

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

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In the Matter of:)
)
Bivco, Inc.)
t/a Banana Cafe and Piano Bar)
)
Holder of a	License No.	ABRA-026006
Retailer's Class CR License	Order No.	2015-080
)
at premises)
500 8 th Street, S.E.)
Washington, D.C. 20003)
<hr/>)

Bivco, Inc., t/a Banana Cafe and Piano Bar (Licensee)

Kirsten Oldenburg, Chairperson, Advisory Neighborhood Commission (ANC) 6B

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

ORDER ON SETTLEMENT AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that Bivco, Inc., t/a Banana Cafe and Piano Bar, (Licensee), and ANC 6B have entered into a Settlement Agreement (Agreement), dated February 10, 2015, that governs the operation of the Licensee's establishment.

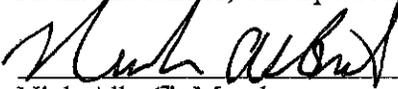
The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Licensee and Chairperson Kirsten Oldenburg, on behalf of ANC 6B, are signatories to the Agreement.

Accordingly, it is this 4th day of March, 2015, **ORDERED** that:

1. The above-referenced Settlement Agreement submitted by the parties to govern the operations of the Licensee's establishment is **APPROVED** and **INCORPORATED** as part of this Order;
2. This Settlement Agreement replaces and supersedes previous Settlement Agreements between the parties; and
3. Copies of this Order shall be sent to the Licensee and ANC 6B.

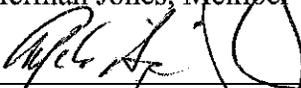
District of Columbia
Alcoholic Beverage Control Board

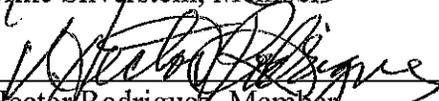

Ruthanne Miller, Chairperson

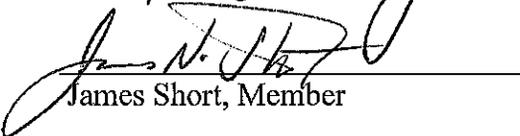

Nick Alberti, Member


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 14th 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).

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made on this 10th day of ~~Feb~~ 2015 by and between Bivco Inc., t/a Banana Café & 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 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 sidewalk café endorsement and has the following conditions:
 - a. Applicant 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. Applicant 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, the Applicant agrees to maintain the side door on E Street as an emergency only door.

c. The establishment shall have limited indoor seating of 180 patrons and outside (sidewalk) voluntary seating not to exceed 32 patrons.

3. **Hours of Operation and Sales.** The Applicant's hours of operation shall be as follows:

Inside Services

Sunday 10:00 AM to 12:00 AM

Monday through Thursday 8:00 AM to 12:00 AM

Friday and Saturday 8:00 AM to 1:00 AM

Sidewalk Services

Sunday 10:00 AM to 11:30 PM

Monday through Thursday 8:00 AM to 11:30 AM

Friday and Saturday 8:00 AM to 1:00 AM

Entertainment Endorsement (Piano Bar)

Sunday through Thursday 6:00 PM to 12:00 AM

Friday and Saturday 6:00 PM to 1:00 AM

Provided that: (a) with the exception of January 1 of every year, on days designated by the ABC Board as "Extended Hours for ABC Establishments", Applicant may operate [including sale and consumption] for one hour later than the hours listed above; and (b) in the event that the Council of the District of Columbia or the ABC Board grants licensees in general extended operating hours [such as for the Inauguration], Applicant may avail itself of such extended hours.

4. **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.
5. **Sidewalk Café.** Applicant will operate its sidewalk café in accordance with the Public Space Management Branch Certification. Applicant will direct that its employees inspect the sidewalk café on a regular basis to ensure its cleanliness.
6. **Noise, Odor, and Privacy.** No objectionable odors will be created by the Applicant. Applicant will strictly comply with D.C. Official Code § 25-725, which may include the need to make architectural improvements to the property. Applicant agrees to keep its doors closed when music is being played inside the establishment but may open its window panels during such times, provided that the music is not audible beyond the street curbside. If necessary, Applicant will take reasonable steps necessary to reduce noise emanating from the opening of entry or exit doors. Applicant will take all reasonable steps to strictly comply with D.C. Regulations concerning noise emanating from the establishment's mechanical equipment.

