



Licensing Board

November 18, 2013 – 7:00 PM – **Minutes**
City Hall, 133 William Street, Room 314

LICENSING BOARD MEETING

-MINUTES-

Monday, November 18, 2013

Room 314 - 7:00 p.m.

PRESENT: Steven A. Beauregard, Chairman

Marcelino “Sonny” G. Almeida, Commissioner

Edmund F. Craig, Jr., Commissioner

Atty. John Flor, Asst. City Solicitor

Capt. Steven Vicente, Police Department Liaison to the Lic. Bd.

Nick Nanopoulos, Director

MOTION TO ACCEPT THE MEETING MINUTES OF September 23, 2013 - Unanimous

MOTION TO ACCEPT THE MEETING MINUTES OF October 21, 2013 - Unanimous

APPROVALS RECEIVED FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION

Change of Manager - Trans. #174 – Plot # 18--107

Zeiterion Theatre, Inc., 684 Purchase Street, is requesting the approval of Justin T. LaCroix who resides at 56 Robinson Road, Acushnet, MA.. as their new manager.

Approved By ABCC – 10/25/13

VOTED: To accept the approval from the ABCC. – **Unanimous**

Change of Manager - Trans. # 174 – Plot # 18--107

People’s Super Liquor Stores d/b/a Douglas Wine & Spirits, 446 Dartmouth Street, is requesting the approval of Donald S. Underhill who resides at 100 Hickory Drive, Raynham, MA. as their new manager.

Approved By ABCC – 10/29/13

VOTED: To accept the approval from the ABCC. – **Unanimous**

Change of LLC Members & Transfer of Financial Interests - Trans. #218 – Plot # N/A

Restaurant Partners, LLC d/b/a Airport Grille, William M. Whelan, Manager of LLC, who is requesting a Change of Members and Transfer of Financial Interests of the LLC of the Common Victualler (Restaurant) All Alcoholic Beverages License. The petitioner requests the acceptance of the resignation of Paulo Cruz (20% Interest Holder) and Anthony Cruz (20% Interest Holder) as Members of the LLC; and to allow the transfer of their financial interests to William N. Whelan. Upon Approval, **William M. Whelan will remain as a Member and the Manager of the LLC, and Co-Interest Holder (20%), and **Manager of the Liquor License**; and William N. Whelan will remain a Co-Member and Co-Interest Holder (60%) of the LLC, as will Oliverio Ferreira, who will remain a Co-Member and Co-Interest Holder (20%) of the LLC. **Premises will remain the same at 1569 Shawmut Avenue.****

Approved By ABCC – 10/29/13

VOTED: To accept the approval from the ABCC. – **Unanimous**

Transfer of License & Change of Location - Trans. #039 – Plot # 46--13

Celtic Coffee House, LLC d/b/a The Celtic Coffee House, Phillip Dwane, Manager of LLC, license formerly exercised on premises located at **42 North Water Street**, who is petitioning to **transfer a Common Victualler (Restaurant) Wine and Malt Only Beverages License to De Abreu & Sons, Inc. d/b/a Fortuna Grill**. Upon approval, Manuel De Abreu Dos Reis will be the President, Co-Director, and Co-Shareholder (25 %); Maria G. De Abreu will be the Treasurer, Secretary, Co-Director, and Co-Shareholder (25%); Marlene C. De Abreu will also be a Co-Director and Co-Shareholder (25%); and Angelina Dos Reis will be a Co-Shareholder (25%). **Manuel De Abreu Dos Reis** is also the **Proposed Manager**. The new proposed licensed premises consist of an area approximately 1,254 sq. ft. on the first floor of a two-story building, which will include one room with a dining area, a bar area, a kitchen area, and two handicapped restrooms; which will have one entrance/exit in the front of the building onto Union Street, and an emergency exit located in the kitchen area that leads into a common area on the west side of the building onto Union Street. There will also be an area for the storage of alcohol in the basement. The premises is situated on the south side of Union Street between County and Eighth Streets, and **numbered 288 Union Street**.

Final approval will require a **‘Certificate of Inspection’** from the Building Department, a **‘Food Permit’** from the Health Department, and a signed **‘Fire & Building Certificate’** as required under the Chapter 304 Fire Acts Compliance; along with a copy of **‘Proof of Liquor Liability’**.

Approved By ABCC – 10/29/13

VOTED: To accept the approval from the ABCC. – **Unanimous**

Change of Manager, New Officer & Stockholder; & Transfer of Stock - Trans. #150 – Plot # 53--102

Fathoms Bar & Grill, Inc., Virginia Vinjerud, President who is petitioning for a **Change (New) of Directors, Stockholders, and Manager of the Common Victualler (Restaurant) All Alcoholic Beverages License**.

Upon approval, Virginia Vinjerud will remain as the President, Treasurer, Secretary, Co-Director, and Co-Shareholder (75 %); and **Christopher Bentley (New)** will be a Co-Director, and Co-Shareholder (25 %). **Christopher Bentley** is also the **Proposed New Manager**. Premises will remain the same at **255 Pope’s Island**.

Approved By ABCC – 11/08/13 – LATE FILE

VOTED: To accept the approval from the ABCC. – **Unanimous**

Transfer of License - Trans. #099 – Plot # 137-C-134

Triple 8 Buffet, Inc. d/b/a New York Chinese Buffet, Jian Ping Chen, President, who is petitioning to **transfer a Common Victualler (Restaurant) Wine & Malt Only Beverages License to Super 8 New York Buffet, Inc. d/b/a New York China Buffet**. Upon approval, **Mei Zhen Lin** will be the President, Treasurer, Secretary, Sole Director, Sole-Shareholder (200 Shares), and **Manager**. Premises will remain the same at **888 Ashley Boulevard**.

Final approval will require a **‘Change of Tenant’** from the Building Department, a new **‘Food Permit’** from the Health Department, and copy of **‘Proof of Liquor Liability’**

Approved By ABCC – 11/08/13 – LATE FILE

VOTED: To accept the approval from the ABCC. – **Unanimous**

Change of Director, Stockholder, & Transfer of Stock - Trans. # 201 – Plot # 104--52

N & W Convenience Mart, Inc., Waqar A. Butt, President, who is requesting a **Change of Director, Stockholder, and Transfer of all the Corporate Stock of the Retail Package Store Wine & Malt Only Alcoholic Beverages License**. Imran U. Hassan is petitioning to allow the transfer of all his corporate shares, and to accept his resignation as Director and Sole Stockholder in the corporation. Upon approval, Waqar A. Butt will be the President, Secretary, (New) Sole Director, and (New) Sole Shareholder (100%); and Nasir

Mehmood will remain as the Vice-President and Treasurer. **Waqar A. Butt** will also remain as **Manager**. Premises will remain the same at **425-433 Belleville Avenue**.

