

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

In the Matter of:)	
)	
5k baller, LLC)	
t/a Play off Pizza)	
)	Case No.: 20-PRO-00020
Applicant for a New)	License No.: ABRA-116268
Retailer's Class CT License)	Order No.: 2020-257
)	
at premises)	
924 5th Street, NW)	
Washington, D.C. 20001)	

5k baller, LLC, t/a Play off Pizza, Applicant

Rachelle Nigro, Commissioner, Advisory Neighborhood Commission (ANC) 6E

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

**ORDER ON SETTLEMENT AGREEMENT AND
WITHDRAWAL OF ANC 6E'S PROTEST**

The Application filed by 5k baller, LLC, t/a Play off Pizza (Applicant), for a new Retailer's Class CT License, was protested by ANC 6E.

The official records of the Board reflect that the Applicant and ANC 6E entered into a Settlement Agreement (Agreement), dated July 21, 2020, 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 Rachelle Nigro, on behalf of ANC 6E, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by ANC 6E.

Accordingly, it is this 12th day of August, 2020, **ORDERED** that:

1. The Protest of ANC 6E in this matter is hereby **WITHDRAWN**;
2. 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; and
3. Copies of this Order shall be sent to the Applicant and ANC 6E.

District of Columbia
Alcoholic Beverage Control Board

eSigned via SeamlessDocs.com
Donovan Anderson
Key: e433266f69d5279e4b7300931dc088

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com
James Short
Key: 347a0770000e1a18110022a22746c

James Short, Member

eSigned via SeamlessDocs.com
Bobby Cato
Key: 256d30ca1f61445f74b75b7917d203

Bobby Cato, Member

eSigned via SeamlessDocs.com
Rema Wahabzadah, Member
Key: bf2ca46b509b74009b19b35b738f16cf

Rema Wahabzadah, Member

eSigned via SeamlessDocs.com
Rafi Aliya Crockett, Member
Key: b550e91845a1f9e401615a45e120f1cc

Rafi Crockett, Member

eSigned via SeamlessDocs.com
Jeni Hansen, Member
Key: 62172931656044740135469c244100f

Jeni Hansen, Member

eSigned via SeamlessDocs.com
Edward Grandis, Member
Key: 5027bda7f0f00406c14adeb52541ce5

Edward S. Grandis, Member

Pursuant to D.C. Official Code § 25-433(d)(1), 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 StTeet, 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

by and between

5K Baller, LLC t/a Play off Pizza
and
Advisory Neighborhood Commission No. 6E

for premises located at
924 5th Street, NW, Washington DC 20001

Recitations

WHEREAS, 5K Baller, LLC ("Applicant"), is a corporation organized under the laws of the District of Columbia, and duly authorized to do business in the District of Columbia; and,

WHEREAS, the premises on 924 5th Street, NW is located within Advisory Neighborhood Commission 6E ("ANC 6E"); and,

WHEREAS, the Applicant has filed for a new Class "C" Tavern license under the D.C. Alcoholic Beverage Control Act ("Application") with the ABC Board; and,

WHEREAS, the Application seeks approval to operate a new full-service Tavern at 924 5th Street, NW, with an Entertainment Endorsement, Sports Wagering Endorsement, and Games of Skill Endorsement; and,

WHEREAS, the Applicant and ANC 6E (collectively, the "Parties") desire to resolve potential issues in the operation of Play off Pizza located at 924 5th Street, NW, ("Tavern") and enter into this Settlement Agreement ("Agreement") in exchange for ANC 6E's support of the Application.

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. **Interior Hours:**

a) The Hours of Operation on the interior premises shall be:

- i. Sunday through Thursday: 7:00am to 1:00am; and
- ii. Friday and Saturday: 7:00am to 2:00am.

b) The Hours of Alcoholic Beverage Sales, Service, and Consumption on the

interior premises shall be:

- i. Sunday: 8:00am to 1:00am;
- ii. Monday through Thursday: 8:00am to 1:00am; and
- iii. Friday and Saturday: 8:00am to 2:00am.

