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

6 * * *

7 IN THE MATTER OF:

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

10 Petitioner,

11 vs.

12 JAMES COOPER d/b/a THE AMAZING
13 ART COMPANY,

14 Respondent.

**ORDER APPROVING
COMPLAINT AND NOTICE OF HEARING**

15
16 TO: JAMES COOPER d/b/a THE AMAZING ART COMPANY, Respondent:

17 The Complaint for Disciplinary Action by the DEPARTMENT OF FINANCE AND
18 BUSINESS SERVICES on behalf of the CITY OF LAS VEGAS, NEVADA, against you
19 dated August 4, 2010, a copy of which is attached to this Order and Notice, having come
20 before the City Council of the City of Las Vegas, Nevada, at its regular meeting held on
21 August 18, 2010, and the Council being satisfied that probable grounds exist for disciplinary
22 action against you as alleged in the Complaint for Disciplinary Action;

23 IT IS ORDERED that the issuance of the Complaint for Disciplinary Action and a
24 hearing on the Complaint for Disciplinary Action are approved.

25 YOU ARE HEREBY NOTIFIED that the hearing will be held before the City Council
26 of the City of Las Vegas, Nevada, at the Council Chambers, City Hall, 400 Stewart Avenue,
27 Las Vegas, Nevada, 89101, on October 6, 2010, beginning at the hour of 9 a.m., or as soon
28 thereafter as the matter can be heard.

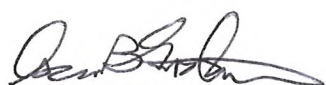
1 The hearing will be upon the charges in the Complaint for Disciplinary Action which
2 has been served upon you. You may be present at the hearing and you may be represented by
3 a lawyer. You may present any relevant evidence you have, and you will be given full
4 opportunity to cross examine all witnesses testifying against you.

5 YOU ARE FURTHER NOTIFIED that within twenty (20) days after service of the
6 Complaint for Disciplinary Action, but not later than five (5) days before the hearing date, you
7 must file with the City Clerk, First Floor, City Hall, 400 Stewart Avenue, Las Vegas, Nevada,
8 89101, and serve a copy upon the City Attorney of your answer to the charges made in the
9 Complaint for Disciplinary Action, and set forth any affirmative defenses you intend to raise.

10 YOU ARE ALSO NOTIFIED that your failure to file an answer to the Complaint for
11 Disciplinary Action or to appear at the hearing shall constitute an admission to all the matters
12 contained in the Complaint for Disciplinary Action as provided by Las Vegas Municipal Code
13 § 6.88.100.

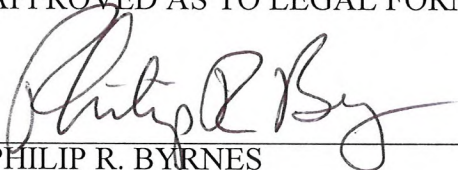
14 DATED this 18th day of August, 2010.

15 THE CITY COUNCIL OF THE
16 CITY OF LAS VEGAS, NEVADA

17 By: 

18 OSCAR B. GOODMAN
19 Mayor

20 APPROVED AS TO LEGAL FORM:

21 
22 PHILIP R. BYRNES
23 Deputy City Attorney

24 Attest: By 

25 BEVERLY K. BRIDGES, MMC, City Clerk

26 8/19/10
27 Date

28

RECEIVED
CITY CLERK

2010 SEP -2 P 1:49

BEFORE THE CITY COUNCIL
OF THE CITY OF LAS VEGAS, NEVADA

IN THE MATTER OF:

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

Petitioner,

vs.

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

Respondent.

AFFIDAVIT OF SERVICE

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

CARLITO C. RAYOS, being first duly sworn, says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, and not a party to or interested in the proceeding in which this affidavit is made. That on August 26, 2010, affiant received a copy of the Order Approving Complaint and Notice of Hearing along with the Complaint for Disciplinary Action in the above-referenced matter, and served the same on James Cooper at 3814 Meadows Lane, in Las Vegas, Clark County, Nevada, August 26, 2010.

DATED this 26 day of August, 2010.

