                  MEMBER BROOKS: Second.

19                  CHAIRPERSON MILLER: Any comments?

20                  All those in favor say aye.

21                  ALL: Aye.

22                  CHAIRPERSON MILLER: All those

1       opposed? All those abstaining? The motion  
2       passes 6-0 to cancel.

3                   Okay. So I believe that then  
4       really does conclude our agenda for today.

5                   In accordance with ^U 405(b) of the  
6       Open Meetings Amendment Act of 2010 --

7                   MEMBER ALBERTI: You need to read  
8       the scripts.

9                   CHAIRPERSON MILLER: There was. I  
10      was trying to make up.

11                   MEMBER ALBERTI: We're off the  
12      record.

13                   (Whereupon, the A.B.R.A. Agenda in  
14      the above-entitled matter was concluded at  
15      8:52 p.m.)

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<b>A</b>	<b>approving</b> 11:1 <b>April</b> 4:1 <b>Associates</b> 4:2 20:8 <b>Atlas</b> 2:9 <b>Avenue</b> 4:3 6:8 9:2 10:4 12:1,2,3 <b>aye</b> 2:16,17 3:15,16 4:11,12 5:4,5,21 5:22 6:15,16 8:4,5 9:15,16 11:2,3 12:14,15 13:15,16 14:11,12 16:1,2 17:21,22 18:14,15 19:16,17 20:20,21 <b>A.B.R.A</b> 1:6 21:13 <b>a.m</b> 18:10 <b>A.M.E</b> 7:1	<b>Carlton</b> 11:21 <b>case</b> 5:12 13:12 16:16 <b>cause</b> 9:8 10:6,8,9 13:11 16:16 17:11 <b>certainly</b> 18:21 <b>Chair</b> 7:13 20:1 <b>Chairperson</b> 1:13 1:16 2:3,15,18,22 3:14,17 4:10,13 5:3,6,20 6:1,14,17 7:11,15,18,21 8:6 8:9,20 9:14,17 10:13,21 11:4,8 11:13,19 12:12,16 13:17 14:10,13 15:21 16:3 17:17 18:1,13,16 19:14 19:18 20:3,19,22 21:9 <b>change</b> 3:4,10 5:9 <b>check</b> 14:19 <b>Church</b> 7:1 <b>cite</b> 19:10 <b>clarification</b> 19:4 <b>closed</b> 15:14 <b>Club</b> 12:21 13:6 <b>Code</b> 3:11 <b>COLUMBIA</b> 1:1 <b>comment</b> 7:22 17:8 <b>comments</b> 7:12,22 8:2 9:14 10:14,22 12:13 13:13 14:7 15:22 17:18 18:13 19:15 20:19 <b>complaints</b> 17:10 17:13 <b>compliance</b> 14:21 <b>comply</b> 15:8 <b>compromise</b> 15:3 16:15 <b>conclude</b> 21:4 <b>concluded</b> 21:14 <b>concludes</b> 19:22 <b>conflicts</b> 5:16 <b>conjunction</b> 9:3 <b>Connecticut</b> 4:3	<b>consider</b> 8:14 20:13 <b>considered</b> 18:21 20:10 <b>considering</b> 8:15 <b>consumption</b> 3:5 <b>Control</b> 1:2,11,12 <b>counsel</b> 9:9 15:10 <b>covered</b> 16:14	<b>extension</b> 3:7
	<b>B</b>		<b>D</b>	<b>F</b>
