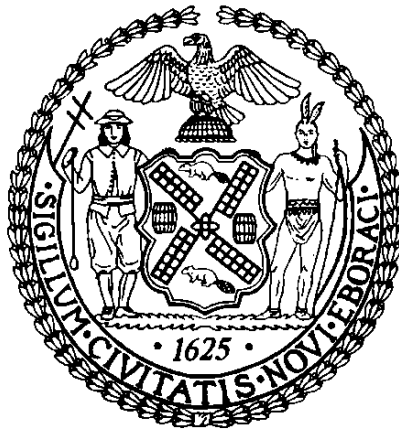


**CITY OF NEW YORK
OFFICE OF THE COMPTROLLER**

**John C. Liu
COMPTROLLER**

BUREAU OF FINANCIAL AUDIT

**H. Tina Kim
Deputy Comptroller for Audit**



**Audit Report on the Compliance of
South Beach Restaurant Corporation
With Its License Agreement**

FM09-091A

March 18, 2010



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

John C. Liu
COMPTROLLER

To the Residents of the City of New York:

In accordance with the responsibilities of the Comptroller contained in Chapter 5, §93, of the New York City Charter, my office has audited the compliance of South Beach Restaurant Corporation (SBR&C) with its license agreement with the Department of Parks and Recreation (Parks). We audit private concerns that conduct business on City property as a means of ensuring that they comply with their agreements.

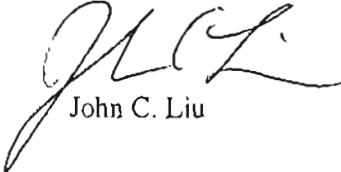
The license agreement requires SBR&C to renovate, operate, and maintain the South Fin Grill, the Vanderbilt at South Beach, and the Boardwalk Café in Staten Island and to pay the City fees based on reported gross receipts. The audit found that SBR&C does not maintain adequate controls over the recording and reporting of its restaurant gross receipts processed through its point-of-sale system. In addition, SBR&C did not report to Parks at least \$172,209 in revenue from preferred vendors and did not maintain adequate records or contracts for this revenue. A review of SBR&C's internal controls over its restaurant operations revealed certain weaknesses in the design and operation of the point-of-sale system: the system does not guarantee the generation of sequentially numbered checks, and its compensating control feature contained small but noteworthy discrepancies. Consequently, SBR&C owes Parks \$6,888 in additional fees (which were subsequently paid prior to the issuance of the draft report).

The audit recommended that SBR&C ensure that all pre-numbered restaurant guest checks are accounted for, maintain all preferred vendor contracts, institute recording and reporting procedures to track preferred vendor receivables, and accurately account for all preferred vendor income and report it at the time of receipt.

The results of the audit have been discussed with officials from SBR&C and Parks, and their comments have been considered in preparing this report. Their complete written responses are attached to this report.

If you have any questions concerning this report, please e-mail my audit bureau at audit@Comptroller.nyc.gov or call my office at 212-669-3747.

Sincerely,



John C. Liu

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*The City of New York
Office of the Comptroller
Bureau of Financial Audit*

**Audit Report on the Compliance of
South Beach Restaurant Corporation
With Its License Agreement**

FM09-091A

AUDIT REPORT IN BRIEF

On November 9, 2000, the Department of Parks and Recreation (Parks) entered into a 20-year license agreement with the South Beach Restaurant Corporation (SBR&C) to renovate, operate, and maintain the South Fin Grill (restaurant), the Vanderbilt at South Beach (catering facility), and the Boardwalk Café (snack bar) all located at 300 Father Capodanno Blvd. in Staten Island. Construction delays postponed the opening of the concession, leading to a modification of the license agreement term to cover June 1, 2005, through May 31, 2025.

Under the agreement, during operating year 2008 (June 1, 2007, to May 31, 2008), SBR&C was required to pay the higher of either a minimum annual fee of \$60,000 or four percent of any gross receipts that exceed a \$1,500,000 threshold. SBR&C reported \$6,512,232 in gross receipts and paid Parks \$260,489, which amounts to the four percent of total gross receipts.