Carlito C. Rayos

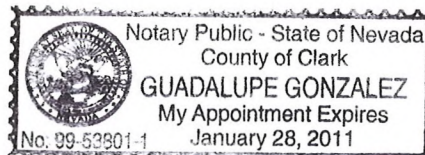
CARLITO C. RAYOS

SUBSCRIBED AND SWORN TO before

me this 27 day of August, 2010.

Guadalupe Gonzalez

NOTARY PUBLIC



ORIGINAL

BEFORE THE CITY COUNCIL
OF THE CITY OF LAS VEGAS, NEVADA

* * *

IN THE MATTER OF:

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

Petitioner,

vs.

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

Respondent.

2010 OCT 12 P 1:51

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**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER
REVOKING RETAIL GALLERY LICENSE NO. A48-00227-1-147116**

On October 6, 2010, a meeting of the Las Vegas City Council was held to consider the matter of the Complaint for Disciplinary Action against James Cooper d/b/a the Amazing Art Company, 3814 Meadows Lane, Las Vegas, Nevada. Respondent Cooper appeared individually. The Department of Finance and Business Services, on behalf of the City of Las Vegas, was represented by Philip R. Byrnes, Deputy City Attorney. The City Council heard testimony provided by witnesses presented by the Department of Finance and Business Services as well as James Cooper, considered documents presented, took into account the provisions of the Las Vegas Municipal Code, and good cause appearing, hereby issues these findings of fact, conclusions of law and order revoking Retail Gallery License No. A48-00227-1-147116.

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FINDINGS OF FACT

1. The Respondent, James Cooper d/b/a The Amazing Art Company, holds Retail Gallery License No. A48-00227-1-147116.

2. On August 18, 2010, a Complaint for Disciplinary Action was submitted to the Las Vegas City Council by Mark Vincent, the Director of Finance and Business Services for the City of Las Vegas.

3. On the same date, the Las Vegas City Council approved the Complaint for Disciplinary Action and set hearing on the matter for October 6, 2010.

4. On August 26, 2010, the Complaint for Disciplinary Action and Order Approving Complaint and Notice of Hearing was personally served on the Respondent.

5. The Respondent failed to submit an answer to the Complaint for Disciplinary Action.

6. On October 6, 2010, a hearing on this matter was conducted before the Las Vegas City Council.

7. Detective William Schoen of the Las Vegas Metropolitan Police Department appeared and testified that he was present at an undercover buy operation at the business location of James Cooper d/b/a The Amazing Art Company on June 17, 2010, and a 17-year-old undercover decoy entered the business with \$40 in currency provided by the police department. The underage decoy subsequently left the store with four cans of spray paint and seven custom spray tips. The decoy also returned \$8 of change in currency. The underage decoy related that he, while in the store, spoke to James Cooper and stated that his parents took away his paint and he wished to buy spray paint. James Cooper asked the underage decoy if he was working with the police. James Cooper sold the underage decoy four cans of spray paint for the sum of \$32 and also gave the underage decoy seven custom spray tips. James Cooper did not inquire about the age of the underage decoy or request his identification. Detective Schoen testified that the underage decoy was not accompanied by a parent at the time of the purchase.

8. Detective John DeSchutter of the Las Vegas Metropolitan Police Department appeared and testified that he was present at the business location of James Cooper d/b/a The

1 Amazing Art Company on June 17, 2010, and that he entered the premises after the underage
2 decoy returned with four cans of spray paint. Detective DeSchutter testified that he spoke to
3 James Cooper in the course of issuing him a citation and that Cooper admitted selling the spray
4 paint to the underage decoy and explained that he made the sale because his rent was due that
5 day.

6 9. James Cooper testified in his own behalf and admitted that he sold four cans of
7 spray paint to the underage decoy on June 17, 2010. Cooper testified that he thought the
8 individual was older than 18 years of age. Cooper testified that he asked the underage decoy if
9 he was acting on behalf of the police and that he did not ask to see the underage decoy's
10 identification. Cooper testified that he sold the paint to the underage decoy because he needed to
11 pay his rent on that day or could face eviction. Cooper testified that he had been cited for a prior
12 charge of selling graffiti implements to a minor.