Approved By ABCC – 11/12/13 – LATE FILE

VOTED: To accept the approval from the ABCC. – **Unanimous**

1. PETITION - Trans. # 074 – Plot # 12--287

MWTP Restaurant Ventures, Inc. d/b/a Davy's Locker, Jeffrey Dolinsky, President, who is petitioning to transfer a **Common Victualler (Restaurant) All Alcoholic Beverages License** to **The Edge Hospitality, LLC d/b/a The Edge Seafood & Bar**. Margaret Kulpinski is the Sole Member, Sole Manager, and Sole Interest Holder (100%) of the LLC; and **Melissa R. Lima** is the **Proposed New Manager**. The description of the premises will remain the same as follows:

Three (3) rooms for dining, a bar area, kitchen, and exterior patio on the first floor of a one (1)-story building, with stock on the first floor in an area approximately 5,800 sq. ft.; and a one (1)-story wooden deck above the existing outside patio in the rear of the building, which is approx. 30' x 21', for a total area of 651 sq. ft., and will include an 8' ft. bar, with 4 barstools, and 9 tables with seating for 4 at each table. There is one (1) entrance/exit with stairs running adjacent to the existing patio area leading into the parking lot. ***The upper deck has been previously approved with the following restrictions 1.) Roof Top Service will end at 12:00 a.m. & all patrons must leave by 12:15 a.m. 2.) Approved seating for 40 patrons. 3.) All music & entertainment must cease by 11:00 p.m. 4.) All music & entertainment should be at such a level that would not be a disruption to your neighbors and will consist only of radio type sound system or light non-amplified acoustic music. ***

The premise is situated on the east side of East Rodney French Boulevard between Norman and Clara Streets, and numbered 1480 E. Rodney French Blvd.

Final approval will require a **'Change of Tenant'** from the Building Department and a new **'Food Permit'** from the Health Department.

Application has been advertised.

Present: Atty. Emile Morad along with Margaret Kulpinski, Sole Owner & Stockholder and Melissa R. Lima, Proposed Manager; Leonard Roche and Nancy Fountaine, Neighbors who appeared neither in favor nor against the application, but had questions for the applicant.

Speaking on behalf of his client, Atty. Morad stated that the plan is to keep it the same way it is, except for some cosmetic changes, so that they can open as soon as possible; and there could be some renovations in the future after pulling the proper permits, and amend the license, if necessary depending on what they decide to do. Atty. Morad stated that Ms. Lima will be the manager and added that she has the experience and qualifications to handle that position, and they've worked together at Fernando's Bar and Grill.

When asked by Chairman Beauregard if they were aware that there are certain restrictions on the license regarding music and entertainment on the patio outside and on the upper deck area, Atty. Morad stated that they were aware of those restrictions and were prepared to abide by those restrictions as reflected in the legal ad that was posted in the newspaper.

Mr. Nanopoulos informed the Board that the transfer that was before them tonight was only for the main restaurant, and not for the 'Tiki Bar', since that was a separate 'seasonal' license, which is not part of this transfer.

Mr. Nanopoulos informed Atty. Morad and the Board that if the new owners wanted to continue to operate the 'Tiki Bar', then they would have to either do a transfer of the existing license or apply for a new 'seasonal' license under their name.

Atty. Morad stated that they would address that in January, to which Chairman Beauregard responded, just plan accordingly, you have to apply early in the year so the approval comes back in time for the season.

Atty. Morad also stated that there was one outstanding issue with regard to this application, we're still waiting for a DOR Certificate from Atty. Koldys for Davy's Locker, which we should have tomorrow; and I'll bring it down to Mr. Nanopoulos as soon as I receive it.

When told by Chairman Beauregard that even if the Board approved the application tonight, Mr. Nanopoulos cannot send up the application until such a time as the Certificate has been submitted, to which Atty. Morad responded, we understand.

When asked by Chairman Beauregard, the restaurant ... the entertainment ... everything inside would continue to be restaurant ... seafood ... nothing will be changing? Atty. Morad responded, yes, that's correct.

Chairman Beauregard then asked if there was anyone present who wanted to speak in favor of the petition, upon seeing and hearing none; Chairman Beauregard then asked if there was anyone present who wanted to be recorded in favor of this petition, upon seeing and hearing none; Chairman Beauregard then asked if there was anyone present who wanted to speak or be recorded in opposition to this petition, to which several people raised their hands to speak.

First to be recognized by Chairman Beauregard was Leonard Roche of 1475 East Rodney French Boulevard, who stated, I'm not sure if I'm opposed to the transfer ... but I want to make sure that when the license transfers ... we don't have to worry about the employee's vehicles taking up the whole neighborhood ... and that it stays as a restaurant and does not become a bar ... we welcome them to the neighborhood but we just hope we can work together with regard to the parking.

Chairman Beauregard responded to Mr. Roche's comments by stating, as you know ... I can't speak to the parking ... but I can speak to the restaurant ... and we have assurances from the applicant that it will remain a restaurant.

Mr. Roche responded, I understand that but we had that promise before and it wasn't kept.

Chairman Beauregard then asked Atty. Morad if his client was aware of the ongoing issue of employees parking up in the neighborhood and taking up all their parking spaces from 11:30 in the morning to whatever time they get out at night; and added, it's a burden for them; to which Atty. Morad responded, we're aware of that issue ... and added, once we get in there ... we'll see what we can do to accommodate them.

Next to be recognized by Chairman Beauregard was Ms. Nancy Fountaine of 10 Norman Street, who stated that she wanted some assurances that it would not become a nightclub with loud music and drunks all over the neighborhood, and that it would remain a restaurant; to which Ms. Kulpinski assured her that it would remain a restaurant.

Voted: Commissioner Almeida made a motion to approve the petition as presented and to forward the application to the Alcoholic Beverages Control Commission for their approval. – **Unanimous**

NOTE: Mr. Nanopoulos reminded Atty. Morad that he could not send up the application to the ABCC for approval until he receives the DOR Certificate from Mr. Dolinsky.

2. PETITION - Trans. # 137 – Plot # 50--34

KNT Enterprises, Inc. d/b/a Kirby's Irish Pub, Bruce Kirby, President, who is petitioning to **Transfer a Common Victualler (Restaurant) All Alcoholic Beverages License** to **JAKIBRI, LLC d/b/a Kirby's Irish Pub**. Upon approval, Brian Kirby and Jason Kirby will be Co-Members, Co-Managers, and Co-Interest Holders (50% ea.) of the LLC; and **Jason Kirby** is also the **Proposed Manager of the Liquor License**. Premises will remain the same at **818 Kempton Street**.

