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IN THE MATTER OF: :
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Provost, LLC, :
t/a Provost :
2129 Rhode Island Avenue, :
N.E. : Protest
Retailer CR - ANC 5C : Hearing
License No. 108015 :
Case #17-PRO-00091 :
 :
(Application for a New :
License) :

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Donovan W. Anderson, presiding.

DONOVAN W. ANDERSON, Chairperson
NICK ALBERTI, Member
BOBBY CATO, JR., Member
MIKE SILVERSTEIN, Member
JAMES SHORT, Member

ALSO PRESENT:

IRVIN GILCHRIST, Applicant

NINA GILCHRIST, Applicant

KEVIN MULLONE, Group of 5 or More

YOLANDA ODUNSI, Group of 5 or More

SIDON YOHANNES, Attorney for Applicant

1 P-R-O-C-E-E-D-I-N-G-S

2 6:49 p.m.

3 CHAIRPERSON ANDERSON: All right. We
4 are back on the record. And before I start this
5 case, I know that the -- I was told that the room
6 is hot. I was told that the heat in the room was
7 turned off earlier, so this is just the natural
8 heat. And I didn't realize that folks were
9 complaining about the heat, because I just
10 ordered some hot coffee, because I need to make
11 sure that I stay awake for this entire
12 proceeding.

13 So if you see -- I doubt I will be
14 nodding off, but -- or die from heat stroke when
15 I get my hot coffee, but anyway, I appreciate the
16 fact that you are here.

17 You know, we schedule Protest Hearings
18 and we are hoping that cases would be settled
19 through settlement agreements, but unfortunately
20 the first case that was scheduled for 1:30, we
21 had some procedural arguments that -- so the case
22 didn't really start until 3:00 and so I apologize

1 for that. I know you were supposed to start at
2 4:30 and you were here.

3 I assure you that not because it
4 started at 4:30, we are not going to cut your
5 time off. Although each side is supposed to have
6 an hour and a half to present its case, you are
7 here and if you have something to say, we will be
8 here to listen to you and make a decision. So no
9 matter how long this case runs, we will be here
10 for the duration.

11 So don't feel that it was supposed to
12 start at 4:30 and at 7:30 it's supposed to be
13 over. It will be over once each side has had an
14 opportunity to present itself.

15 So let me call the case. The next
16 case is a Protest Hearing, Case No. 17-PRO-00091,
17 Provost, License No. 108015, which is an
18 application for a new license.

19 Would the parties, please, introduce
20 themselves for the record, please? We can start
21 with the Applicant.

22 MS. YOHANNES: Sidon Yohannes on

1 behalf of the Applicant.

2 CHAIRPERSON ANDERSON: Ms. Yohannes,
3 good morning or good afternoon.

4 MS. GILCHRIST: Nina Gilchrist,
5 Applicant.

6 CHAIRPERSON ANDERSON: Ms. Gilchrist.

7 MR. GILCHRIST: Irvin Gilchrist,
8 Applicant.

9 CHAIRPERSON ANDERSON: Mr. Gilchrist.
10 Could I just ask if you have not done so already,
11 that everyone sign their name on the sign-in
12 sheet, please? And the ANC?

13 MS. ODUNSI: Yolanda Odunsi on behalf
14 of a Group of Five or More.

15 CHAIRPERSON ANDERSON: Good afternoon.
16 Yes?

17 MS. ODUNSI: I'm sorry.

18 CHAIRPERSON ANDERSON: And go ahead,
19 please.

20 MS. ODUNSI: I'm sorry. It's Yolanda
21 Odunsi on behalf of the Group of Five or More.

22 CHAIRPERSON ANDERSON: All right. Can

1 you spell your name for the record, please,
2 ma'am?

3 MS. ODUNSI: Y-O-L-A-N-D-A last name
4 O-D-U-N-S-I.

5 CHAIRPERSON ANDERSON: Good afternoon,
6 Ms. Odunsi. Yes, sir, go ahead.

7 MR. MULLONE: My name is Kevin
8 Mullone. The last name is spelled M-U-L-L-O-N-E.
9 And I am listed as the alternative representative
10 on behalf of the Group of Five or More.

11 CHAIRPERSON ANDERSON: Okay. So the
12 protestants are a Group of Five or More. The ANC
13 is not in this protest. All right.