Our audit objective was to determine whether SBR&C maintained adequate internal controls over the recording and reporting of its gross receipts derived from its restaurant operation.

Audit Findings and Conclusions

SBR&C does not maintain adequate controls over the recording and reporting of its restaurant gross receipts processed through its computerized point-of-sale (POS) system and did not include \$172,209 in revenue from preferred vendors in its monthly reported gross receipt statements to Parks. Our review of SBR&C's internal controls over its restaurant operations revealed certain weaknesses in the design and operation of the POS system. Specifically, the system does not guarantee the generation of sequentially numbered checks, and the system's compensating control feature, designed to ensure the integrity of the restaurant's financial transactions, contained small but noteworthy discrepancies. It should be noted that we found no evidence of wrongdoing, but the limitations of the POS system prevented us from being reasonably assured that all restaurant income was reported to Parks.

In addition, SBR&C did not report at least \$172,209 in preferred vendor income and did not maintain adequate records or contracts for this revenue. Consequently, SBR&C owes Parks \$6,888 in additional fees. Subsequent to the issuance of the draft report, SBR&C paid the \$6,888 that was due. These issues are in addition to those Parks disclosed in a 2008 internal audit report, which found, among other things, that SBR&C underreported gross receipts and failed to remit the capital expense fee.

Audit Recommendations

We make four recommendations—two to SBR&C and two to Parks. Among them, we recommend that SBR&C should ensure that all pre-numbered restaurant checks are accounted for and that Parks should conduct a follow-up audit to ensure that SBR&C has implemented the recommendations.

INTRODUCTION

Background

On November 9, 2000, the Department of Parks and Recreation (Parks) entered into a 20-year license agreement with the South Beach Restaurant Corporation (SBR&C) to renovate, operate, and maintain the South Fin Grill (restaurant), the Vanderbilt at South Beach (catering facility), and the Boardwalk Café (snack bar) all located at 300 Father Capodanno Blvd. in Staten Island. Construction delays postponed the opening of the concession, leading to a modification of the license agreement term to cover June 1, 2005, through May 31, 2025. The Vanderbilt at South Beach opened in March 2005, the South Fin Grill opened in June 2005, and the Boardwalk Café began operations in May 2007.

Under the agreement, during operating year 2008 (June 1, 2007, to May 31, 2008), SBR&C was required to pay the higher of either a minimum annual fee of \$60,000 or four percent of any gross receipts that exceed a \$1,500,000 threshold. The agreement defines gross receipts as all funds received by the licensee, without deductions or set-off of any kind except for federal, state, and City taxes imposed upon and paid by the licensee against its sales. SBR&C reported \$6,512,232 in gross receipts and paid Parks \$260,489, which amounts to the four percent of total gross receipts.

SBR&C was also required to post a security deposit in the sum of \$32,174, carry the prescribed levels of insurance, submit statements of gross receipts, and pay for all utilities charges. The agreement also requires SBR&C to expend a minimum of \$1,125,000 on certain capital improvements and to pay a design review fee of \$11,250. Upon final completion of construction, SBR&C is to remit a supplementary payment of one percent of all capital invested above \$1,125,000.

Parks issued an internal audit report on October 6, 2008, that determined whether SBR&C maintained adequate internal controls over the recording and reporting of its gross receipts, properly reported gross receipts, calculated its license fees and paid these fees on time, completed the required capital improvements on the catering facility, restaurant, and boardwalk café, and complied with all the other terms and conditions of its license agreement (i.e., remitted the required security deposit, maintained proper insurance coverage, and paid utility charges).¹

The audit report stated that SBR&C excluded gratuities totaling \$1,105,532 from gross receipts, delayed reporting party deposits of \$1,069,580, underreported gift certificate sales by \$39,014, failed to remit a supplementary payment of \$7,394 for capital expenses that exceeded \$1,125,000, and lacked event contracts. In total, Parks found that SBR&C underreported \$2,214,126 in gross receipts and failed to remit the \$7,394 capital expense fee and that SBR&C consequently owes Parks \$122,940, including late fees of \$26,981.

