

Lic. 60591

THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of:)
)
Washington 009, LLC)
t/a McFaddens)
)
Application for a Retailer's Class CR)
License - renewal)
at premises)
2401 Pennsylvania Avenue, N.W.)
Washington, D.C.)
)

Case no.: 31489-04/076P
Order no.: 2005-276

Washington 009, LLC, Applicant

Dorothy Miller, Chair, on behalf of Advisory Neighborhood Commission 2A, Ron Cocome, President, on behalf of the Foggy Bottom Association, Curtis Dombek, on behalf of a group of three (3) individuals, and George James, on behalf of a group of five (5) or more individuals, Protestants

BEFORE: Charles A. Burger, Chairperson
Vera M. Abbott, Member
Judy A. Moy, Member
Audrey E. Thompson, Member
Peter B. Feather, Member
Albert G. Lauber, Member
Eartha Isaac, Member

**ORDER ON VOLUNTARY AGREEMENT AND WITHDRAWN PROTEST AND
DISMISSAL OF PROTEST**

The renewal application for a Retailer's Class "CR" License, having been protested, came before the Board on September 15, 2004, in accordance with D.C. Official Code § 25-601 (2001). Dorothy Miller, Chair, on behalf of Advisory Neighborhood Commission ("ANC") 2A, Ron Cocome, President, on behalf of the Foggy Bottom Association ("FBA"), Curtis Dombek, on behalf of a group of three (3) individuals, and George James, on behalf of a group of five (5) or more individuals, filed timely opposition by letters on June 21, 2004, August 9, 2004, August 24, 2004, and August 30, 2004, respectively. On September 15, 2004, the Board dismissed the protest of Ron Cocome, President, on behalf of FBA, because he did not appear at the roll call hearing or designate a representative to appear at the roll call hearing. On September 15, 2004, the Board also dismissed the protest of Curtis Dombek, on behalf of a group of three (3) individuals, because Mr. Dombek's group did not consist of five (5) or more

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residents or property owners as required to have standing under D.C. Official Code § 25-601(2) (2001). On October 5, 2004, Mr. Dombek filed with the Board a request for reinstatement, which was subsequently denied by the Board on October 20, 2004 since Mr. Dombek's group still lacked the requisite number of five (5) or more individuals needed to have standing.

The official records of the Board reflect that the parties have reached an agreement that has been reduced to writing and has been properly executed and filed with the Board. Pursuant to the agreement, dated September 8, 2005, the Protestants have agreed to withdraw their protests, provided, however, the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the agreement.

Accordingly, it is this 12th day of October 2005, **ORDERED** that:

1. The protests of Ron Cocome, President, on behalf of FBA, and Curtis Dombek, on behalf of a group of three (3) individuals, are **DISMISSED**;

2. The protests of Dorothy Miller, Chair, on behalf of ANC 2A, and George James, on behalf of a group of five (5) or more individuals, are **WITHDRAWN**;

3. The renewal application of Washington 009, LLC, t/a McFaddens, for a Retailer's Class "CR" License at 2401 Pennsylvania Avenue, N.W., Washington, D.C., is **GRANTED**;

4. The above-referenced agreement, is **INCORPORATED** as part of this Order;
and

5. Copies of this Order shall be sent to Dorothy Miller, Chair, on behalf of ANC 2A, Ron Cocome, President, on behalf of FBA, Curtis Dombek, on behalf of a group of three (3) individuals, and George James, on behalf of a group of five (5) or more individuals, and the Applicant.

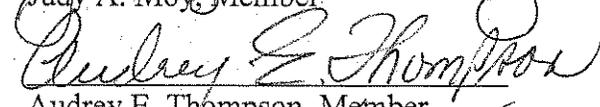
Washington 009, LLC
t/a McFaddens
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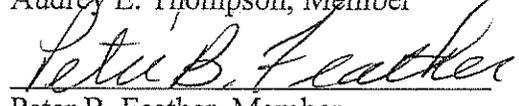
District of Columbia
Alcoholic Beverage Control Board

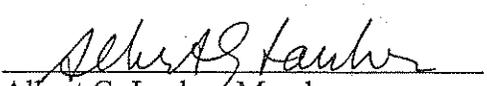
Charles A. Burger, Chairperson

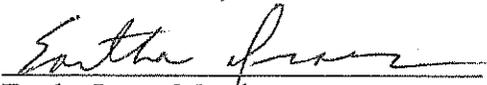
Vera M. Abbott, Member


Judy A. Moy, Member


Audrey E. Thompson, Member


Peter B. Feather, Member


Albert G. Lauber, Member


Eartha Isaac, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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, 941 North Capitol Street, N.E., Suite 7200, Washington, D.C. 20002.

2005 SEP 28 P 2:30

VOLUNTARY AGREEMENT

REC'D SEPT 28 2005
ZPC

THIS VOLUNTARY AGREEMENT, made this 8th day of August, 2005, by and between WASHINGTON 009, LLC, t/a McFaddens ("Licensee"), and Advisory Neighborhood Commission 2A ("ANC 2A"), and George James, on behalf of a group of five ("Protestants").

