



Agreements were approved by the Board on October 5, 1994 and February 19, 1997, respectively.

The Applicant, as the current holder of the Retailer's Class CN License, is required to comply with the terms of the Agreements, February 27, 1994 and November 7, 1996, that govern the operation of the Applicant's establishment.

In addition, the Applicant, ANC 5A, and South Central Civic Association entered into a Voluntary Agreement dated February 27, 2001, and an Amendment to Voluntary Agreement (Amendment), dated August 21, 2008, that also govern the operation of the Applicant's establishment.

Upon review of all four documents, the Board determines that the Applicant is barred from obtaining its requested Substantial Change because the language in the 2008 Amendment limits the Hours of Operation to 3:00 a.m. and the Hours of Alcoholic Beverage Sales to 2:00 a.m. The Board construes Voluntary Agreements as contracts and absent modification of the 2008 Amendment by all parties to the Amendment, the Board cannot unilaterally approve the Applicant's request to increase its Hours of Operation.

### **ORDER**

Therefore, the Board, on this 11th day of March 2015, hereby **ORDERS** that the Application for a Substantial Change for Hours of Operation filed by Eclipse Restaurant and Night Club, Inc., t/a Eclipse Restaurant and Night Club is **DENIED**.

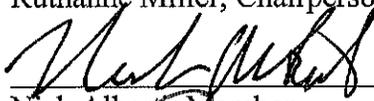
**IT IS FURTHER ORDERED** that the provisions of all existing Voluntary Agreements and Amendments to Voluntary Agreements shall remain in full force and effect.

The Board **ADVISES** the Applicant, the Advisory Neighborhood Commission, and the South Central Civic Association to consider amending the various existing Voluntary Agreements and Amendments in order to draft a singular Settlement Agreement that addresses all terms and conditions agreed to by the parties and which will then supersede the numerous agreements on file with the ABRA.

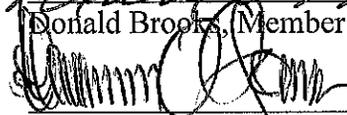
The ABRA shall distribute copies of this Order to the Applicant, ANC 5A, and Frances S. Penn, on behalf of South Central Civic Association.

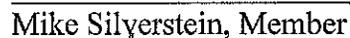
District of Columbia  
Alcoholic Beverage Control Board

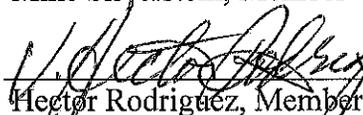
  
Ruthanne Miller, Chairperson

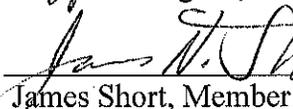
  
Nick Alberti, Member

  
Donald Brooks, Member

  
Herman Jones, Member

  
Mike Silyerstein, Member

  
Hector Rodriguez, Member

  
James Short, Member

Under 23 DCMR § 1719.1 (2008), 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, Reeves Center, 2000 14th Street, NW, 400S, Washington, D.C. 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).