¹ The City of New York Parks & Recreation Concessions audit, *Audit Report on the Compliance of South Beach Restaurant & Catering, LLC, (Operations of Vanderbilt catering facility and South Fin Restaurant in Staten Island, New York) with its License Agreement and its Payment of License Fees Due the City June 1, 2005 to May 31, 2025*. Audited Period: June 1, 2005-May 31, 2007. DPR Audit Report No. R-08-002.

Objectives

Our audit objective was to determine whether SBR&C maintained adequate internal controls over the recording and reporting of its gross receipts derived from its restaurant operation.

Scope and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

After this audit was initiated, it was revealed that Parks was concluding its own audit of SBR&C as noted in Background. As a result of the Parks audit, which covered the period June 1, 2005, through May 31, 2007, the scope of this audit was limited to the month of August 2008 (July 28, 2008, to August 24, 2008) and to certain controls over the recording and reporting of gross receipts. We did not follow up on the status of the prior audit's recommendations since SBR&C was in the process of taking corrective action and an insufficient amount of time had passed since the release of the Parks audit to effectively measure corrective actions taken.

To achieve our audit objectives, we reviewed and abstracted the license agreement and modifications between Parks and SBR&C. We also reviewed Parks correspondence, revenue reports, audit report, and other relevant documents. We analyzed the Parks concessionaire ledger for the amounts SBR&C reported and paid the City during our scope period, and determined whether Parks received payments on time. We evaluated the monthly report of gross receipts statements, including any subsequent adjustments for the period of January 2008 to December 2008. We also determined whether SBR&C submitted monthly gross receipts reports to Parks in a timely manner.

To obtain an understanding of SBR&C's operating procedures and internal controls, we interviewed the managing partner, controller, staff accountant, and administrative assistant. We reviewed the computer manuals for SBR&C's point of sales system (POS), banquet management software, and inventory tracking system. We conducted walk-throughs of its restaurant and banquet operations, observed restaurant operating activities, and familiarized ourselves with its accounting and recordkeeping functions. In addition, we performed unannounced observations of the restaurant, banquet hall, and café. We documented our understanding of the internal controls through written narratives. We decided not to test the revenues from the snack bar because these revenues represented less than nine percent of SBR&C's reported August 2008 receipts.

To obtain a greater understanding of the restaurant's POS system, we conducted conference calls with officials from the manufacturer. To determine the completeness and

reliability of the reports generated from the system, we judgmentally selected the week of August 18, 2008, to August 24, 2008, (the week with the highest gross receipts during our scope period) to review transactions. We examined all available guest checks, daily cash-out reports, Check Listing by Check # Report, Manager Activity Reports, Void Reports, and the Discount Report to determine whether checks were sequentially numbered, without gaps, and distributed in consecutive order. Furthermore, to detect recurring anomalies in the system, we reviewed all service orders forms placed to the POS system helpdesk for calendar year 2008.

We also determined whether compensating controls features in the POS system were working as purported by the manufacturer. Finally, we observed SBR&C's managing partner process several simulated guest checks through the POS system on January 27, 2009. Subsequently, we traced the simulated guest checks back to the system reports to determine whether all guest checks were accurately recorded.

To determine whether all revenue was being reported to Parks, we obtained and examined the general ledger, preferred vendor book, in-house banquet event fliers, and as previously stated, conducted unannounced observations. To determine whether restaurant receipts were accurately recorded, we reviewed its daily cash out reports, deletion and discount schedule, void reports, sales journal reports, credit card batch reports, restaurant event contracts, and general ledger. We then traced the gross receipts amounts from the sales journal reports and restaurant event contracts to the general ledger, profit and loss statement, and finally the monthly report of gross receipts to Parks. To determine whether monies collected were deposited in full, we matched the sales journal deposits and credit card batch reports to the bank statements and general ledger.