Application has been advertised; Abutters have been notified. (School Only As Required By Law)

Present: *Atty. Christopher T. Saunders along with Brian Kirby, Co-Owner and Jason Kirby, Co-Owner and Manager*

Atty. Saunders stated, essentially what we have here is two brothers who are purchasing from their parents the financial interest in an existing and operating liquor license by creating a new entity ... negotiating a new lease ... and one of the brothers, Jason, is the current manager and will remain the manager under the new entity.

Atty. Saunders concluded his remarks by stating ... so it's basically passing on the liquor license from one generation to the next ... the operation is going to remain the same ... light entertainment ... Wednesday through Sunday periodically ... I think they've been pretty pro-active with the neighbors ... I don't think they've had many complaints before this Board ... and they've also applied for special one-day licenses for functions in the back parking lot ... so essentially what we're going to have is the same operation as we have now ... and finally, there are two items that are still outstanding ... one is the D/B/A Certificate which I got today but I noticed there was an error on it, so I'll get that corrected tomorrow and drop it off to Mr. Nanopoulos ... the other is the DOR Certificate of Good Standing ... there's an issue that should be resolved within the next 72 hrs ... so we should have that by the end of the week.

Chairman Beauregard informed those present in the interest of full disclosure that Brian Kirby is employed by

him in his day job, and therefore, he was recusing himself with regard to this matter.

When asked by Commissioner Almeida as to how many hours a week he would be on the premises, Mr. (Jason) Kirby stated he would be there at least 40 hrs. a week, as would his brother Brian.

When asked by Commissioner Almeida if they were T.I.P.S Certified, both stated that they were.

Voted: Commissioner Almeida made a motion to approve the petition as presented and to forward the application to the Alcoholic Beverages Control Commission for their approval; the motion passed on a 2-0 vote with Chairman Beauregard abstaining from the vote – **Unanimous**

NOTE: Mr. Nanopoulos reminded Atty. Saunders that he could not send up the application to the ABCC for approval until he receives the DOR Certificate from Mr. Kirby.

3. PETITION - Trans. # 174 – Plot # 18—107 (No Representation Required)

People's Super Liquor Store, Inc., d/b/a Douglas Wine & Spirits, John Haronian, President, who is requesting a **Change of Director** of the **Retail Package Store All Alcoholic Beverages License**. Carlos Daponte is also petitioning to accept his resignation as Sole Director in the corporation. Upon approval, John Haronian will remain as President, Treasurer, Secretary, and Sole Stockholder (100%); and **James W. Clarkin** will be the **(New) Sole Director**. **Donald S. Underhill** will also remain as **Manager**. Premises will remain the same at **446 Dartmouth Street**.

No Advertisement nor Abutters Notification Required

Present: *No One Was Required To Appear*

Mr. Nanopoulos informed the Board that this was just a simple corporate change of the Sole Director with no change of ownership.

Voted: Commissioner Almeida made a motion to approve the petition as presented and to forward the application to the Alcoholic Beverages Control Commission for their approval. – **Unanimous**

Voted: Commissioner Almeida made a motion to approve the petition as presented and to forward the application to the Alcoholic Beverages Control Commission for their approval. – **Unanimous**

VOTED: Commissioner Almeida made a motion to take up **Item #'s 4 - 8** at one time; waive reading; and approve the applications as presented – **Unanimous**

4. APPLICATION, (No Representation Required)

The Rotch-Jones-Duff House & Garden Museum, Robert Rocha, Nina Gray, Event Coordinator, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for an 'Opening Gala preview Party', to be held at the **Rotch-Jones-Duff House & Garden Museum**, located on **396 County Street**; and to be held on **Thursday, November 14, 2013 from 6:00 p.m. until 8:00 p.m.**

5. APPLICATION, (No Representation Required)

New Bedford Area Chamber of Commerce, Jessica Fernandes, Representative who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a 'Business After Hours Networking Event' to be held at **UMass- Dartmouth – Star Store Campus**, located on **715 Purchase Street**; and to be held on **Thursday, November 21, 2013 from 5:00 p.m. until 7:00 p.m.**

6. APPLICATION, (No Representation Required)

North Atlantic Right Whale Consortium, Robert Rocha, Representative who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a 'North Atlantic Right Whale Celebration', to be held at the **New Bedford Whaling Museum**, located on **18 Johnny Cake Hill**; and to be held on **Sunday, December 1, 2013 from 11:00 a.m. until 4:00 p.m.**

7. APPLICATION, (No Representation Required)

New Bedford Art Museum, Gabriel Ferreira, Representative who is requesting approval of an application

for a **Special One Day Wine & Malt Only Beverages License** for a ‘Holiday Fundraiser’, to be held at the **New Bedford Art Museum**, located on **608 Pleasant Street**; and to be held on **Saturday, December 7, 2013** from **6:00 p.m. until 9:00 p.m.**

8. APPLICATION, (No Representation Required)

American Business Women’s Association, Maria Lim, Representative who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for their ‘2nd Annual Ladies Night To Shine’ event, to be held at **Artworks!**, located on **384 Acushnet Avenue**; and to be held on **Thursday, December 5, 2013** from **6:00 p.m. until 9:00 p.m.**

Voted: Commissioner Almeida made a motion to remove item #'s 9 – 12 from the table. – **Unanimous**

Tabled at 10/21/13 Meeting

9. Hearing: 1846 Bar & Grille, Inc.

Omar J. Lawrence, Manager

1846 Purchase Street

Closed 07/01/12 – ‘Auction Sale Pending’

Your presence is respectfully requested at a hearing to determine the status of your annual liquor license for the year **2013**.

Notice is given in accordance with Massachusetts General Laws Chapter 138, section 77,.....Cancellation of license upon cessation of licensed business; the hearing is being held at the request of the members of this Board to discuss your plans for your liquor license for the year 2013 prior to this Board considering approval of your 2014 renewal application.

Minutes of 10/21/13 Meeting

Present: Licensee Was Excused From Appearing.

Mr. Nanopoulos informed the Board that he had spoken to the licensee and that it was his intention to sign the renewal in November and to pay for the license in December to keep the license going until the transfer comes through; and he also reminded the Board that the license had been sold at auction to Albert Santos, who plans to open The Black Whale Restaurant on the Pier.

Mr. Nanopoulos recommended that the Board table the matter until the next meeting in November to ensure that the renewal had been signed.