7. **Public Space and Trash.**

a. Applicant shall keep its entire property and the sidewalk (up to and including the curb), tree box(es), curb, and alley 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.

b. Applicant shall ensure that the area around the 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 shall ensure that no trash is placed outside the establishment other than in a fully-closed dumpster. Applicant shall ensure that the lids on all dumpsters are fully closed at all times. Applicant shall not place trash in its dumpster in any manner that would prevent the full closure of the dumpster. Applicant shall ensure that all dumpsters used are properly maintained and replaced when damaged.

c. Applicant shall ensure that all grease is placed in a secure well-maintained container inside the property where possible. Any grease leak shall be cleaned up promptly and all containers shall be properly maintained and replaced when damaged or leaking.

d. Applicant will ensure timely trash disposal that is the least disruptive to the neighbors. To that end, no glass shall be recycled or otherwise disposed after 10 p.m. or before 7 a.m. Any glass material needing to be recycled or otherwise disposed between 10 p.m. and 7 a.m. shall be stored inside the Applicant's establishment until 7 a.m.

e. Commercial trash pick up in residential areas takes place between 7 a.m.-7 p.m. Applicant shall not allow for its trash to be picked up outside of those hours.

8. **Rats and Vermin Control.** The Applicant shall provide rat and vermin control for its property. The Applicant shall provide proof of its rat and vermin control contact 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.

9. **Security Cooperation in Stemming Criminal Activity and Public Drinking.** Applicant agrees that it shall take all reasonable steps to minimize such problems, including, without limitation, providing 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 criminal activity 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.

10. **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.
11. **Cancellation of previous Agreements.** Except as otherwise explicitly provided herein, this Agreement shall have full force effect and shall constitute the agreement between the parties. This agreement may only be modified by written agreement of all the parties or their successors, or otherwise in accordance with law. All other previous Voluntary or Settlement agreements are rendered null and void.

Applicant:

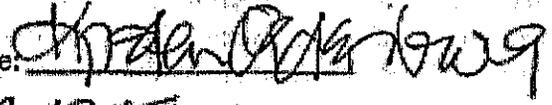
Bivvo Inc., t/a Banana Café & Piano Bar
ABRA# 026006
500 8th Street SE (address)
Washington, DC 20003

Jorge Garcia-Molina Managing Member
202-462-5706 phone

Signature: 

Date: *2/4/15*

Advisory Neighborhood Commission 6B
Washington, DC 20003
Kirsten Oldenburg, Chair
(202) 543-3344
Fax (202) 543-3507

Signature: 

Date: *2-10-15*

ANC 6B

Capitol Hill / Southeast

February 12, 2015

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

Executive Director
Susan Eads Role

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

VIA E-MAIL: janea.raines@dc.gov

OFFICERS

Chair
Kirsten Oldenburg

Vice-Chair
Brian Flahaven

Secretary
Daniel Chao

Treasurer
Diane Hoskins

Parliamentarian
Denise Krepp

RE: ABRA-026006, Banana Café & Piano Bar, 500 8th Street SE, modification of Settlement Agreement to permit extended hours on special occasions & New Year's Eve

Dear Ms. Miller:

At its regularly called, properly noticed meeting on February 10, 2015, with a quorum present, Advisory Neighborhood Commission 6B (ANC 6B) voted 10-0 to support the above-referenced modification.

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

Please contact Commissioner Chander Jayaraman, ANC 6B's Alcohol Beverage Control Committee Chair, at 202-546-2609 or chander6b08@anc6b.org if you have questions or need further information. Thank you.

Sincerely,



Kirsten Oldenburg
Chair

COMMISSIONERS

SMD 1 *Jennifer Samolyk*
SMD 2 *Diane Hoskins*
SMD 3 *James Loots*
SMD 4 *Kirsten Oldenburg*
SMD 5 *Steve Hagedorn*
SMD 6 *Nick Burger*
SMD 7 *Daniel Chao*
SMD 8 *Chander Jayaraman*
SMD 9 *Brian Flahaven*
SMD 10 *Denise Krepp*

Enclosure