Provided, however (1) on days designated by the ABC Board as "extended Hours for ABC Establishments" Applicant may operate and serve alcoholic beverages for one additional hour (that is, one hour later); (2) in the event the Council of the District of Columbia or the ABC Board grant licenses in general operating hours for particular dates, holidays or events (e.g. inauguration, World Cup), Applicant may avail itself to such extended hours; (3) on January 1 of each year, Applicant may operate and serve alcoholic beverages until 4:00am and may apply for permission a One Day Substantial Change provide Entertainment until 3:00am on January 1 of each year; (4) and on "Daylight Saving Time Extension of Hours" as designated by the ABC Board, Applicant may operate, sell, serve, and permit the consumption of alcoholic beverages for one additional hour later.

c) The Hours of Entertainment on the interior premises shall be:

- i. Sunday: 10:00am to 1:00am;
- ii. Monday through Thursday: 8:00am to 1:00am; and
- iii. Friday and Saturday: 8:00am to 2:00am.

d) Any outdoor seating (whether on a back patio, sidewalk café, etc.) and/or operations were food or drinks are served, will end at 11:00pm each day of the week, and patrons of the establishment will be required to come inside the establishment.

e) Applicant will not permit any individual to bring an alcoholic beverage outside of its establishment at any time.

3. **Security Measures.** Applicant shall take the following security measures:

a) Install security cameras within the establishment that will capture gaming activities. The footage from the security cameras will be stored for at least thirty (30) days.

b) Install security cameras outside the establishment to monitor points of entrance and exit. The camera at the entrance should also be able to capture activity in front of the establishment on 5th street. The footage from the security cameras will be stored for at least thirty (30) days.

c) Security staff will be employed on Friday nights and Saturday nights from 8:00pm to close.

d) Follow all security rules and regulations established by the DC Lottery.

4. Public Space and Trash. Applicant shall take reasonable measures to maintain the cleanliness of the premises and adjacent public property is free of trash/waste, including the sidewalk in front of the Tavern. Applicant shall cause extermination services to be provided to the Establishment by a reputable exterminator on at least a monthly basis.

5. Noise. Applicant acknowledges familiarity with and agrees to comply with all applicable noise control provisions of DC law and regulations. Further, Applicant shall make reasonable efforts to contain within its establishment any and all noise so that no noise exceeding lawful decibel levels is detectable outside the establishment.

Applicant will comply with all D.C. Official Code §25-725:

a) During all times, amplified music emanating from the boundaries of the Tavern's premises (except during times that the doors are open for ingress or egress) shall not be audible in the neighboring community.

b) Amplified sound emanating from the licensed premises that is audible in other nearby residential premises is prohibited.

Applicant will provide the Condominium Board of abutting property at 555 Massachusetts Ave., NW, with a phone number and email address, in which to directly contact the establishment.

6. Rights of Way. Applicant will endeavor not allow any of its property (vehicles, trash cans, dumpsters, etc.), or agent's property, to block any public or private right of way, or entrance/exit, adjacent to its property, unless there is an emergency.

7. Construction of Agreement. Any reference to specific laws and regulations in this Agreement is meant for informational purposes only. ANC 6E does not intend for a violation of any DC law or regulation to also be considered a violation of this Agreement.

8. Notice and Opportunity to Cure. In the event that either party is in breach of this Agreement, the breaching party shall be entitled to reasonable notice and opportunity to cure in the form of thirty (30) days' notice before the non-breaching party can seek enforcement of the Agreement.¹ If the breaching party fails to cure within thirty (30) days, (or, within respect to a breach which reasonably requires more than thirty days to cure, fails to commence cure of such breach and diligently pursues such cure), then the non-breaching party shall be entitled to file a complaint with the ABC Board pursuant to D.C. Official Code §25-447.

¹ The thirty (30) day opportunity to cure will not apply to noise violations. Any noise violation should be immediately remedied by the Applicant upon notice, or be found in violation of this agreement.

If to Applicant: SK Baller, LLC
Attn: Mark Brody
Email: mbrody8@gmail.com

If to ANC: Advisory Neighborhood Commission 6E
Attn: Rachelle Nigro
Email: 6E04@ANC.DC.GOV

Failure to provide notice shall not constitute waiver or acquiescence to the violation, but rather notice shall be a prerequisite to the filing of a complaint with the ABC Board or any other enforcement action.

9. **No Protest.** Upon execution of this Settlement Agreement and its acceptance by the ABC Board, ANC 6E agrees to support Applicant's pending ABC license Application and shall refrain from filing a protest against Applicant's pending license application.

10. **Conflicts.** If any of the terms in this settlement agreement conflict with the laws of the District of Columbia, the District's laws will take precedent. However, if any of the terms or conditions in this settlement agreement is held to be invalid or unenforceable, the remaining terms and conditions shall not be affected and shall be deemed valid and enforceable to the fullest extent permitted by law.

In witness thereof, the Parties, acting through their authorized representatives, have agreed to and signed this Settlement Agreement.

SK Baller, LLC

By: Mark Brody
Mark Brody, Owner

Date: 7-21-2020

Advisory Neighborhood Commission 6E

Rachelle Nigro

By: _____

Rachelle Nigro, Chair

7/21/2020

Date: _____