VOTED: Commissioner Almeida made a motion to follow the recommendation, and to table the matter to the Board’s November 18th meeting. – **Unanimous**

Note: Renewal was signed on 11/13/13.

Present: No One Was Required To Appear

Mr. Nanopoulos informed the Board that the licensee came in to sign the renewal and that there was a sale pending; and recommended that the no further action be taken, and the license be renewed for another year.

VOTED: Commissioner Almeida made a motion to follow the recommendation, and to approve the renewal for 2014. – **Unanimous**

Tabled at 10/21/13 Meeting

10. Hearing: China Lantern, Inc.

Kenneth Leung, Treasurer

116 Nauset Street

Closed – 11/01/12

Your presence is respectfully requested at a hearing to determine the status of your annual liquor license for the year **2013**.

Notice is given in accordance with Massachusetts General Laws Chapter 138, section 77,.....Cancellation of license upon cessation of licensed business; the hearing is being held at the request of the members of this

Board to discuss your plans for your liquor license for the year 2013 prior to this Board considering approval of your 2014 renewal application.

Note: Licensee signed renewal on 11/01/13

Minutes of 10/21/13 Meeting

Present: Licensee Was Excused From Appearing.

Mr. Nanopoulos informed the Board that he had spoken to the licensee and that it was his intention to sign the renewal in November, and to pay for the license in December; and that it was his intention to transfer the license to a new location.

Mr. Nanopoulos recommended that the Board table the matter until the next meeting in November to ensure that the renewal had been signed.

VOTED: Commissioner Almeida made a motion to follow the recommendation, and to table the matter to the Board's November 18th meeting. – **Unanimous**

Note: Renewal was signed on 11/01/13.

Present: No One Was Required To Appear

Mr. Nanopoulos informed the Board that the licensee came in to sign the renewal and that an application for a change of location would be submitted after the first of the year; and recommended that no further action be taken, and the license be renewed for another year.

VOTED: Commissioner Almeida made a motion to follow the recommendation, and to approve the renewal for 2014. – **Unanimous**

Tabled at 10/21/13 Meeting

11. Hearing: Columbus Group, LLC d/b/a Columbus Restaurant

Shiawee Yang, President

555 Pleasant Street

Approved 06/21/13 – Renovations/Transfer Pending?

Your presence is respectfully requested at a hearing to determine the status of your annual liquor license for the year 2013.

Notice is given in accordance with Massachusetts General Laws Chapter 138, section 77,.....Cancellation of license upon cessation of licensed business; the hearing is being held at the request of the members of this Board to discuss your plans for your liquor license for the year 2013 prior to this Board considering approval of your 2014 renewal application.

Minutes of 10/21/13 Meeting

Present: No One Appeared As Requested

Atty. Christopher Markey, who was present at the meeting on another matter but who has been working with the Columbus Group, stated that an application for the transfer of license would be submitted in either November or December; and that it was the intention of the licensee to sign the renewal in November and pay for the renewal in December to keep the license going until the deal is finalized and the transfer is approved.

VOTED: Commissioner Almeida made a motion to table the matter to the Board's November 18th meeting. – **Unanimous**

Note: Renewal was signed on 11/05/13.

Present: No One Was Required To Appear

Mr. Nanopoulos informed the Board that the licensee came in to sign the renewal and that there was a sale pending; and recommended that no further action be taken, and the license be renewed for another year.

VOTED: Commissioner Almeida made a motion to follow the recommendation, and to approve the renewal for 2014. – **Unanimous**

Tabled at 10/21/13 Meeting

12. Hearing: PI-ZAN, Inc.

Jason P. Lanagan, Manager

29 Union Street
Closed 07/01/13 – Renovations

Your presence is required at a hearing to determine the status of your annual liquor license for the year **2013**. Notice is given in accordance with Massachusetts General Laws Chapter 138, section 77,... Cancellation of license upon cessation of licensed business; the hearing is being held at the request of the members of this Board to discuss your plans for your liquor license for the year 2013 prior to this Board considering approval of your 2014 renewal application.

Minutes of 10/21/13 Meeting

Present: *No One Appeared As Requested*

VOTED: Commissioner Almeida made a motion to table the matter to the Board's November 18th meeting. –

Unanimous

Note: **Renewal was signed on 11/07/13.**

Present: *Jason P. Lanagan, Owner*

When asked by Chairman Beauregard as to what his plans were for Pi-Zans, Mr. Lanagan responded, Pi-Zans is currently closed ... the Route 18 project made it difficult to remain open ... we do have a building application submitted to Inspectional Services and it's pending some code review with our architect ... and I expect that to be resolved in the next 30 days ... and we plan on starting construction as soon as the cobblestone work is finished on lower Union Street that's currently being re-done ... so we're kind of waiting to see how that all plays out before we start ... because we don't want to run the risk of opening while it's still under construction ... which is the reason we went out of business in the first place ... and if we do change any names or any ownership or any description with regard to the license ... we'll make sure that we file everything with your office first.

Mr. Nanopoulos reminded Mr. Lanagan that any changes could take 6 to 8 weeks to come back from the ABCC, and suggested that he submit those changes in a timely manner as not to delay any planned opening, since those changes would have to be approved by the Board and the ABCC prior to his opening.

VOTED: Based on the information provided by Mr. Lanagan; Commissioner Almeida made a motion to approve the renewal for 2014. – **Unanimous**

13. Hearing: Joe's Auto Mall, Inc. d/b/a Auto Mall Kia

Jose Adao, President

547 Belleville Avenue

Your presence is requested at a hearing to be held in this office to determine the status of your Motor Vehicle Class I (New Car Dealer) license.

Notice is given in accordance with Massachusetts General Laws Chapter 140, section 59, in that all licenses granted under this section shall be revoked by the licensing board or officer if it appears, after the hearing, that the licensee is not complying with sections fifty-seven to sixty-nine, inclusive, or the rules and regulations made thereunder; and no new license shall be granted to such person thereafter, nor to any person for use on the same premises, without the approval of the registrar.

The hearing is being held to discuss the status of your current operation as well as your storage of vehicles in an area that has not been approved and licensed by this Board.

Said hearing is being held because of your possible failure to maintain a facility dedicated to carrying out said business (Class I Dealer and Annex) in which all licensees *must adhere and be in compliance* to all conditions of the issued license.

Present: *Atty. John Williams representing Mr. Adao, who did not appear as requested.*

Chairman Beauregard opened the meeting by stating to Atty. Williams, this is the longest running item on the agenda in my 16 years on this Board; to which Atty. Williams responded, it's getting up there, isn't it?