14 All right. Before we start this
15 matter, and I'll give -- it's not going to take
16 long, I know that folks have --

17 MEMBER ALBERTI: I'm just confused.
18 Is the ANC part of the protest?

19 MR. MULLONE: As far as the ANC
20 members, we are not -- this is not an ANC
21 protest.

22 MEMBER ALBERTI: Okay. So our notes

1 are wrong.

2 CHAIRPERSON ANDERSON: No, it says the
3 protestants, ANC-5C and the Group of 23, which
4 Ms. Yolanda then is the designated
5 representative.

6 MEMBER ALBERTI: So is the -- so I
7 want to be clear.

8 MS. ODUNSI: Yes.

9 MEMBER ALBERTI: The ANC is not a
10 protestant? Is that what I'm hearing?

11 MS. ODUNSI: 5C is not a protestant.

12 MEMBER ALBERTI: 5C is not a
13 protestant. Okay.

14 CHAIRPERSON ANDERSON: It's just a
15 Group of 23.

16 MEMBER ALBERTI: Okay. I just wanted
17 to make sure that I was clear.

18 CHAIRPERSON ANDERSON: All right.

19 MEMBER ALBERTI: Thank you.

20 CHAIRPERSON ANDERSON: All right. And
21 I know that one of the reasons why we are here is
22 because you have had mediation. You have spoken

1 and you are unable to sign a settlement
2 agreement, but I'm going to put it out there one
3 more time.

4 If the parties, if they believe that
5 the issues are -- they are close, and if there is
6 just -- this is a sticking issue for you and if
7 you believe that you can say okay, we can sign an
8 -- you can tell us that, okay, we can memorialize
9 what -- where you are and if that can take care
10 of the protest, then I'm willing to do that.

11 But if you are willing to go through
12 the Protest Hearing, that is -- they are welcome
13 to do that.

14 MR. MULLONE: May I?

15 CHAIRPERSON ANDERSON: Yes, Mr.

16 Mullone.

17 MR. MULLONE: Chairman Anderson, what
18 you have described is exactly what we aim to do
19 today. We are not here to protest the
20 Applicant's liquor license. We are here,
21 unfortunately, because we could not come to a
22 settlement agreement and we would like the Board

1 to help us do that right now.

2 CHAIRPERSON ANDERSON: And so say for
3 the issues that are outstanding, if you can come
4 to an agreement, we can memorialize those in a
5 Board Order and dispose of the case, if that's
6 what the parties want to do.

7 If you are saying that we have agreed
8 to everything else, but we need something binding
9 to tie them in and if that's something that the
10 parties are willing to do, I can give you five
11 minutes to do that, if you want to do that. If
12 not, we will do the Protest Hearing, because I
13 don't want to spend a whole lot of time and it's
14 not going to be fruitful and then that just means
15 that we are going to stay here longer, later.

16 MS. YOHANNES: Sure. Let's take five
17 minutes.

18 CHAIRPERSON ANDERSON: Five minutes to
19 see if you can tell me what it is we can
20 memorialize it and everyone is happy and we can
21 move on. Okay. So five minutes, so all right.

22 (Whereupon, the above-entitled matter

1 went off the record at 6:55 p.m. and resumed at
2 7:36 p.m.)

3 CHAIRPERSON ANDERSON: Are we back on
4 the record? Are you guys ready to tell us where
5 you are? Are we having a hearing or is there
6 some agreement that we can memorialize?

7 MS. YOHANNES: I will --

8 MR. MULLONE: We have made some
9 headway. Right?

10 MS. YOHANNES: Yes. We definitely
11 did. I believe that we have come to an agreement
12 regarding hours, which is the only issue that
13 really was going to be before the Board.

14 CHAIRPERSON ANDERSON: Right.

15 MS. YOHANNES: However, we are still
16 working out. We need to work out language --

17 MR. MULLONE: And the Board can help
18 us with that.

19 MS. YOHANNES: -- for the --

20 CHAIRPERSON ANDERSON: Well, I'm not
21 sure what you mean the Board can help us.

22 MR. MULLONE: So one of the issues, I

1 think, Attorney Sidon has is we are going to be
2 consistent and the restaurateur has agreed to
3 not carry on activities that give the essence of
4 a nightclub. And so that's part of the things
5 that we need help with in terms of the language.

