

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

In the Matter of:)

Venus 2, Inc.)
t/a 9 & P St. Liquor)

Applicant for a Renewal of a)
Retailer's Class A License)

at premises)
1428 9th Street, NW)
Washington, D.C. 20001)

Case No.: 21-PRO-00051
License No.: ABRA-101095
Order No.: 2021-572

Venus 2, Inc., t/a 9 & P St. Liquor, Applicant

Kevin Lee, Counsel, on behalf of the Applicant

John Guggenmos, Commissioner, Advisory Neighborhood Commission (ANC) 2F,
Protestant

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Bobby Cato, Member
Rafi Crockett, Member
Jeni Hansen, Member
Edward S. Grandis, Member

**ORDER ON SETTLEMENT AGREEMENT
AND WITHDRAWAL OF ANC 2F'S PROTEST**

The Application filed by Venus 2, Inc., t/a 9 & P St. Liquor (Applicant), for renewal of its Retailer's Class A License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on July 12, 2021, and a Protest Status Hearing on August 18, 2021, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Alcoholic Beverage Control Board (Board) reflect that the Applicant and ANC 2F have entered into a Settlement Agreement (Agreement), dated October 26, 2021, 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 Commissioner John Guggenmos, on behalf of ANC 2F, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by ANC 2F of this Application.

Accordingly, it is this 28th day of October 2021, **ORDERED** that:

1. The Application filed by Venus 2, Inc., t/a 9 & P St. Liquor, for renewal of its Retailer's Class A License, located at 1428 9th Street, NW, Washington, D.C., is **GRANTED**;
2. The Protest of ANC 2F in this matter is hereby **WITHDRAWN**;
3. The above-referenced Settlement Agreement submitted by the parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order, except for the following modification:

Subsection 7(d) (Patron Criminal Behavior Mitigation Measures) – Third sentence, the language “MPD, ABC, and ANC” shall be replaced with the language “MPD or ABRA.”

The parties have agreed to this modification.

4. Copies of this Order shall be sent to the Applicant and ANC 2F.

AMENDMENT TO SETTLEMENT AGREEMENT

THIS AMENDMENT TO SETTLEMENT AGREEMENT ("Agreement") is made on this 26th day of October, 2021 by and between **Venus 2 INC. t/a "9 & P St. Liquors"** ("Applicant") and Advisory Neighborhood Commission 2F ("ANC 2F").

RECITALS

(a) Applicant has applied for a Retailer Class A License (the "License") for a business establishment ("Establishment") located at 1428 9th St. NW, Washington, DC (the "Premises"); and,

(b) Applicant desires to cooperate with the ANC in order to mitigate concerns related to the potential impact of operation of the Establishment on the surrounding community; and,

(c) In lieu of contested protest proceedings regarding the application for the License, the Parties wish to enter into a Settlement Agreement pursuant to D.C. Official Code § 25-446 to address such concerns:

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 Class A Retail off-premises liquor store. Any change from this model shall require prior approval by the ABC Board.
3. Hours of Operation. It is understood that upon expiration of the below hours of operation, no patron may remain on the interior or exterior of the Premises. Applicant's hours will not exceed the following:
 - a. Standard hours shall be no later than:
 - i. Sunday – Thursday: 7am to 12:00am
 - ii. Friday – Saturday: 7am to 12:00am
4. Single Sales of Alcoholic Beverages. The applicant agrees that it will not offer or sell single containers of beer, malt, or ales in single containers of less than 72 ounces.
5. Noise. Applicant shall adhere to DC Code § 25-725 with respect to emanation of noise from the establishment. Applicant shall undertake such measures as reasonably are required to preclude unreasonable disturbance to occupants of abutting residential properties from emanation of noise or vibration from the Establishment, including from patrons at, entering, or exiting the establishment. Applicant will not install any exterior speakers to the Establishment.
6. Public Space and Trash. Pursuant to DC Code § 25-726, Applicant shall take reasonable measures to ensure that the immediate environs of the establishment, including adjacent alleys, sidewalks, or other public property immediately adjacent to the establishment, or other property used by the licensee to conduct its business, including the alleyway immediately behind the licensee's establishment, are kept free of litter, bottles, chewing gum, trash and other debris. These reasonable measures will include walking and sweeping of the aforementioned areas twice each day. Applicant shall also keep the interior customer area of the establishment free of dirt.