Atty. Williams speaking on behalf of his client stated, first of all my client runs and operates a dealership across the street on which he sells new and used cars there ... he bought a 1.8acre piece of property across the street to store additional vehicles.

When asked if he bought the whole parking lot, Atty. Williams stated, part of the lot is blacktopped ... and part of it's vacant ... they want to take an existing parking lot and park some additional vehicles on it ... he applied for his 'annex' license and it was determined that we needed to go before 'site plan' review ... I talked to Dave Kennedy at the time when he was still the City Planner ... and I said, it seems kind of crazy to go through a whole site plan review to park on an existing parking lot ... some of the conditions of 'site plan' review besides the plans that we already had done ... they're also requesting several other plans including a utility plan ... an architectural plan ... a landscape plan ... a lighting plan ... and all we're doing is parking on an existing parking lot ... so I said, there has to be a more streamline process instead of this ... but anyway ... it was actually determined by the 'new' City Planner and the Planning Board that we have to comply with the full site plan review ... so as a result of that ... we've hired a Kenny Ferreira from Ferreira Engineering to do a site plan review plan ... but until that period of time ... Mr. Adao took all his cars off the lot ... he's only got three (3) cars on there ... you can keep up to five (5) before it triggers site plan review ... so there's no cars on the lot ... so this issue should be settled I would imagine ... it's kind of disturbing ... he was going to build this dealership in New Bedford ... but after going through this ... he determined that he's going to take it to Dartmouth ... he moved a bunch of these cars to Dartmouth ... to make someone jump through hoops like that ... it's easier to get on the Obama Care website than it is to park some cars on an existing parking lot in New Bedford ... but he is going through the whole site plan review process ... so when he gets that done ... then he can park his cars there ... but until that period of time ... I guess he doesn't have an 'annex' license ... so I guess that application can be withdrawn.

When asked by Chairman Beauregard, your client currently has a new car dealer license issued to him at that location but he moved his dealership to Dartmouth, so he doesn't still sell new cars on Belleville Avenue; to which Atty. Williams responded, I guess he can still sell new cars there but he did move his dealership to Dartmouth.

Chairman Beauregard responded by asking, but to be issued a Class I, (New Car Dealer) license, you have to be involved with a manufacturer ... and he's not ... right ... Kia is now in Dartmouth ... so you have to go back to a Class II license.

Atty. Williams responded, I'm not sure if Kia will allow him to sell a new car in New Bedford too ... so if he's got a Class I license but I can find out for you to see if they're going to allow it.

Chairman Beauregard responded, that's what I'm telling you ... he has a Class I license here ... if he's moved his dealership to Dartmouth and he's no longer selling new cars at this location ... then he would have to change his license back to a Class II license for the sale of used cars only at this location.

Atty. Williams responded, but what I'm telling you is ... if they allow him to sell a new car in New Bedford ... there's nothing here that says that he can't do that ... so let's keep it like that and I'll find out if Kia will allow him to sell new cars at this location ... if he can't sell a new Kia at this location ... then he'll have to change it to a Class II license ... I'll call him and let Nick know ... but with regard to the other issue ... he's not going to put more than five (5) cars on that lot until it passes site plan review ... there are a lot of neighbors who park their cars in that lot also but those cars would have plates on them.

When asked by Chairman Beauregard, and none of the repairs are going across the street when the repairs are done; Atty. Williams responded, he's not going to have more than five (5) cars across the street, so that should address that issue.

Atty. Williams continued his remarks by stating, I discussed this with my client ... and I told him ... you can't get in front of 'site plan' review until January probably ... so until we find out what 'site plan' review makes him do with regard to lighting ... landscaping ... etc. ... he is going to build a building there ... maybe with an auto body shop ... maybe a repair shop ... so I can understand going through 'site plan' review when you're building a building ... but when you're taking a parking lot that's already black-topped that's been there for twenty (20) years to just park cars on it ... to go through a whole 'site plan' review ... seems like overkill to me ... but if that's what we've got to do then that's what we've got to do.

Chairman Beauregard responded, if there are people going onto that lot to look at cars ... then there's a liability interest there to make sure that the lot is big enough and up to code.

Atty. Williams stated once again that he explained that to Mr. Adao and he stated that he would take the cars off until it gets approved; to which Chairman Beauregard responded, he's sold that to us in the past and he hasn't complied.

Atty. Williams once again stated that he would let Nick know about the new cars (if Kia would allow them to sell some there); to which Mr. Nanopoulos responded, selling 1 or 2 cars there is not a Class I Dealership, and with the Kia Dealership moving to Dartmouth, it's now a used car dealership.

Atty. Williams responded by asking, what constitutes a Class I Dealership ... how many new cars do you have to sell to have a Class I License; to which Mr. Nanopoulos responded, you have to have a dealership at that location, so you would need paperwork from Kia stating that location is still active as a Kia dealership.

Atty. Williams concurred with Mr. Nanopoulos's statement that the Kia Dealership that was at this location has in fact moved to Dartmouth.

Mr. Nanopoulos informed Atty. Williams that based on the fact that the Kia Dealership has moved to Dartmouth, the current Class I license held by Mr. Adao, has to be surrendered and he needs to apply for a Class II license for that location.

Atty. Williams responded, it probably does but like I said before, I'm going to ask him first if Kia is going to allow him to sell new cars there, and if they do, he'll keep the Class I license.

Mr. Nanopoulos responded, that still wouldn't qualify as a Class I Dealership under the law; to which Atty. Williams responded, I think whether or not they're a dealership is determined by Kia ... and not you ... I understand and I will let you know; Mr. Nanopoulos also reminded the Board that this matter was approved by the City Council for a 'Special Permit' on February 12, 2009 and that they referred the matter to the Zoning Board July 24, 2012, and recommended that the application be removed from the table with no further action; and that a new application be submitted once the Planning Board approves the site.

Tabled at 07/23/12 Meeting

14. APPLICATION - Plot # 107—33, 35, 37, & 39

Jose S. Adao, who resides at **9 Mary Ann Way, Dartmouth, MA.** who is requesting approval of his application for a **Motor Vehicle Class I (New Car Dealer) Annex License for Joe's Auto Mall, Inc. d/b/a Auto Mall Kia**, with premises situated at **548 Belleville Avenue.** (**Note:** Applicant was approved for a 'Special Permit' by the City Council on February 12, 2009.)

