

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

In the Matter of:

ADBHS, LLC

t/a Electric Cool-Aid

Holder of a

Retailer's Class CT License

at premises

512 Rhode Island Avenue, NW

Washington, D.C. 20001

License No.: ABRA-112294

Order No.: 2021-328

ADBHS, LLC, t/a Electric Cool-Aid, Licensee

Rachelle Nigro, Chairperson, on behalf of 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

The official records of the Alcoholic Beverage Control Board (Board) reflect that ADBHS, LLC, t/a Electric Cool-Aid (Licensee), filed an Application in 2019 for a new Retailer's Class CT License and it was protested by ANC 6E.

On June 26, 2019, in Case No. 19-PRO-00006, the Board issued Board Order No. 2019-524 following a Protest Hearing held on May 8, 2019. The Board's Order addressed the protest issues and included among other things, a limitation on operating hours and denial of an entertainment endorsement.

Specifically, on June 26, 2019, the Board approved the Licensee's Application for a New Retailer's Class CT License at premises 512 Rhode Island Avenue, NW, subject to the following conditions:

1. The maximum occupancy of the premises shall be no greater than 225 persons;
2. The operational hours shall not exceed 10:30 p.m. between Sunday and Thursday, and midnight on Friday and Saturday;
3. The license holder shall not allow or permit any amplified sounds from being heard in a residence with its windows and doors closed; and
4. The license holder shall construct and maintain on the premises a barrier of plants and fencing to mitigate noise.

It was further ordered that the request for an entertainment endorsement was denied.

On March 11, 2021, Rachelle Nigro, Chair of Advisory Neighborhood Commission 6E filed a letter in support of the Licensee's request to modify its operating hours and to apply for an entertainment endorsement. The Board held a Fact Finding Hearing on May 12, 2021 to hear from the parties and to address the proposed modifications to their original Board Order.

This matter comes now before the Board to consider the Licensee and ANC 6E's Settlement Agreement (Agreement), dated June 2, 2021, in accordance with D.C. Official Code § 25-446 (2001), in order to address the conditions placed on the license in Board Order No. 2019-524.

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

Accordingly, it is this 16th day of June 2021, **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; and
2. Copies of this Order shall be sent to the Licensee and ANC 6E.

District of Columbia
Alcoholic Beverage Control Board

eSigned via SeamlessDocs.com
Donovan Anderson
Key: 4142069216925869481730008145e9f

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com
James Short
Key: 547ae37f8200e6e0d1b332a224f6e

James Short, Member

eSigned via SeamlessDocs.com
Bobby Cato
Key: 256d3fca7d0145d7f4875ed7617a30d

Bobby Cato, Member

Rema Wahabzadah, Member

eSigned via SeamlessDocs.com
Rafi Aliya Crockett, Member
Key: b560a91845e16e4016155e5c17061c2

Rafi Crockett, Member

eSigned via SeamlessDocs.com
Jeni Hansen, Member
Key: 8217201105064474315507c2a41807

Jeni Hansen, Member

eSigned via SeamlessDocs.com
Edward Grandis, Member
Key: 5027bda7f0f0040ec14dab52541ce5

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 II 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

by and between
ADBHS, LLC t/a Electric Cool-Aid
and
Advisory Neighborhood Commission 6E
for premises located at 512 Rhode Island Avenue NW, Washington, DC 20001

Recitations

WHEREAS, ADBHS, LLC t/a Electric Cool-Aid ("Applicant" or "Electric Cool-Aid"), is a limited liability company organized under the laws of and in the District of Columbia; and,

WHEREAS, Electric Cool-Aid located at 512 Rhode Island Avenue NW is located within Advisory Neighborhood Commission 6E ("ANC 6E"); and,

WHEREAS, the Applicant has filed an application for approval of a substantial change of operation, including an application for an entertainment endorsement and an application for a change of hours ("Application") with the Alcoholic Beverage Control Board ("ABC Board"); and,

WHEREAS, the Applicant seeks approval of a modification of operating hours and an entertainment endorsement at Electric Cool-Aid located at 512 Rhode Island Avenue NW ("Establishment"); and,

WHEREAS, the Applicant and ANC 6E (collectively, the "Parties") desire to resolve potential issues in the operation of the Establishment and enter into this Settlement Agreement ("Agreement") in exchange for ANC 6E's not filing a protest against the Application;

NOW, THEREFORE, inconsideration 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. **Noise.** The Applicant will comply with D.C. Official Code §25-725 regarding noise from the Establishment.
3. **Entertainment Endorsement.** The Applicant agrees to the following terms and conditions regarding the ANC's support of an entertainment endorsement:
 - a. There shall be no amplified entertainment in the Establishment after 10:00 PM, Monday through Sunday.
 - b. There shall be no live music performed or played in the Establishment.
 - c. Except for live music, all other types of entertainment authorized by the entertainment endorsement shall be allowed at the Establishment subject to the covenants and conditions in this Agreement related to noise and hour restrictions for amplified entertainment.

4. **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 written notice before the non-breaching Party can seek enforcement of the Agreement. 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 to the ABC Board pursuant to D.C. Official Code §25-447.

If to Applicant: ADBHS, LLC t/a Electric Cool-Aid
512 Rhode Island Avenue NW
Washington, DC 20001
Attn: Benjamin Schwartz, Co-Owner and General Manager
Email: ben@electric-coolaid.com

If to ANC: Advisory Neighborhood Commission 6E
PO Box 93020 Brentwood Station
Washington, DC 20090
Attn: Rachelle P. 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.

5. **No Protest.** Upon execution of this Settlement Agreement and its acceptance by the ABC Board, ANC 6E agrees to support Applicant's pending Application.

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

Applicant:
ADBHS, LLC t/a Electric Cool-Aid

By:  _____ Date: 6/2/2021
Benjamin Schwartz,
Co-Owner and General Manager

Advisory Neighborhood Commission 6E:


By: _____ Date: 6/2/2021
Rachelle Nigro, Chair