7. Patron Criminal Behavior Mitigation Measures. Applicant will strictly comply with D. C. Official Code and will use best efforts to prevent loitering, rowdiness, panhandling and criminal activity within the immediate area in front or on the side of the Establishment:
- a. Post a "No Loitering / Panhandling" "Security Camera working 24 hours" sign on the outside of the establishment;
 - b. Posting a notice kept in good repair and visible from point of entry, a sign which states: The additional sign should be in the same size/scope/font and placed with the ABRA required signs.
 - i. the minimum age requirement for purchase of alcohol;
 - ii. the obligation of the patron to produce a valid identification document in order to purchase alcohol;
 - iii. requesting customers not to contribute to panhandlers.
 - c. Applicant shall improve lighting on the store front and side of the establishment flood lights to discourage any behavior that undermines public safety. That complies with the DDOT LED and Lumens limitation.
 - d. Applicant agrees to participate in the Security Camera Rebate Program to add a component to existing cameras. Applicant agrees to participate in this program within 60 days of signing the agreement and if other programs become available, would reasonably consider them. Applicant agrees that footage must be kept for 30 days and be made available upon a reasonable request by MPD, ABC, and ANC. If the number of outdoor cameras proves to be inadequate, licensee will work with the community for additional improvements.
 - e. The applicant agrees to request that loiterers move on whenever they are observed outside of the establishment;
 - i. Calling MPD to report illegal activity within or immediately outside of the Premise;
 - ii. Keeping a written record of dates and times when MPD is called for assistance;
 - iii. Applicant's log shall be provided to the Board upon request;
 - iv. Applicant will coordinate with MPD personnel within 60 days of the signing of this agreement to issue barring notices to problem individuals; Applicant will coordinate with MPD personnel to create a computer folder to track barring notices and make them available to officers on every shift. This initiative will allow officers to better monitor persons involved in unlawful activity in and around Applicant's business and the surrounding community.
 - f. Applicant will discourage the illegal public consumption of alcohol inside or around the immediate area and will participate in an ABC Board- approved course in alcoholic beverage sales management
 - g. Pursuant to DC Code § 25-781, Applicant shall not sell or deliver alcoholic beverages to a person under 21 years of age, an intoxicated person, or any person who appears to be intoxicated, or a person of notoriously intemperate habits.
8. Trash and Recycling. Applicant will contract with a trash and recycling contractor to provide sealable container(s) for trash, food waste, and recycling designed to prevent rodent intrusion, and further agrees to keep the containers closed and sealed at all times when waste is not being disposed. Applicant further agrees to hold all trash, food waste, and recycling within the building until the morning of the scheduled pick-up. The Applicant shall require its trash and recycling contractors to pick up trash and materials not earlier than 7:00 a.m. Applicant's employees shall

not dispose of bottles or glass into trash containers or dumpsters in a manner which creates noise audible outside of the premises after 11:00 p.m.

9. Agreement Available Upon Demand. A copy of this Agreement shall be kept on the premises and made available to law enforcement officers and Alcoholic Beverage Regulatory Administration inspectors immediately upon request.
10. Compliance with ABRA Regulations. Applicant shall abide by applicable Alcoholic Beverage Administration (ABRA) regulations regarding ownership of the License.
11. Participation in the Community. Applicant is encouraged to send a representative from time to time to meetings of the ABRA Policy Committee of ANC 2F. Participation in such meeting promotes open lines of communication, neighborhood involvement, and awareness of current ABRA issues. Dates and times can be found at www.ANC2F.org.
12. License Ownership. Applicant agrees not to transfer or sell the license to any other entity before obtaining approval from the Alcohol Beverage Control Board. Applicant agrees to specifically notify any prospective transferee of the existence of this Agreement and to provide them with a copy.
13. Binding Effect. This Agreement shall be binding upon and enforceable against the successors of the Applicant.
14. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
15. Notice and Opportunity to Cure. In the event that either party believes that the other materially breached any obligations under this Agreement, such party shall give written notice to the other of the existence of the breach and the specific nature thereof. The party alleged to be in breach shall have fourteen (14) days from the receipt of notice to cure the alleged breach (or if the breach shall relate to excessive noise or disturbance, the lesser of 72 hours or such shorter period as may be reasonable under the circumstances to immediately restore peace, order and quiet). If the breach is not cured within the notice period—or, with respect to a breach which reasonably requires more than fourteen (14) days to cure, efforts to cure the breach have not been commenced— failure should constitute cause for the ANC to file a complaint with the ABC Board pursuant to D.C. Official Code § 25-446(e) in order to enforce the provisions of the Agreement. In the case of a continuing violation, no notice or opportunity to cure need be provided for subsequent violations of this Agreement, following the initial provision of notice. Any notices required to be made under this Agreement shall be in writing and sent either via e-mail or U.S. mail, postage prepaid, to the parties to this Agreement at the addresses below. Notice shall be deemed given as of the time of receipt or refusal of receipt.

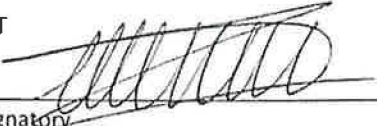
If to Applicant: Venus 2 INC / 9 & P St. Liquor
1428 9th St. NW
Washington, DC 20001

If to the ANC: Advisory Neighborhood Commission 2F
 5 Thomas Circle, NW
 Washington, DC 20005
 ANC2FOffice@gmail.com

Either party may change its notice address by written notice to the other. 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.