****Referred to the Planning Board 07/24/12, per Jill Maclean, Acting City Planner****

Voted: Commissioner Almeida made a motion to remove item #' 14 from the table with no further to be taken on the current application. – **Unanimous**

Note: Atty. Williams came back before the Board later in the evening and informed the Board that he has spoken to Mr. Adao who informed him that he would not be selling any new cars at this location, and that he would be requesting to change his license back to a Class II Used Car Dealer license. Mr. Nanopoulos informed Atty. Williams that he would convert the license to a Class II license in December for 2014, and that a '\$25,000.00 Bond' would be required at that time.

Voted: Commissioner Almeida made a motion to remove item #' 15 from the table. – **Unanimous**

Tabled at 10/21/13 Meeting

15. Hearing: United Fishermen's Club, Inc.

Jack Custodio, Manager
639 Orchard Street

You are hereby notified that your presence is required at a hearing to determine whether you have violated certain provisions of Massachusetts General Laws Chapter (M.G.L.) as follows: M.G.L. CH. 138, sec. 64-Failure to Comply with the Laws of the Commonwealth, To Wit: M.G.L. Ch. 138, sec. 12 & 26.

The intent of this hearing is to determine the status of your liquor license in relation to the ABCC, DUA and DOR. Based on the discussion at the October meeting (Item Tabled), the Licensing Board can decide not to renew your 2014 license, or suspend said license until such a time that all outstanding corporation, manager, and police detail fee issues have been resolved.

I would like to bring to your attention the following ABCC & Licensing Board regulations:

1. An application must be filed to obtain approval from the local licensing authority and the ABCC for a Change (New) of Officers and Directors.
2. Each Corporate Licensee shall appoint a manager (by a properly authorized and executed written delegation) who shall have full authority and control of the premises and who shall be satisfactory to the Board, and who shall be a United States citizen. Immediate notice of the appointment must be made to the Board in writing.

Please be advised that your failure to appear before this Board as requested will result in the “Automatic Non – Renewal” of your General on Premise All Alcoholic Beverages License.

NOTE: “Revised” Hearing Notice was sent out on 10/28/13, as stated above.

Present: *Atty. Christopher Markey along with Jack Custodio, the ‘current’ Manager of Record along with Jose Fangueiro, the Acting President, and Aramundo Estudeante, Accountant.*

The Board voted unanimously to receive and place on file a letter submitted by the United Fishermen Club, which explains certain actions the club has taken to address the Board’s concerns, along with a request to withdraw the pending application that’s currently with the ABCC.

Atty. Markey stated that based on several incidents that have occurred over the past five months ... and also listening to the Board’s concerns with regard to the current management that’s been in place and his lack of ability to control the environment there, which is currently awaiting approval from the ABCC; he discussed the matter with Mr. Estudeante who is also involved with resolving the issues with the DOR, it was agreed that the best avenue was to withdraw the application that’s currently pending with the ABCC because it’s clear that the Board is not satisfied with the acting manager. The matter was discussed with him and he thought it was appropriate, as a result he submitted a letter of resignation with regard to all his positions with the ‘club’. As a result of that action, Mr. Custodio who is currently the approved manager of record and who is also here tonight as requested, wanted to leave and desires to leave but understands that he needs to do this work over the next few months; so he’s going to be staying on as the manager, which I think would be satisfactory to the Board. He is under the understanding of the probation requirements and the bookkeeper is as well, that they are to notify the Director as to who is renting out the hall, and providing that information to the Board as well as the need to hire a police detail every time it’s rented out. Mr. Custodio knows of those conditions ... he understands that he can’t have a promoter come in and do that ... so he’s fully aware of that ... he’s fully aware that he’s to put the Director on notice as to who is coming in for what purposes of renting out the facility.

Atty. Markey concluded his remarks by stating, I think in the end ... if you take a look at the letter ... there’s been a designated date of December 29th for a vote to be taken by the shareholders for the election of a new board of directors ... and at that point a new manager will be put into place ... and again, during this time ... Mr. Custodio will serve as the manager until the new manager is approved ... which I think should alleviate the genuine concerns that the Board has expressed with regard to the club operating in accordance with M.G.L.

Chairman Beauregard responded, I will say to all you gentlemen ... historically, you’ve always tried to run the club with internal membership and have various parties step up through the years ... but I would suggest that maybe you give some consideration to bringing in somebody from the outside to run the operation for you based on the size of your operation ... it may be time to bring somebody in that has the experience to run an operation of that size ... it’s just my suggestion ... I can’t tell you how to run your business ... but based on the problems you’ve had down there ... it would be something that we would look upon very favorably.

Atty. Markey responded, I’ve had several meetings with Mr. Estudeante, and he clearly has a goal in mind as to how it should operate, in fact, he’s recently brought in new chefs to make sure everything is running smoothly in the restaurant area.

So I think the progress that has been made over the past few months will continue, so what we’re requesting here tonight is that our pending application for a change of officers, directors, and manager be withdrawn at this time, so that we may be able to submit a new application after the December 29th elections.

When asked by Chairman Beauregard as to when would the new application be submitted, Atty. Markey responded, I would expect that would be submitted in time for the January meeting.

When asked by Chairman Beauregard if Mr. Custodio would be the one coming in to sign the 2014 renewal, Atty. Markey stated that he would be the one coming in to sign.

Voted: Commissioner Almeida made a motion to accept and approve the club’s request to withdraw the

pending application for a change of officers, directors, and manager, which is currently pending with the ABCC
-- Unanimous

Voted: Commissioner Almeida made a motion to remove item #' 15 from the table. -- Unanimous

Tabled at 09/23/13 Meeting

16. Meeting: Almost Brothers, Inc. d/b/a Hibernia Pub

Barry Flynn, Manager

109 William Street

Your presence is requested at a meeting to review numerous complaints (referenced below) as it pertains to late night disturbances as well as public safety issues. The reports indicate that patrons are leaving your establishment in a highly intoxicated state and being excessively noisy and unruly which has resulted in several altercations on or about the premises. There is also some indication in the reports that you as the licensee have failed to provide the required staff for crowd control for the safety of your patrons.

As a result of these complaints, the Board is requesting that you submit a written security plan to this office **by Wednesday, November 13, 2013**, which will be reviewed by this Board and the New Bedford Police Department at said meeting.

The Board will also like to take this opportunity to review with you the following ABCC Regulation, and Licensing Board Rules and Regulations:

Violations: Alcoholic Beverages Control Commission Regulation 204 CMR 2.05: (2)-

States no licensee shall permit any illegality to occur on the licensed premises. The licensee is responsible, whether present or not, for ensuring that no disorder, disturbance, or illegality takes place in or on a licensed premises.

Licensing Board Regulation No. 10, 11, 12-

Alcoholic beverages shall not be served to a person who is or appears to be intoxicated; Excessive hilarity, noise, crowds and objectionable persons shall not be permitted on or about the premises. It is the responsibility of the licensee to enforce this rule. Premises must at all times be kept safe....