6 MS. YOHANNES: I --

7 MR. MULLONE: Where there won't be a
8 cover charge --

9 MS. YOHANNES: Right.

10 MR. MULLONE: -- or --

11 CHAIRPERSON ANDERSON: Hold on, hold
12 on, hold on. Yeah, I mean, I think the issue is
13 that if we are going to have a consent order, I
14 mean, I can have the General Counsel talk to you
15 about language. The Board can't be in -- the
16 Board can't be in negotiation with it, so if
17 there is issue with language, we can have your --
18 we can have the attorneys talk to you about the
19 language and then you can let us know, but we
20 can't be a part of that.

21 MEMBER ALBERTI: Let's go off the
22 record for a few minutes now and we will make

1 sure that we are there.

2 CHAIRPERSON ANDERSON: Right, yes,
3 okay.

4 MEMBER ALBERTI: Okay.

5 CHAIRPERSON ANDERSON: So we can take
6 -- we can go back in recess. You can talk to our
7 General Counsel and maybe can come up, the
8 agreement, with some language and present it to
9 us. If that's agreeable to you and then we can
10 memorialize that language?

11 MR. MULLONE: Yes, Your Honor.

12 CHAIRPERSON ANDERSON: All right. So
13 we are in recess so you can talk to our General
14 Counsel to come up with, if it's the language, to
15 see if that is something that -- right.

16 (Whereupon, the above-entitled matter
17 went off the record at 7:38 p.m. and resumed at
18 8:10 p.m.)

19 CHAIRPERSON ANDERSON: All right. We
20 are back on the record. So where are we?

21 MS. YOHANNES: We have come to an
22 agreement.

1 CHAIRPERSON ANDERSON: All right.
2 What is the agreement that the Board can
3 memorialize in a Board Order?

4 MS. YOHANNES: So the Applicant's
5 hours of operation shall be as follows.

6 CHAIRPERSON ANDERSON: Hold on a
7 minute.

8 MS. YOHANNES: Interior hours shall be
9 8:00 a.m. to 2:00 a.m.

10 MEMBER SHORT: What days of the week?

11 CHAIRPERSON ANDERSON: Hold on. Let
12 her finish. Let -- Mr. Short, let her tell us.
13 Okay.

14 MS. YOHANNES: Sunday through
15 Saturday.

16 MEMBER SHORT: Okay.

17 MS. YOHANNES: For the summer garden
18 hours, Sunday through Thursday the hours shall
19 be --

20 CHAIRPERSON ANDERSON: Hold on, hold
21 on, hold on. The summer garden, okay. The
22 summer garden, go ahead, what are the hours, the

1 days? Okay.

2 MS. YOHANNES: Sunday through Thursday
3 8:00 a.m. to midnight and Friday and Saturday
4 8:00 a.m. to 1:00 a.m.

5 CHAIRPERSON ANDERSON: Okay.

6 MS. YOHANNES: The Applicant may avail
7 itself of holiday hours and extended hours as
8 allowed by law.

9 CHAIRPERSON ANDERSON: So you said
10 extended hours? I'm sorry. To what again?

11 MS. YOHANNES: Shall avail itself of
12 holiday hours and extended hours.

13 CHAIRPERSON ANDERSON: Okay.

14 MS. YOHANNES: The Applicant shall not
15 operate the establishment as a nightclub.

16 MEMBER ALBERTI: What does that mean?

17 MEMBER SILVERSTEIN: Is allowed to or
18 is not allowed to?

19 MEMBER SHORT: Not allowed to.

20 MS. YOHANNES: Shall not operate the
21 establishment as a nightclub.

22 MEMBER ALBERTI: I have got to ask,

1 what does that mean? Because --

2 MEMBER SHORT: She isn't finished yet.

3 MEMBER ALBERTI: -- so -- well, I
4 think she was finished with that clause. So
5 typically what we look for are very concrete
6 conditions, so you can't do this or you can't do
7 this or you can only -- you know, entertainment
8 has got to be limited to these hours, you know.