Discussion of Audit Results

The matters covered in this report were discussed with SBR&C and Parks officials during and at the conclusion of this audit. A preliminary draft report was sent to these officials and discussed at an exit conference held on December 3, 2009. On December 11, 2009, we submitted a draft report to SBR&C and Parks with a request for comments. We received written responses from SBR&C and Parks on December 28, 2009.

In their response, SBR&C officials said they could not agree with our recommendation to account for all pre-numbered guest checks as they had no control over the POS system. They did, however, agree with the recommendation to maintain preferred vendor contracts and to record and report preferred vendor income to Parks, but did not describe how they would do so.

Parks agreed with the report's recommendations stating that it had sent SBR&C "a letter requiring it to comply with the Report's Recommendations, and to submit a written response advising Parks on its progress toward addressing these Recommendations." Parks also stated that it "will perform a follow-up audit or compliance review to ensure that SBR has implemented these Recommendations."

We note with some concern that the SBR&C response simply ignores the importance of accounting for pre-numbered guest checks. Although SBR&C stated that it would monitor any discrepancy within its POS system's compensating control feature, this measure will not guarantee that all pre-numbered restaurant guest checks are accounted for and will not address a basic flaw in the integrity of the restaurant's financial transactions.

If SBR&C continues its current defective practices, it will continue to remain in serious breach of §4.7(c) of its license agreement: "The failure or refusal of the Licensee to maintain adequate internal controls or to keep any of the records . . . shall be presumed to be a failure to substantially comply with the terms and conditions of this License and a default hereunder, which shall entitle Parks, at its option, to terminate this License."

Until the POS is either replaced or reprogrammed to account for all sequentially numbered guest checks, Parks cannot be assured that SBR&C is reporting all restaurant income and paying the City appropriate fees. Although Parks stated that it will monitor SBR&C's progress in addressing this matter, it should also take immediate action to enforce the terms of the license agreement.

The full texts of the responses received from SBR&C and Parks are included as addenda to this report.

FINDINGS

SBR&C does not maintain adequate controls over the recording and reporting of its restaurant gross receipts processed through its computerized POS system and did not include \$172,209 in revenue from preferred vendors in its monthly reported gross receipt statements to Parks. Our review of SBR&C's internal controls over its restaurant operations revealed certain weaknesses in the design and operation of the POS system. Specifically, the system does not guarantee the generation of sequentially numbered checks, and the system's compensating control feature, designed to ensure the integrity of the restaurant's financial transactions, contained small but noteworthy discrepancies. It should be noted that we found no evidence of wrongdoing, but the limitations of the POS system prevented us from being reasonably assured that all restaurant income was reported to Parks.

In addition, SBR&C did not report at least \$172,209 in preferred vendor income and did not maintain adequate records or contracts for this revenue. Consequently, SBR&C owes Parks \$6,888 in additional fees, which was subsequently paid prior to the issuance of the draft report. These issues are in addition to those Parks disclosed in its prior audit report.

Internal Control Weakness Over Restaurant Operations

We cannot be reasonably assured that all restaurant income was reported to Parks due to control weaknesses within the design and operation of the POS system. The POS plays an integral part of SBR&C's recording and reporting responsibilities. Therefore, it is necessary that the information generated by the system be accurate and complete. However, since the system does not guarantee the generation of sequentially numbered checks and its compensating control feature contains discrepancies, our ability to rely on the completeness and accuracy of information from the system is reduced.

Our review of restaurant receipts for the week of August 18, 2008, through August 24, 2008, revealed 155 of 2,519 checks (6.15 percent) that could not be accounted for. The license agreement requires SBR&C to "maintain adequate systems of internal control and shall keep complete and accurate records, books of account and data, including daily sales and receipts records, which shall show in detail the total business transacted by Licensee and the Gross Receipts there from." Sequentially numbered checks constitute an essential control feature that facilitates the identification of missing records and that is commonly found in most POS systems. The results of our test are summarized in Table I, on the next page:

Table I

Schedule of Absent Guest Checks
August 18, 2008, to August 24, 2008

Date	Total Checks for the Day	Missing Guest Checks	Available Guest Checks	Percentage of Absent Guest Checks
8/18/2008	145	6	139	4.14%
8/19/2008	204	17	187	8.33%
8/20/2008	243	21	222	8.64%
8/21/2008	557	25	532	4.49%
8/22/2008	528	33	495	6.25%
8/23/2008	546	31	515	5.68%
8/24/2008	296	22	274	7.43%
Total	2,519	155	2,364	6.15%

According to the POS's manufacturer, the system does not guarantee the generation of sequentially numbered checks. Instead the system uses a perpetual monetary counter, which is referred to as the non-resettable total (NRT). This control feature is supposed to compensate for the lack of a complete list of checks by maintaining a running total of the value of all items sent from the point-of-sale to preparation (i.e., kitchen or bar), thereby ensuring that all sales are being recorded. The manufacturer states that difference between the beginning and ending total of all sales sent to preparation should match all sales plus taxes recorded in sales and payments section of the sales journal, after certain adjustments are made for manager discounts, deletions, etc. However, our testing of this control revealed discrepancies, which combined with missing guest checks, brings into question the reliability of SBR&C's records over gross receipts derived from its restaurant operations.

Our review of the NRT for the month of August revealed four days where the beginning and ending total of all sales sent to preparation did not match the sales plus taxes recorded in the sales journal after the adjustments. According to a letter from the manufacturer, "if the NRT Total Sales + Tax figure does not match the others [sales and payments], one of the following has occurred: Someone has been tampering with a check file or a rare case of a check file being damaged." We reviewed all POS system repair orders and did not find any indication that the check file was damaged. When questioned, the manufacturer was unable to provide a valid explanation for the differences.

The license agreement requires SBR&C to maintain adequate internal controls. This is not only for the benefit of SBR&C but for the City as well. The City and SBR&C share a joint interest in the operation and success of the restaurant and catering hall. The use of compensating procedures instead of commonly accepted controls might be acceptable to SBR&C, since it oversees and maintains custody of the system. However, it reduces the City's ability to rely on SBR&C's records, particularly when practical and commonly used procedures, such as consecutively numbered checks, are not employed.

Other Issue

\$172,209 of Unreported Preferred Vendor Income

SBR&C did not report at least \$172,209 in preferred vendor income it received from vendors who were required to pay a fee to SBR&C for inclusion of their advertisements in a preferred vendor book published by SBR&C.² As a result, SBR&C owes the City \$6,888 in additional fees. According to the license agreement, “Gross Receipts shall include without limitation all funds received by Licensee, without deduction or off-set of any kind, from the sale of food and beverages, wares, merchandise or services of any kind.”

Once we brought this to the attention of SBR&C’s controller, SBR&C paid Parks \$4,898 in license fees based on \$122,450 in reported preferred vendor income. However, based on the auditors’ calculation, SBR&C received \$149,654 in preferred vendor income and still owes the City \$1,088 in additional license fees. In addition, our review of the limited records available identified nine vendors that appear in the preferred vendor book but never made a payment according to SBR&C’s records. Based on the rates charged to other preferred vendors, there is an additional \$22,555 in unreported income and SBR&C owes Parks an additional \$902 in license fees. Based on the exceptions noted, Table II illustrates the recalculated amount of license fees due which resulted in SBR&C owing Parks and additional \$1,990 in license fees. This amount was subsequently paid prior to the issuance of the draft report.

² The preferred vendor book is a catalog of event products and services published by SBR&C and distributed to potential customers of the catering hall. Vendors appearing in the book are required to pay an annual advertising fee for the printing and distribution of the preferred vendor book.