Ref. # 13-6934-OF – 06/22/13 @ 1:55 a.m.

(Late Night Disturbance/Excessive Crowds/Lack of Crowd Control)

Ref. # 13-6983-OF – 06/23/13 @ 2:01 a.m.

(Late Night Disturbance/Excessive Crowds/Lack of Crowd Control)

Ref. # 13-7545-OF – 07/05/13 @ 2:01 a.m.

(Fight/Late Night Disturbance/Excessive Crowds/Lack of Crowd Control)

Ref. # 13-7656-OF – 07/07/13 @ 2:08 a.m.

(Fight/Late Night Disturbance/Excessive Crowds/Lack of Crowd Control)

Ref. # 13-8004-OF – 07/14/13 @ 1:45 a.m.

(Late Night Disturbance/Intoxicated Persons/Excessive Crowds/Lack of Crowd Control)

Ref. # 13-2369-AR – 07/14/13 @ 1:45 a.m.

(Arrest of Patron for Disorderly Conduct//Intoxicated Persons/Excessive Crowds/Lack of Crowd Control)

Ref. # 13-2370-AR – 07/14/13 @ 1:45 a.m.

(Intoxicated Person Placed in Protective Custody)

Ref. # 13-2371-AR – 07/14/13 @ 1:45 a.m.

(Intoxicated Person Placed in Protective Custody)

Ref. # 13-2372-AR – 07/14/13 @ 1:45 a.m.

(Intoxicated Person Placed in Protective Custody)

Ref. # # 13-3000 – AR/# 13-3001 – AR/# 13-3002 – AR - 08/25/13 @ 2:06 a.m. (Added 09/23/13)

(Fight In Progress)

Present: Barry Flynn and John Donovan, Co-Owners; Capt. Steven Vicente, Police Department Liaison to

the Lic. Bd. along with Sgt. Derek Belong, Reporting Officer.

Upon being asked by Mr. Nanopoulos if they had received a copy of the 'Meeting Notice', and if they had read the summary contained in the notice, and if they understood why they were requested to appear before the Board based on the summary, and the list of alleged violations contained in the 'Notice', both Mr. Flynn and Mr. Donovan stated that they did.

Chairman Beauregard opened the meeting by stating, you're here this evening because we've had a number of complaints that have come across our desk; and we have some concerns regarding some of these complaints.

Chairman Beauregard then recognized Sgt. Belong whose name is associated with a majority of the complaints including one which summarizes the late activity in the area of the Hibernia Pub, and asked him if he had anything besides the reports that he would want to add about any incidents or occurrences or problems that you experienced in the downtown area, specifically, Hibernia?

Sgt. Belong responded, everything is in the reports but my biggest issue was the fact that he didn't have any bouncers besides one ... in my opinion they were understaffed ... and I believe at one point I spoke to Mr. Flynn and you brushed me off and went back inside ... and then the reports got filed after that ... but since then I've been told by the officers that you have hired additional people ... so there has been a little more security than there was before ... but I don't work midnights anymore ... so I couldn't tell you for sure.

Chairman Beauregard then recognized Mr. Flynn who responded, we've stepped up security and we intend to co-operate with the Board and the New Bedford Police Department with regard to whatever is required. Mr. Flynn then submitted a list of changes that would be implemented to the Security Plan' at Hibernia Irish Pub, which was unanimously received and placed on file.

Some of the changes that were outlined in the security plan which were highlighted by Mr. Flynn were as follows;

- To install a camera facing west toward City Hall, which would help them monitor people leaving the premises (they currently have a camera facing east).
- They will purchase and utilize crowd control stanchions, which will keep the patrons that are waiting to enter the pub orderly.
- They will install signage to include:
 - ❖ No Loitering
 - ❖ No Trespassing
 - ❖ Dress Code Notice
- All the Door Staff will wear specific shirts, so that they will be clearly identified as working at Hibernia.
- All Door Staff will be T.I.P.S. Certified and Crowd Control certified.
- They will have increased Security Staff and each will have a specific post as follows:
 - ❖ One person will be outside the front door, so that they can watch patrons as they arrive and observe their behavior.
 - ❖ One staff member will be just inside the door.
 - ❖ One staff member will be moving within the establishment, so that they can observe patrons interaction.
- They will continue their 'No Admittance or Re-Admittance After 1:30 a.m. Rule', which will be strictly enforced.
- Staff will submit incident reports nightly; also, we will hold bi-monthly meetings with staff to discuss security issues and improvements.
- All DJ's will be given music selection guidelines.

Mr. Flynn added, we're very limited in one area, and that was with regard to how far his staff could go in clearing the street ... we can only go so far down the street ... and we're very limited to the power that we do have ... meaning, if I tell someone to go home ... and one of my guys gets knocked out ... it becomes a liability issue ... the people I have working for me do this part time ... they can't afford to lose time from their full time job if they get injured severely ... so we're very limited to what we can tell people or not tell people.

Mr. Flynn continued ... another thing is ... there are also a lot of people who congregate in that area ... almost like a 'Bermuda Triangle' ... on the corners ... there are a lot of other clubs in that area like Bar 908...No Problemo ... Pour Farm ... us ... and XS ... and since they took the parking away down here ... they're coming

across our front door ... so there's a lot of congregation down there on the street ... we do what we can within reasons to get them to move on out of the area ... sometimes ... they don't go ... they don't listen to us ... so we intend to co-operate ... anything we can do ... we'll do ... we're going to start some stanchions to keep our lines in order ... but like I said ... we're very limited in what we can do.

Capt. Vicente responded, it not easy to manage crowds ... crowds can be difficult ... especially when you mix in the consumption of alcohol ... we see it all the time ... just as long as we can work together ... and you make sure that you have enough staff to manage your crowd ... that's the big thing ... I understand what you're saying in that you're limited in what you can do but you have to have enough staff to handle that amount of crowd.

Mr. Flynn responded, if he had a parking lot ... it would be much easier for us to go in there and say ... guys ... cars ... out of here! ... But we're dealing with public streets ... and we don't even know where all these people are coming from ... they're coming from various different clubs.