ADVISORY NEIGHBORHOOD COMMISSION 2F

By:  _____
 John Guggenmos
 Chairman

APPLICANT
By:  _____
 Signatory

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

In the Matter of:)
)
KH & C, Inc.,)
t/a S & W Liquors)
)
Renewal Application for Retailer's)
Class A License) License No. 10963
) Order No. 2009-179
at premises)
1428 9th Street, N.W.)
Washington, D.C.)
)

KH & C, Inc., t/a S & W Liquors

Charles Reed, Chair, Advisory Neighborhood Commission (ANC) 2F, Protestant

BEFORE: Peter B. Feather, Chairperson
Mital M. Gandhi, Member
Nick Alberti, Member
Charles Brodsky, Member
Donald Brooks, Member
Herman Jones, Member

ORDER ON VOLUNTARY AGREEMENT AND WITHDRAWAL OF PROTEST

The official records of the Alcoholic Control Board (Board) reflect that KH & C, Inc., t/a S & W Liquors, Applicant for Renewal of a Retailer's Class A license located at 1428 9th Street, N.W., Washington D.C., and ANC 2F, (the Parties) have entered into a Voluntary Agreement (Agreement) dated April 1, 2009, setting forth the terms and conditions that govern the operation of the Applicant's establishment. This Agreement constitutes a withdrawal of the Protest of this Application.

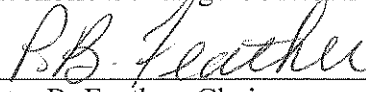
The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant and Chairperson Reed are signatories to the Agreement.

KH & C, Inc.
t/a S & W Liquors
License No. 10963
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Accordingly, it is this 15th day of July 2009, **ORDERED** that:

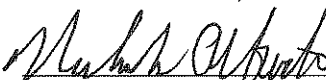
1. The Application filed by KH & C, Inc., t/a S & W Liquors for a Retailer's Class A license located at 1428 9th Street, N.W., Washington, D.C., is **GRANTED**,
2. The Protest in this matter is hereby **WITHDRAWN**,
3. This above-referenced Voluntary Agreement submitted by the Parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order; and
4. Copies of this Order shall be sent to the Applicant and ANC 2F.

District of Columbia
Alcoholic Beverage Control Board



Peter B. Feather, Chairperson

Mital M. Gandhi, Member



Nick Alberti, Member

Charles Brodsky, Member



Donald Brooks, Member

Herman Jones, 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.

AMENDED AND RESTATED VOLUNTARY AGREEMENT

This AMENDED AND RESTATED VOLUNTARY AGREEMENT, dated as of the 1st day of April, 2009, between ADVISORY NEIGHBORHOOD COMMISSION 2F (“ANC 2F” or “Commission”) and KH&C, Inc., dba S & W Liquors, 1428 9th Street, NW, 14th Street, NW, Washington, DC (“Licensee”) holding License number 10963, Class A Retailer.

WITNESSETH

WHEREAS, ANC 2F and Licensee have previously entered into a Voluntary Agreement, which was approved by the Alcoholic Beverage Control Board of the District of Columbia (the “ABC Board”); and

WHEREAS, Licensee has pending an application for exception to recently enacted the Consolidated Mt. Pleasant, Ward 2, and Ward 6 Single Sales Moratorium Act of 2008, (the “Act”) which, among other things, provides under D.C. Code §25-345(b) for certain restrictions on the sale of beers, malt liquors and ales and spirits in single containers; and

WHEREAS, Licensee and ANC 2F, in resolving other issues related to the ANC 2F protest on Licensee’s pending license renewal have agreed that Licensee will withdraw its application for exception; and

WHEREAS, the parties also wish to amend the Voluntary Agreement to make mutually agreeable changes in light of changed circumstances;

NOW THEREFORE, premises considered and for good and valuable consideration, the receipt and sufficiency of which the parties mutually acknowledge, the parties agree as follows:

1. **Recitals Incorporated.** The recitals to this Agreement are hereby incorporated herein by reference.
2. **Hours of Operation.** The Licensee holds a Class A Retail off-premises license and, therefore, is not likely to contribute to noise problems that would disturb nearby residential tenancies. Accordingly, Licensee's hours of operation, at Licensee's discretion, may be those set up to the maximum permitted by the liquor laws of the District of Columbia.
3. **No Change in Class of License.** Licensee expressly agrees that it shall not apply for or change the class of license from a Retail Class A license.
4. **Public Space and Trash and Deliveries.** The Licensee shall monitor on a daily basis the sidewalk (up to and including the curb and gutter area), alley (if any), the store entry way and other immediately adjacent areas, cleaning them and keeping them free of all litter, bottles, trash and other debris. Licensee agrees to maintain a dumpster in the rear of the building in the public alley and to contract with a commercial trash hauler for pickup frequencies necessary to assure there is no overflow from the dumpster between pickups. Licensee shall take whatever actions necessary to ensure that its dumpster does not overflow. Material shall not be deposited into the dumpster after 11:00 p.m. or before 8:30 a.m. Licensee shall require its trash and recycling contractors to pick up trash and materials, and schedule its deliveries, after 9:00 a.m. on weekdays and after 10:00 a.m. on weekends and holidays.
5. **Loitering and Public Drinking.** Licensee shall make reasonable efforts to discourage loitering and public drinking in the vicinity of its premises, and shall notify

ANC 2F as well as the Metropolitan Police Department where problems of this nature persist.

6. **License Ownership.** Licensee agrees to abide by all Alcoholic Beverage Regulations Administration (“ABRA”) regulations regarding the ownership of the license. Licensee further agrees that no sale or transfer of its license shall become effective (a) without first giving ANC 2F 30 days notice in advance of such sale and disclosing in such notice the identity of the transferee and any person directly or indirectly having a 5% or more interest in such transferee, and (b) requiring that as a condition of such transfer, the transferee agree to execute this Agreement and to be bound by its terms.

7. **Community Affairs.** Licensee shall make reasonable efforts to liaise with the community served by the ANC, by receiving notices of the meetings of the ANC and of the Logan Circle Community Association, (“LCCA”), joining from time to time in community affairs, and attending meetings of the ANC when specifically requested to do so, in addition to engaging in other activities Licensee may deem appropriate.

8. **Single Sales of Alcoholic Beverages.** Licensee agrees that it shall withdraw its pending request for an exception to the Consolidated Mt. Pleasant, Ward 2, and Ward 6 Single Sales Moratorium Act of 2008, D.C. Code §25-345(b) (the “Act”). Any provision in the Act notwithstanding, Licensee agrees that it will not offer or sell single containers of beer, malt or ales in single containers of less than 72 ounces.

9. **Violations.** In the event of a violation of this Agreement, Licensee shall be notified in writing and given an opportunity to cure such violation within thirty (30) days thereafter before action against Licensee on the basis of such violation may be

undertaken (unless it is a third violation or a violation which by nature goes to the health or safety of the public and is a matter of urgency, in which case a lesser cure period may at the election of ANC 2F may be specified). A material violation of this Agreement or the liquor laws of the District of Columbia by Licensee, which has not been corrected within the period for cure, shall constitute cause for seeking a Show Cause Order from the ABC Board.

10. **Notices.** Any notice required to be made under this Agreement shall be in writing and mailed by certified mail, sent by facsimile using a device which indicates receipt on sender's copy, or hand-delivered, to the other party to this Agreement. Mailed notice shall be deemed effective when mailed.

Notice is to be given as follows:

If to Licensee, to:

S & W Liquors
1428 9th Street, NW, 14th Street, NW,
Washington, DC

If to ANC 2F, to:

Advisory Neighborhood Commission 2F
P.O. Box 9348 – Mid-City Station
Washington, D.C. 20005

With email copy to Chairperson, ANC 2F
(currently, Charles D. Reed creed@kgrmlaw.com)

The parties shall provide each other with the fax and email information. The parties may change the notice address listed above by written notice to the other party. 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 Alcoholic Beverage Control Board.

11. **Billboard and Telephone.** Licensee shall remove the billboard and arrange for the removal of the outdoor telephone as soon as possible

(a) With respect to the bill board, Licensee shall present a valid DC sign permit within 90 days. If such permit is timely presented, Licensee shall cause the billboard to be removed upon cancellation by Contest Promotions, LLC of its contract with Licensee or September 30, 2012, whichever is sooner. If no such permit is timely presented, Licensee shall remove as soon as possible, but not later than December 31, 2009.

(b) With respect to the telephone, Licensee represents and warrants that it receives no income with respect to the telephone; and it promises to diligently pursue the removal of the telephone through the DC Public Service Commission proceedings now pending; and it will join with ANC 2F in its effort to cause the telephone to be removed.

12. **Counterparts.** This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed as original, but all of which together shall constitute one and the same instrument.

13. **Binding Effect.** This Voluntary Agreement shall be binding upon and enforceable against the successors and assigns of Licensee.

14. **Effective Date.** This Amended and Restated Voluntary Agreement shall become effective upon its acceptance by the ABC Board.

[Signature Page Follows]

ADVISORY NEIGHBORHOOD
COMMISSION 2F

By: Charles D. Reed
Charles D. Reed, Chairman

S & W LIQUORS

By: Harold W. Fink
Harold W. Fink