<b>ability</b> 10:18 <b>above-entitled</b> 21:14 <b>ABRA</b> 14:18 <b>ABRA-071802</b> 20:13 <b>ABRA-085712</b> 20:7 <b>abstaining</b> 2:19 3:18 4:14 5:7 6:2 6:18 8:10 9:18 13:18 14:14 16:4 18:2,17 19:19 21:1 <b>abutting</b> 12:8 <b>accepted</b> 15:3 <b>Act</b> 21:6 <b>action</b> 16:17 <b>advisory</b> 19:6,8,9 19:20 <b>Agency</b> 9:9 17:10 <b>agenda</b> 1:6 2:4,6 6:4 13:21 19:22 21:4,13 <b>Alabama</b> 9:2 <b>Alan</b> 19:3 <b>ALBERTI</b> 1:17 10:15 11:7,12,15 15:20 21:7,11 <b>alcoholic</b> 1:2,11,12 3:5 5:10 <b>Amendment</b> 21:6 <b>amount</b> 4:1 <b>ANC-2B</b> 3:7 16:14 <b>ANC-3B</b> 6:9 7:4 <b>ANC-5C</b> 5:14 <b>ANC-6A</b> 2:10 <b>ANC-7B</b> 9:4 <b>appear</b> 9:1 10:2 13:3 <b>applicant</b> 10:17 <b>application</b> 6:5 12:2 16:8 <b>approval</b> 6:6 <b>approve</b> 3:9 6:10 9:7,10 10:6 20:5	<b>background</b> 15:7 <b>Bear</b> 5:12 <b>believe</b> 8:3 10:16 13:11 16:14,17 17:11 21:3 <b>beverage</b> 1:2,11,12 3:5 5:10 <b>Big</b> 5:12 <b>Bladensburg</b> 12:21 <b>Board</b> 1:2,12 2:12 4:20 5:17 7:13 14:21 15:8 19:8,9 <b>Bouzid</b> 16:8 <b>brings</b> 13:20 <b>BROOKS</b> 1:18 6:13 9:13 12:10 17:16 20:18	<b>change</b> 3:4,10 5:9 <b>check</b> 14:19 <b>Church</b> 7:1 <b>cite</b> 19:10 <b>clarification</b> 19:4 <b>closed</b> 15:14 <b>Club</b> 12:21 13:6 <b>Code</b> 3:11 <b>COLUMBIA</b> 1:1 <b>comment</b> 7:22 17:8 <b>comments</b> 7:12,22 8:2 9:14 10:14,22 12:13 13:13 14:7 15:22 17:18 18:13 19:15 20:19 <b>complaints</b> 17:10 17:13 <b>compliance</b> 14:21 <b>comply</b> 15:8 <b>compromise</b> 15:3 16:15 <b>conclude</b> 21:4 <b>concluded</b> 21:14 <b>concludes</b> 19:22 <b>conflicts</b> 5:16 <b>conjunction</b> 9:3 <b>Connecticut</b> 4:3	<b>dated</b> 6:21 8:18 9:4 9:21 11:21 13:21 14:17 18:5 19:2 <b>day</b> 10:8 <b>days</b> 15:15 <b>DCMR</b> 7:6 9:11 10:10 13:12 19:4 19:10 <b>December</b> 8:18 <b>decision</b> 16:21 <b>denied</b> 6:3 <b>deny</b> 2:11 4:19 5:15 7:5 8:11 12:5,17 13:10 17:2,19 19:11,20 <b>denying</b> 5:21 13:14 <b>designated</b> 6:22 <b>determine</b> 14:20 <b>Deux</b> 7:2 <b>Dimitrios</b> 13:22 <b>dismissed</b> 8:22 10:1 13:2 <b>DISTRICT</b> 1:1 <b>doctor's</b> 10:7,17 <b>DONALD</b> 1:18 <b>due</b> 16:8 <b>D.C</b> 1:13 3:11	<b>Fact-Finding</b> 14:6 14:15 <b>failure</b> 9:1 10:2 13:3 <b>favor</b> 2:16 3:15 4:11 5:4,21 6:15 8:4 9:15 11:1 12:14 13:14 14:11 16:1 17:21 18:14 19:16 20:20 <b>February</b> 1:9 2:4 18:10 <b>fee</b> 2:9 3:22 <b>first</b> 2:6 4:5,6 20:7 <b>FIVE</b> 8:5 <b>Five's</b> 13:2 <b>FOUR</b> 11:3
			<b>E</b>	<b>G</b>
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