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2
3 BEFORE THE CITY COUNCIL
4 OF THE CITY OF LAS VEGAS, NEVADA

5 * * *

6 IN THE MATTER OF:

7 DEPARTMENT OF FINANCE AND
8 BUSINESS SERVICES on behalf of the
CITY OF LAS VEGAS, NEVADA,

9 Petitioner,

10 vs.

11 JAMES COOPER d/b/a THE AMAZING
ART COMPANY,

12 Respondent.
13

**COMPLAINT FOR
DISCIPLINARY ACTION**

14 The DEPARTMENT OF FINANCE AND BUSINESS SERVICES, on behalf of the
15 CITY OF LAS VEGAS, NEVADA (Department), Petitioner, brings this Complaint for
16 Disciplinary Action against JAMES COOPER d/b/a THE AMAZING ART COMPANY,
17 3814 Meadows Lane, Las Vegas, Clark County, Nevada, Respondent, and states:

18 Respondent JAMES COOPER d/b/a THE AMAZING ART COMPANY holds Retail
19 Gallery License A48-00227-1-147116 and engages in the retail sales of art and art supplies.

20 **SUMMARY OF ALLEGATIONS**

21 Respondent JAMES COOPER d/b/a THE AMAZING ART COMPANY operates a retail
22 gallery selling art and art supplies. The business has been operated in an unlawful manner by
23 creating a public and chronic nuisance in violation of the Las Vegas Municipal Code by selling
24 graffiti implements to minors without the consent of the parent or guardian of such minors.

25 **SALE OF GRAFFITI IMPLEMENTS TO MINORS**

26 On February 12, 2009, a 17-year-old decoy, utilized by the Las Vegas Metropolitan
27 Police Department, entered the premises of Respondent JAMES COOPER d/b/a THE
28 AMAZING ART COMPANY and approached JAMES COOPER (COOPER). The underage

1 decoy asked to purchase a 15mm silver paint marker. COOPER sold the underage decoy the
2 silver paint marker without requesting identification or inquiring about the underage decoy's age.
3 COOPER was cited for furnishing a graffiti implement to a minor in violation of LVMC
4 10.48.090. On January 25, 2010, COOPER entered a plea to the citation by submitting the
5 matter on the record. COOPER received a suspended sentence of 180 days in jail and forfeited
6 bail in the amount of \$300.

7 On June 17, 2010, a 17-year-old decoy, utilized by the Las Vegas Metropolitan Police
8 Department, entered the premises of Respondent JAMES COOPER d/b/a THE AMAZING ART
9 COMPANY and approached COOPER. The underage decoy informed COOPER that his parents
10 had taken away his paint and asked to purchase spray paint. COOPER asked the underage decoy
11 if he was working with the police or was a junior cadet. COOPER sold the underage decoy four
12 cans of spray paint for the sum of \$32. COOPER also gave the underage decoy a number of
13 custom spray paint tips free of charge.

14 SUBSTANTIVE LAW

15 LVMC 6.02.330 provides [Unlawful Business Activity]:

16 A licensee may be subject to disciplinary action by the City
17 Council for good cause, which may, without limitation, include the
18 following:

18

19 (G) The premises on which the business is conducted do
20 not satisfy local, state or federal law or regulations which pertain to
21 the activity which is actually engaged in;

22 (H) The business activity constitutes, promotes, causes,
23 allows, fosters, aids, or otherwise enables a private nuisance,
24 public nuisance or chronic nuisance, or has been or is being
25 conducted in an unlawful, illegal or impermissible manner,
26 including but not limited to causing, allowing, promoting,
27 fostering, aiding, enabling, exercising deliberate ignorance towards
28 or failing to abate a private nuisance, public nuisance or chronic
nuisance; or

(I) The licensee, any of its principals, their employees or
those acting on their behalf failed to cooperate with the Director's
efforts to enforce the provisions of this Code.

27

28

1 LVMC 6.02.350 provides [Acts and Omissions]:

2 A licensee under this Title shall be subject to disciplinary
3 action not only for acts or omissions done by such licensee but also
4 for acts and omissions done by the principals, managers, agents,
representatives, servants or employees of such licensee.

5 LVMC 10.48.060(C) defines a "Graffiti implement" as:

6 "Graffiti implement" means any broad tipped indelible
7 marker or aerosol paint container or other item that may be used to
propel or apply fluid that is not soluble in water.

8 LVMC 10.48.060(E) defines a "Responsible adult" as:

9 "Responsible adult" means a parent or legal guardian of a
10 minor.

11 LVMC 10.48.090 [Graffiti Implements - Prohibition Against Furnishing to Minors]

12 provides:

13 No person, other than a responsible adult, shall sell,
14 exchange, give, loan, or in any way furnish a graffiti implement to
any minor without the consent of the minor's responsible adult.

15 **STANDARD OF EVIDENCE**

16 LVMC 6.88.090 provides:

17 (A) The hearing need not be conducted according to
18 technical rules relating to evidence and witnesses. Any relevant
evidence may be admitted.

19 (B) The respondent shall have the right to call and examine
20 witnesses on his own behalf, cross-examine opposing witnesses,
introduce exhibits and evidence relevant to the issues of the case,
21 and offer rebuttal evidence.

22 (C) The respondent may be called and examined by the
City.

23 (D) The Clerk shall have the power to issue subpoenas for
24 witnesses to appear to give testimony.

25 **PENALTY**

26 LVMC 6.02.360 provides:

27 Upon a showing of good cause and in the discretion of the
28 City Council, disciplinary action against a holder may take the
form of cancellation, revocation, refusal to renew, suspension,

1 imposition of conditions or restrictions or civil fine in an amount
2 not to exceed one thousand dollars for each day that the violation
3 which forms the subject matter of the complaint that recommends
4 such disciplinary action is demonstrated to have been in existence,
5 or any combination of such actions, as the particular situation may
6 require. The Council may also impose against the licensee the
actual costs incurred, and a reasonable amount for attorney's fees,
resulting from the imposition of disciplinary action. The
disciplinary actions available in this Section shall be in addition to,
and not exclusive of, any other civil or criminal remedy which
otherwise might be available.

7 **ALLEGATIONS**

8 **COUNT ONE**

9 It is alleged that between February 17, 2009, and the present, Respondent JAMES
10 COOPER d/b/a THE AMAZING ART COMPANY operated a business which constituted a
11 public, private and chronic nuisance and which has been conducted in an unlawful, illegal and
12 impermissible manner, to wit: furnishing graffiti implements to minors without the consent of
13 the parent or legal guardian of such minors in violation of LVMC 10.48.090.

14 WHEREFORE, the Petitioner respectfully requests the City Council to:

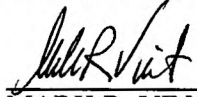
15 A. Approve the Complaint for Disciplinary Action and order a disciplinary hearing at
16 which the Respondent shall appear and show cause why the license that is the subject of this
17 Complaint should not be suspended or revoked, or other disciplinary action taken; or

18 B. Grant such other and further relief as the Council deems appropriate.

19 DATED this 4th day of August, 2010.

20 RESPECTFULLY SUBMITTED:

21 By:


22 MARK R. VINCENT, Director
23 Finance and Business Services

23 BRADFORD R. JERBIC
24 City Attorney

25 By:


26 PHILIP R. BYRNES
27 Deputy City Attorney
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Las Vegas, NV 89101
Attorneys for CITY OF LAS VEGAS