9 MR. MULLONE: Mr. Alberti, she has
10 more that --

11 MEMBER ALBERTI: Okay.

12 MR. MULLONE: -- covers that
13 definition.

14 CHAIRPERSON ANDERSON: So --

15 MEMBER ALBERTI: All right.

16 CHAIRPERSON ANDERSON: -- let's--

17 MEMBER ALBERTI: Let's continue. I'm
18 sorry.

19 CHAIRPERSON ANDERSON: All right. Let
20 me ask the --

21 MEMBER ALBERTI: I apologize.

22 CHAIRPERSON ANDERSON: -- Board

1 Members, okay, let --

2 MEMBER ALBERTI: All right.

3 CHAIRPERSON ANDERSON: -- me hear what
4 the --

5 MEMBER ALBERTI: All right.

6 CHAIRPERSON ANDERSON: -- agreement
7 is.

8 MEMBER ALBERTI: I apologize.

9 CHAIRPERSON ANDERSON: And then let's
10 -- all right. Go ahead.

11 MS. YOHANNES: The Applicant will not
12 have cover charges.

13 The Applicant shall not have a dance
14 floor.

15 The Applicant shall not have VIP table
16 service or VIP bottle service.

17 And the last term would be there shall
18 not be amplified music or sound on the rooftop
19 summer garden.

20 MEMBER ALBERTI: Okay. That satisfies
21 me in terms of -- now, I understand.

22 CHAIRPERSON ANDERSON: You said

1 amplified music or sound? I'm sorry.

2 MS. YOHANNES: On --

3 MEMBER ALBERTI: On the rooftop.

4 MS. YOHANNES: -- the rooftop summer
5 garden.

6 MEMBER SILVERSTEIN: No amplified
7 sound on the rooftop summer garden?

8 MS. YOHANNES: Yes.

9 CHAIRPERSON ANDERSON: Anything else?

10 MS. YOHANNES: That is all.

11 MR. MULLONE: That's it.

12 CHAIRPERSON ANDERSON: So I just want
13 to be -- the protest is that both the -- that the
14 protestants agree for the license to be issued
15 with the following terms:

16 That for the hours of operation for
17 the interior 8:00 a.m. to 2:00 a.m., Sunday
18 through Saturday. The summer garden Sunday
19 through Thursday 8:00 a.m. to 12:00 p.m. and from
20 Friday from 8:00 a.m. to 1:00 a.m.

21 Applicant --

22 MS. YOHANNES: 8:00 --

1 CHAIRPERSON ANDERSON: I'm sorry?
2 8:00 a.m. to 1:00 a.m. Is that correct on
3 Friday?

4 MS. YOHANNES: That is correct. And
5 for Sunday to Thursday you said 8:00 a.m. to
6 12:00 p.m., I just -- just for the record --

7 CHAIRPERSON ANDERSON: Well, I'm
8 sorry, 12:00 a.m. I'm sorry, a.m., 8:00 a.m. to
9 12:00 a.m. Friday from 8:00 a.m. to 1:00 a.m.

10 Applicant may avail itself to --

11 MEMBER ALBERTI: The extended hours.

12 CHAIRPERSON ANDERSON: -- the extended
13 hours as available by the -- I'm sorry, what's
14 the word?

15 MEMBER SHORT: As allowed.

16 CHAIRPERSON ANDERSON: As permitted by
17 the law?

18 MS. YOHANNES: Right. Correct.
19 Extended hours.

20 MR. MULLONE: Holiday hours.

21 MS. YOHANNES: Holiday hours.

22 CHAIRPERSON ANDERSON: Holiday hours

1 and extended hours as permissible by law.

2 That the establishment shall not
3 operate -- the Applicant will not establish the--
4 will not operate the establishment as a
5 nightclub, in the sense that there should -- that
6 the Applicant shall not have a cover charge.
7 There shall be no dance floor. There shall be no
8 VIP table or bottle service.

9 And that there should not be any
10 amplified music or sound on the rooftop summer
11 garden.

12 And as part of -- as per the Group of
13 Five, is this your -- Group of 23, is this your
14 understanding of the settlement -- that this is
15 your understanding of the agreement that you
16 agreed to -- with?

17 MS. ODUNSI: Yes, this is our
18 understanding of the agreement.

19 CHAIRPERSON ANDERSON: And if the
20 Board was to memorialize these terms in a Board
21 Order, would this take care of the protest that
22 the -- all issues in the protest are then

1 disposed of?

2 MS. ODUNSI: Yes, it would take care
3 of all issues in the protest.

4 CHAIRPERSON ANDERSON: Okay. Any
5 questions by any Board Members before I close the
6 record?

7 MEMBER SHORT: No. I would just like
8 to thank them for coming to an agreement. Thank
9 you for working that out.

10 MS. YOHANNES: Thank you for having
11 patience with us.

12 CHAIRPERSON ANDERSON: All right. So
13 the Board will memorialize. And if you have a
14 better copy that you have something written, a
15 better copy, I can give that to our General
16 Counsel, so when they write the Board Order --

17 MS. YOHANNES: I can have that.

18 CHAIRPERSON ANDERSON: So what I'll
19 ask, why don't you -- I'm sorry, Ms. Yohannes,
20 please, email the Board, Ms. Jenkins a copy of
21 the protest when you email the -- our General
22 Counsel the terms, so to make sure that we all

1 agree for the terms, to the terms that then they
2 will be memorialized in the Board Order and these
3 are the terms that will be attached to the
4 license that will be granted.