13 10. The Council reviewed documentary evidence that on February 2, 2009, Cooper
14 sold a graffiti implement to a 17-year-old decoy assisting an investigation by the Las Vegas
15 Metropolitan Police Department, that Cooper received a citation and subsequently submitted the
16 matter in the Las Vegas Municipal Court.

17 11. If any of these Findings of Fact shall more properly be deemed Conclusions of
18 Law, they shall be so deemed.

19 CONCLUSIONS OF LAW

20 1. LVMC 6.02.330 provides [Unlawful Business Activity]:

21 A licensee may be subject to disciplinary action by the City
22 Council for good cause, which may, without limitation, include the
23 following:

24

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

28 (H) The business activity constitutes, promotes, causes,
allows, fosters, aids, or otherwise enables a private nuisance,
public nuisance or chronic nuisance, or has been or is being
conducted in an unlawful, illegal or impermissible manner,
including but not limited to causing, allowing, promoting,

fostering, aiding, enabling, exercising deliberate ignorance towards 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.

2. LVMC 6.02.350 provides [Acts and Omissions]:

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

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

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

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

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

5. LVMC 10.48.090 [Graffiti Implements - Prohibition Against Furnishing to Minors] provides:

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

6. LVMC 6.88.090 provides:

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

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

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

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

....

1 7. LVMC 6.02.360 provides:

2 Upon a showing of good cause and in the discretion of the
3 City Council, disciplinary action against a holder may take the
4 form of cancellation, revocation, refusal to renew, suspension,
5 imposition of conditions or restrictions or civil fine in an amount
6 not to exceed one thousand dollars for each day that the violation
7 which forms the subject matter of the complaint that recommends
8 such disciplinary action is demonstrated to have been in existence,
9 or any combination of such actions, as the particular situation may
10 require. The Council may also impose against the licensee the
11 actual costs incurred, and a reasonable amount for attorney's fees,
12 resulting from the imposition of disciplinary action. The
13 disciplinary actions available in this Section shall be in addition to,
14 and not exclusive of, any other civil or criminal remedy which
15 otherwise might be available.

16 8. The hearing was not conducted according to technical rules relating to evidence
17 and witnesses, but all relevant evidence was admitted. Further, the Respondent was allowed the
18 opportunity to call and examine witnesses on its own behalf, introduce exhibits and evidence
19 relevant to the issues of the case, and offer rebuttal evidence.

20 9. *Kochendorfer v. Board of County Commissioners of Douglas County*, 93 Nev.
21 419, 566 P.2d 1131 (1977), provides relevantly that a business owner subject to a disciplinary
22 hearing by his licensing authority is entitled to due process. Due process is defined as notice and
23 hearing appropriate to the case. The Respondent, James Cooper d/b/a The Amazing Art
24 Company, was provided notice and hearing appropriate to the case.

25 10. If any of these conclusions of law should more properly be deemed findings of
26 fact, they shall be so deemed.

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ORDER

IT IS HEREBY ORDERED that Retail Gallery License No. A48-00227-1-147116, held
by James Cooper d/b/a The Amazing Art Company, is revoked pursuant to LVMC 6.02.360.

DATED this 6TH day of October, 2010.

THE CITY COUNCIL OF THE
CITY OF LAS VEGAS, NEVADA

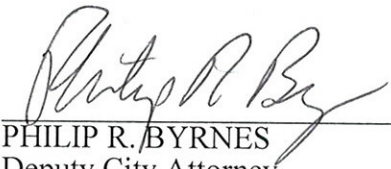
By: 

OSCAR B. GOODMAN
Mayor

ATTEST:


BEVERLY K. BRIDGES, City Clerk

APPROVED AS TO LEGAL FORM:

 10/7/10
PHILIP R. BYRNES Date
Deputy City Attorney

ORIGINAL

BEFORE THE CITY COUNCIL
OF THE CITY OF LAS VEGAS, NEVADA

* * *

IN THE MATTER OF:

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

Petitioner,

vs.