Table II

Summary of Preferred Vendor (PV) Income and
Calculation of Additional License Fees Due
January 1, 2006, to December 31, 2008

Calendar Year	Actual Amount Determined by Auditors	Reported by SBR&C	Underreported
			(Overreported)
2006	\$ 69,659	0	\$ 69,659
2007	32,467	75,771	(43,304)
2008	47,528	46,679	849
Preferred Vendor Income	149,654	122,450	27,204
Unreported Preferred Vendor Book Income	22,555	0	22,555
Total	\$172,209	\$122,450	\$49,759
Annual Percentage of Gross Receipts	x 4%		
License Fees Due	\$6,888	\$4,898	
Total Additional License Fees Due Parks			\$1,990

We should also note that SBR&C did not have service contracts for 5 of the 24 preferred vendors. There appears to be insufficient control over this revenue. Therefore, we cannot be reasonably assured that SBR&C has identified and reported to Parks all preferred vendor income.

As illustrated in Table II, even though SBR&C reported preferred vendor revenue to Parks, the amount reported was inaccurate because SBR&C lacks a reliable recordkeeping system for this revenue.

Moreover, once SBR&C started to report preferred vendor income in December 2008, it did not do so in the manner prescribed in its license agreement. According to the license agreement, SBR&C is required to “report any Gross Receipts generated under this License Agreement during the preceding month.” However, SBR&C did not report the preferred vendor income for January through March 2009 until it submitted the May 2009 Monthly Report of Gross Receipts.

RECOMMENDATIONS

SBR&C should:

1. Ensure that all pre-numbered restaurant guest checks are accounted for.

SBR&C Response: “The recommendation that all pre numbered checks are accounted for sequentially is not something we have control of as the POS system is specifically designed not to use sequentially numbered checks. The POS system is specifically designed to use a non resettable total to balance and avoid fraud. We are aware that the Comptroller’s office did find some minor deficiencies with the non resettable totals and we are working with POSitouch and CC Productions to verify that the non resettable totals are working properly. One of our procedures is to monitor any discrepancies to the non resettable totals and, in the rare occasion of a discrepancy, do report the variance to CC Production for clarification and resolution of the fault. We will continue to update the Parks Department in regards to the resolution of the discrepancies that were uncovered by the Audit as they are made available to us.”

Auditor Comment: It appears that SBR&C misunderstood or simply ignored the finding and recommendation related to weaknesses within its POS system. Given the substantial reliance that the City places on the controls of a POS system, which is to ensure that revenue is being recorded properly, we believe that SBR&C should work with its POS manufacturer to either reprogram its current POS system or replace it with one that guarantees the generation and recording of sequentially numbered checks.

Until the POS is replaced or reprogrammed and then tested to ensure that the system is capable of accounting for all sequentially numbered guest checks, Parks cannot be assured that SBR&C is reporting all restaurant income and paying appropriate fees to the City.

2. Maintain all preferred vendor contracts, institute thorough recording and reporting procedures to track preferred vendor receivables, and accurately account for all preferred vendor income and report it at the time of receipt.

SBR&C Response: “We have implemented procedures to ensure that Preferred Vendor contracts are maintained properly. Also, these procedures will ensure that the Preferred Vendor income is accurately recorded and reported to the Parks Department each month.”

Parks Response: “Parks has required SBR to comply with Recommendations 1 and 2, which include ensuring that their point of sale system automatically sequentially pre-numbers all guest checks without gaps in the numbering. Parks has also

requested that SBR provide us with consistent updates on their progress as they work with their point of sale system manufacturer to address to Recommendation 1.”

Auditor Comment: SBR&C has agreed to maintain preferred vendor contracts properly and to record and report preferred vendor income to Parks, but did not describe how it would do so. Therefore, we cannot be assured that the corrective procedures are appropriate and suitable for recording and reporting revenue. Nevertheless, Parks has assured us that it will ensure that SBR&C complies with our recommendation.

Parks should:

3. Ensure that SBR&C institutes an effective system of controls to account for all pre-numbered restaurant guest checks.
4. Conduct a follow-up audit to ensure that SBR&C has taken corrective action to implement those recommendations cited in this report.

Parks Response: “Parks agrees with both Recommendations, and will perform a follow up audit or compliance review to ensure that SBR has implemented these Recommendations.”