5 I want to thank the parties for
6 working this out. I have always said to parties
7 that I prefer when you come to terms, because
8 this is your neighborhood. And if you agree to
9 terms, then at least not everyone is going to be
10 -- well, yes, you would be happy, because this is
11 an agreement that you work out.

12 When you come to the Board and have us
13 make a decision, we are going to listen and we
14 are going to make a decision and one side or the
15 other is going to be unhappy. So I prefer that
16 the -- that parties work and come up with the
17 terms.

18 And as Chair, I'm always open. I
19 prefer that you settle these matters much
20 earlier, but I'm always open to -- for the day o
21 the hearing for you to sit and we will do exactly
22 what we are doing here, because I think that this

1 is your community and it's for the best interest
2 of your community. So I want to commend both
3 sides for doing that.

4 I also want to commend the community.
5 I know that this hearing was scheduled for 4:30
6 and I saw folks coming in the room at like 3:30
7 or so and you are still here. And I appreciate
8 the fact that you are here. It shows the Board
9 that you are very concerned about the community.

10 And this is not a case where you were
11 saying that I did not -- I'm not going to approve
12 their license. In looking at the PIF, that was
13 not the part. That was -- so I want to commend
14 the community. I want to also commend the
15 Applicant for working with the community to do
16 what is in the best interest of all involved.

17 And one thing I always say to parties,
18 I never look forward to seeing you in front of
19 me, because it's usually not a happy thing and I
20 hope that this is the first and the last time I
21 see this licensee in front of me, because what
22 that says to me is that you are doing everything

1 that you are supposed to do.

2 The community is happy. So therefore,
3 you don't have to appear before the Board. Okay.
4 So I just want to thank the parties for doing
5 that.

6 And so with that said, Mr. Anderson
7 will now -- this case is then -- the record is
8 now closed and we will issue a Board Order
9 memorializing the terms of the agreement. All
10 right.

11 So as Chairman of the Alcoholic
12 Beverage Control Board for the District of
13 Columbia and in accordance with DC Official Code
14 Section 2-574(b), closed meetings, and Section 2-
15 574, Notice of Meetings, of the Open Meetings
16 Act, I move that the ABC Board hold a closed
17 meeting on March 14, 2018 for the purpose of
18 discussing and hearing reports concerning ongoing
19 or planned investigations of alleged criminal or
20 civil misconduct or violations of law or
21 regulations and seeking legal advice from our
22 counsel on the Board's Investigative, Legal and

1 Licensing Agenda for March 14, 2018 as will be
2 published in the DC Register on March 9, 2018.

3 Is there a second?

4 MEMBER SHORT: Second.

5 CHAIRPERSON ANDERSON: Mr. Short has
6 seconded the motion. I will now take a roll call
7 vote on the motion before us now that it has been
8 seconded.

9 Mr. Silverstein?

10 MEMBER SILVERSTEIN: I agree.

11 CHAIRPERSON ANDERSON: Mr. Short?

12 MEMBER SHORT: I agree.

13 CHAIRPERSON ANDERSON: Mr. Alberti?

14 MEMBER ALBERTI: I agree.

15 CHAIRPERSON ANDERSON: Mr. Cato?

16 MEMBER CATO: I agree.

17 CHAIRPERSON ANDERSON: Mr. Anderson?

18 I agree.

19 As it appears that the motion has
20 passed, I hereby give notice that the ABC Board
21 will hold this aforementioned closed meeting
22 pursuant to the Open Meetings Act. Notice will

1 also be posted on the ABC Board hearing room
2 bulletin board, placed on the electronic calendar
3 on ABRA's website and published in the DC
4 Register in as timely a manner as practicable.

5 It is now 8:21 and we are adjourned
6 for the day. Thank you very much and good night.

7 MS. YOHANNES: Thank you.

8 MR. MULLONE: Thank you.

9 MS. GILCHRIST: Thank you.

10 (Whereupon, the Protest Hearing was
11 concluded at 8:20 p.m.)
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In the matter of: Provost, LLC

Before: DC ABRA

Date: 03-07-18

Place: Washington, DC

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