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

Respondent

2010 OCT 28 P 2:49

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**NOTICE OF ENTRY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER REVOKING
RETAIL GALLERY LICENSE NO. A-489-00227-1-147116**

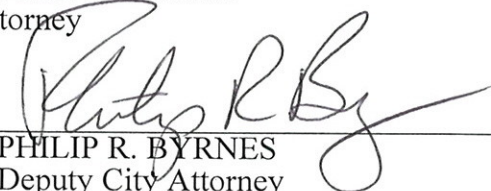
TO: JAMES COOPER d/b/a THE AMAZING ART COMPANY, Respondent:

PLEASE TAKE NOTICE that FINDINGS OF FACT, CONCLUSIONS OF LAW AND
ORDER REVOKING RETAIL GALLERY LICENSE NO. A-489-00227-1-147116 were filed
in the above-entitled matter on October 12, 2010. A copy of said document is attached
hereto.

DATED this 12th day of October, 2010.

BRADFORD R. JERBIC
City Attorney

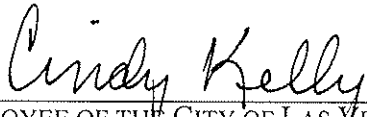
By:


PHILIP R. BYRNES
Deputy City Attorney
Nevada Bar No. 166
400 Stewart Avenue, Ninth Floor
Las Vegas, NV 89101
Attorneys for CITY OF LAS VEGAS

1 CERTIFICATE OF MAILING

2 I hereby certify that on October 12, 2010, I served a true and correct copy of the
3 foregoing NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND
4 ORDER REVOKING RETAIL GALLERY LICENSE NO. A-489-00227-1-147116 by
5 depositing the same in the United States Mail at Las Vegas, Nevada, postage fully prepaid and
6 addressed to:

7 James Cooper
8 d/b/a The Amazing Art Company
9 3814 Meadows Lane
10 Las Vegas, NV 89107

11 
12 AN EMPLOYEE OF THE CITY OF LAS VEGAS

1
2
3
4 BEFORE THE CITY COUNCIL
5 OF THE CITY OF LAS VEGAS, NEVADA

6 * * *

7 IN THE MATTER OF:

8 DEPARTMENT OF FINANCE AND
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13 JAMES COOPER d/b/a THE AMAZING
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15 Respondent.

16 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**
17 **REVOKING RETAIL GALLERY LICENSE NO. A48-00227-1-147116**

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19 matter of the Complaint for Disciplinary Action against James Cooper d/b/a the Amazing Art
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21 The Department of Finance and Business Services, on behalf of the City of Las Vegas, was
22 represented by Philip R. Byrnes, Deputy City Attorney. The City Council heard testimony
23 provided by witnesses presented by the Department of Finance and Business Services as well as
24 James Cooper, considered documents presented, took into account the provisions of the Las
25 Vegas Municipal Code, and good cause appearing, hereby issues these findings of fact,
26 conclusions of law and order revoking Retail Gallery License No. A48-00227-1-147116.

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2010 OCT 12 P 1:51

FINDINGS OF FACT

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19 CONCLUSIONS OF LAW

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including but not limited to causing, allowing, promoting,

fostering, aiding, enabling, exercising deliberate ignorance towards 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.

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20 9. *Kochendorfer v. Board of County Commissioners of Douglas County*, 93 Nev.
21 419, 566 P.2d 1131 (1977), provides relevantly that a business owner subject to a disciplinary
22 hearing by his licensing authority is entitled to due process. Due process is defined as notice and
23 hearing appropriate to the case. The Respondent, James Cooper d/b/a The Amazing Art
24 Company, was provided notice and hearing appropriate to the case.

25 10. If any of these conclusions of law should more properly be deemed findings of
26 fact, they shall be so deemed.

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ORDER

IT IS HEREBY ORDERED that Retail Gallery License No. A48-00227-1-147116, held
by James Cooper d/b/a The Amazing Art Company, is revoked pursuant to LVMC 6.02.360.

DATED this 6th day of October, 2010.

THE CITY COUNCIL OF THE
CITY OF LAS VEGAS, NEVADA

By: _____

Oscar B. Goodman
OSCAR B. GOODMAN
Mayor

ATTEST:

Beverly K. Bridges
BEVERLY K. BRIDGES, City Clerk

APPROVED AS TO LEGAL FORM:

Philip R. Byrnes
PHILIP R. BYRNES
Deputy City Attorney

10/7/10
Date