SBR&C, LLC
3980 AMBOY ROAD
STATEN ISLAND, NY 10308
718-948-6075

December 28, 2009

The City of New York
Office of the Comptroller
1 Centre Street
New York, NY 10007
Attention John Graham

Dear Mr. Graham:

We are in receipt of the Draft Audit Report on the Compliance of SBR&C with Its License Agreement. With respect to the Audit Report findings, we have the following response:

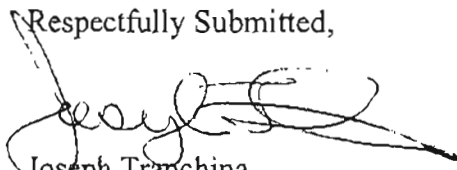
Internal Control Weakness Over Restaurant Operations

The recommendation that all pre numbered checks are accounted for sequentially is not something we have control of as the POS system is specifically designed not to use sequentially numbered checks. The POS system is designed to use a non resettable total to balance and avoid any fraud. We are aware that the Comptroller's office did find some minor deficiencies with the non resettable totals and we are working with POSitouch and CC Productions to verify that the non resettable totals are working properly. One of our procedures is to monitor any discrepancies to the non resettable totals and, in the rare occasion of a discrepancy, do report the variance to CC Production for clarification and resolution of the fault. We will continue to update the Parks Department in regards to the resolution of the discrepancies that were uncovered by the Audit as they are made available to us.

Unreported Preferred Vendor Income

We have implemented procedures to ensure that Preferred Vendor contracts are maintained properly. Also, these procedures will ensure that the Preferred Vendor income is accurately recorded and reported to the Parks Department each month.

Respectfully Submitted,



Joseph Tranchina
Member



City of New York
Parks & Recreation

Adrian Benepe
Commissioner

The Arsenal
Central Park
New York, New York 10065

Elizabeth W. Smith
Assistant Commissioner
Revenue and Marketing

(212) 360-1366/betsy.smith@parks.nyc.gov

December 28, 2009

Mr. John Graham
Deputy Comptroller
The City of New York / Office of the Comptroller
1 Centre Street
New York, NY 10007

Re: Comptroller's Draft Audit Report, Number FM09-091 A, on the Compliance of South Beach Restaurant, Corporation with its License Agreement

Dear Mr. Graham:

This letter represents the response of the New York City Department of Parks & Recreation ("Parks") to the Recommendations contained in the New York City Comptroller's ("Comptroller") Draft Audit Report ("the Report"), dated December 11, 2009, on the compliance of South Beach Restaurant ("SBR") with its License Agreement ("Agreement"). In response to the Report, Parks has issued SBR a letter requiring it to comply with the Report's Recommendations, and to submit a written response advising Parks on its progress toward addressing these Recommendations, which are as follows:

Recommendation 1 (to SBR) – Ensure all pre-numbered restaurant guest checks are accounted for.

Recommendation 2 (to SBR) – Maintain all preferred vendor contracts, institute thorough recording and reporting procedures to track preferred vendor receivable, and accurately account for all preferred vendor income and report it at the time of receipt.

As mentioned above, Parks has required SBR to comply with Recommendations 1 and 2, which include ensuring that their point of sale system automatically sequentially pre-numbers all guest checks without gaps in the numbering. Parks has also requested that SBR provide us with consistent updates on their progress as they work with their point of sale system manufacturer to address to Recommendation 1.

The Report also included the following Recommendations to Parks:

Recommendation 3 – Ensure that SBR institutes an effective system of controls to account for all pre-numbered restaurant guest checks.

Recommendation 4 – Conduct a follow-up audit to ensure that SBR has taken corrective action to implement those recommendations cited in this report.

1



Parks agrees with both Recommendations, and will perform a follow up audit or compliance review to ensure that SBR has implemented these Recommendations.

We wish to thank the Comptroller's audit staff for their work and efforts in performing this review.

Sincerely,

A handwritten signature in black ink, appearing to read 'Elizabeth W. Smith', with a long horizontal line extending to the right.

Elizabeth W. Smith

Cc: Comm. Adrian Benepe, J. Kay (Mayor's Office of Operations), R. Garfola, G. Davis (Mayor's Office of Operations)