RECITALS

WHEREAS, Licensee is the holder of a Class CR license issued by the ABC Board for premises known as 2401 Pennsylvania Avenue N.W., Washington, D.C. 20037; and

WHEREAS, ANC 2A and George James, on behalf of a group of five, have protested the renewal of the license for the establishment; and

WHEREAS, the parties desire to resolve the protest by Voluntary Agreement;

NOW, THEREFORE, in consideration of the Recitals set forth above, and the mutual covenants in agreements hereinafter set forth, the parties agree as follows:

1. Closing Times. On Sunday, Monday and Wednesday, Licensee will close at 12 midnight. On Tuesday and Thursday, Licensee will close at 2 A.M. On Friday and Saturday, Licensee will have last call at 1:45 A.M. It will close its doors and serve no alcoholic beverages after 2 A.M. When the doors are closed, the music will be turned off and the lights will be turned on. Once upstairs is closed, patrons will not be allowed to go downstairs, thus staggering the closing time to eliminate both rooms exiting at the same time. Licensee will request that patrons have consideration for the neighbors living in the neighborhood.

2. In order to alleviate the problems pertaining to peace, order and quiet, Licensee has installed a vestibule at the front door of the location, to act as a buffer from music escaping out the front door. The sound system has been completely recalibrated, and locks are on the volume control, now set so they do not exceed the level established by the sound engineer, pursuant to the technical cost proposal attached hereto. Licensee will retain the services of a security

company, and have them take an active role in patrolling the front of the establishment and around the establishment every Thursday through Saturday, from 11 PM until 30 minutes after closing. Licensee will request landlord's permission to have sound tests in various apartments to ascertain sound level.

3. Licensee will have a quarterly training of the entire staff on all rules and regulations. All of the staff will be required to be trained by a third party professional training company and to have received the certificate showing that they have successfully undergone such training.

4. There will be no promotion events outside.

5. Licensee will use its best efforts to insure that vendors, radio stations, etc., do not park in front of the establishment. Buses will be instructed to drop off passengers and move to another location, and not park in front of, or across the street from the establishment. (legal bus-parking)
jm

6. If the District of Columbia institutes a procedure whereby licensees can hire police for patrolling the outside of the premises, they will become an active participant in said plan.

7. Thirty minutes after the close of business, the closing manager shall inspect the area outside of the premises and the surrounding area to ensure that there is no garbage (from our patrons or anyone else). If there is garbage in the public areas at this time, the staff will clean it.

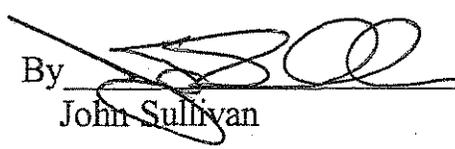
8. There will be no happy hour after 8 P.M. There will be no promotions which encompass charging less than 50% off the regular price for any alcoholic beverages.

9. After this Agreement is in effect for one year from the date it is approved by the ABC Board, the parties may petition the ABC Board and request a fact finding hearing or status conference to propose replacement language for any provision. The Board shall consider the request and render an Order..

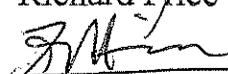
10. In the event of a violation of this Agreement, the ANC shall notify the Licensee. If the Licensee does not correct any violation of the Agreement within ten days, then ANC 2A or the other protestants shall have the right to petition the ABC Board for a show cause hearing.

APPLICANT:

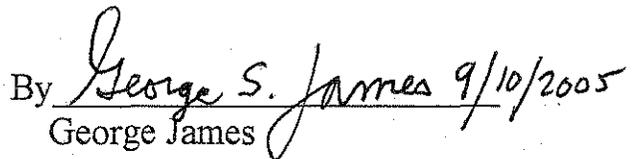
WASHINGTON 009, LLC

By  Member
John Sullivan

ANC 2A

By 
Richard Price, ANC 2A-02

VINCE MICONE, ANC 2A

GEORGE JAMES GROUP OF 5

By  9/10/2005
George James

LAW OFFICES
MARGOLIUS, MALLIOS & RIDER, LLP

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WASHINGTON, D.C. 20036
(202) 296-1000

GOVT OF THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE
REGULATION ADMINISTRATION

JAMES L. RIDER
1942 - 2005

FACSIMILE (202) 296-6400

2005 SEP 28 P 2: 30

REC'D BY

ZRC

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September 26, 2005

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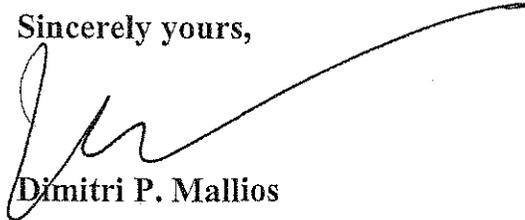
**District of Columbia
Alcoholic Beverage Control Board
941 North Capitol Street NE
Washington, D.C. 20002**

**Re: Case No. 31489-04/076P
McFaddens
2401 Pennsylvania Avenue NW
Class CR License**

**Dear Chairman Burger and
Members of the Board:**

**Enclosed herewith is the original Voluntary Agreement between Washington
009, LLC t/a McFaddens, and the Protestants, signed by all parties.**

Sincerely yours,


Dimitri P. Mallios

DPM:js

Enclosure