Sgt. Belong responded, I can tell you that they're coming from your place because I've sat out there, especially this summer ... I've observed them coming out of your doors and you have one bouncer outside ... and instead of him doing his job and saying, "let's go" ... he's talking to a girl or he's flirting with somebody else ... you need to get all your bouncers outside at closing time to get people to move out of the area ... and I do agree with you ... that there is some congregating occurring on the streets and there are some patrons that come down Purchase Street or from the other taverns ... but you're the only bar on that section of the street ... so anybody walking east from Pleasant Street ... a majority of them are coming from your place ... and that's where all the issues have occurred on William Street in front of your place ... they're not occurring down on the bottom ... but if they are occurring down the bottom ... it's because they're walking east for the most part after we followed them ... all the arrests that occurred when I was the supervisor were from people leaving your establishment ... which was a result of having a lack of proper security at closing time ... which allowed loitering in the area for long periods of time ... which forces us to have to take action to get them to leave ... at which point they get upset that they're being told by the police that they have to leave ... at which point they start walking down the street ... and they become combative ... assaultive ... as a result of being highly intoxicated.

The issue with regard to the foot traffic in that area was further discussed at great length among those present.

Mr. Flynn responded to the discussion regarding the foot traffic in the area by stating, that's why we're adding the extra camera facing west towards City Hall, which will ensure that we have camera coverage from both directions in order to see where someone was coming from, if there was to be an incident in front of the establishment or on either corner to the east and west.

Capt. Vicente did note that the amount calls have decreased in the last two months or so but he didn't know if that was attributed to the changes they've already implemented or was due to the fact that the summer period had ended; at which point the crowds tended to be smaller; and that they were less likely to congregate on the streets in the cold weather.

Mr. Flynn responded, I think part of it's because we've become more restrictive as to who we let into the club with regard to what we refer to as bad people.

Capt. Vicente reminded Mr. Flynn that Thanksgiving Weekend was coming up, and he suggested that he have extra staff of duty for that weekend, to which Mr. Flynn responded we're already planning to have extra staff on for that weekend ... we will be clamping down on everything ... we're going to be maxed out ... you're going to be maxed out ... it's going to be the case for everybody ... we're just going to have to make the best of what we can with it.

Capt. Vicente concluded his remarks by stating, your biggest problem as you mentioned is the complete lack of parking, you don't have the luxury of ... okay, my place is closed ... all my cars are here ... I can have a couple of bouncers go into the lot and tell the people ... get in your cars and leave.

Mr. Flynn concluded his remarks by stating, we've also noticed that things have gotten much better, and will continue with what we've be doing

Action Taken: None - Meeting Only

- **CORRESPONDENCE,**

From: Atty. Christopher Saunders. **Dated – 10/08/13** **Received – 10/08/13**

Re: Dublin's Sports Bar N Grille, LLC d/b/a Dublin's Sports Bar **1686 Acushnet Avenue**

Kindly accept this letter as a formal request for an appeal in accordance with M.G.L. Ch. 138, sec. 67, of the decision rendered by the Licensing Board of the City of New Bedford for suspending the license of the above referenced licensee and rolling back the hours; with a request that the suspension and roll back be stayed pending the outcome of the appeal. **LATE FILE**

ACTION TAKEN: Received & Placed on File.

From: Atty. Christopher Saunders. **Dated – 11/14/13** **Received – 11/14/13**

Re: Dublin's Sports Bar N Grille, LLC d/b/a Dublin's Sports Bar **1686 Acushnet Avenue**

A written request that the City of New Bedford Licensing Board reconsider its action taken at its meeting of September 23, 2013 in suspending my client's license for a period of 14 days with 10 days to be served, and only impose the punishment of rolling back its hours for a period of 3 months that commenced on October 31, 2013. The added closure will have a devastating impact on my client's business. My client fully appreciates the gravity of the allegations outlined in the September Hearing and wishes to work proactively with the City of New Bedford Licensing Board in the future to alleviate future problems.

ACTION TAKEN: As a result of a written request submitted by Atty. Saunders, the Board gave reconsideration to their decision to suspend the license for a period of fourteen days with ten days to serve. Upon further discussion, the Board on a motion by Commissioner Almeida **voted unanimously to set aside all fourteen (14) days of the suspension for one year** as long as no other violations of Ch. 138 or N. B. Rules & Regulations are reported, **and to sustain the one year probationary period from November 1, 2013 until November 1, 2014.**

From: Kim S. Gainsboro, ABCC Chairman **Dated – 10/18/13** **Received – 10/28/13**

Re: Jay Shakti, Inc. d/b/a Seaside Wine & Spirits **37 Rockdale Avenue**

Hearing Date: Tuesday, October 15, 2013 @ 11:00 a.m. for a hearing to determine whether you have violated certain provisions of Massachusetts General Laws Chapter (M.G.L.) OR Code of Massachusetts Regulations (CMR) as follows: **204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: M.G.L. CH. 138, sec. 34-, Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age.**

Decision: Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05 (2) permitting an illegality on the licensed premises, to wit: Ch. 138, sec. 34 Sale or Delivery of an alcoholic beverage to a person under twenty-one (21) years of age. Therefore, the Commission suspends the license for three (3) days of which three (3) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.

ACTION TAKEN: Received & Placed on File.

From: Kim S. Gainsboro, ABCC Chairman **Dated – 10/30/13** **Received – 11/06/13**

Re: MWTP Restaurant Ventures, Inc. d/b/a Davy's Locker **1480 East Rodney French Boulevard**

Hearing Date: Thursday, October 31, 2013 @ 10:30 a.m. for a hearing to determine whether you have violated certain provisions of Massachusetts General Laws Chapter (M.G.L.) OR Code of Massachusetts Regulations (CMR) as follows: M.G.L. CH. 138, sec. 64, **Failure to Comply with the Laws of the Commonwealth, To Wit: M.G.L. Ch. 151A sec.14.**

DUA (Unemployment Insurance)

Cancellation of Hearing: The Alcoholic Beverages Control Commission is in receipt of a letter from the Department of Unemployment Assistance dated 10/31/13, **withdrawing their request for a hearing** that was scheduled to be heard on 10/31/13. **This commission will take no further action regarding this canceled hearing.**

ACTION TAKEN: Received & Placed on File.

- **COMPLAINTS RECEIVED:**

---NONE---

- **REVIEW POLICE DEPARTMENT INCIDENT REPORTS/ COMPLAINTS**

| <u>NAME</u> | <u>POLICE REPORT#</u> | <u>DATE</u> | <u>VIOLATION</u> |
|------------------------|-----------------------|-------------|--|
| 1. Dublin's Sports Bar | #13 – 12862 – OF | 10/31/13 | Consuming Alcohol After Hours (Approximate Time of Violation 2:26 a.m.) |

Decision: Bring In For Hearing on 12/16/13

- **LICENSE HOLDERS IN TAX TITLE** – For Review Only (A/O 11/13/13)

Common Victuallers (Restaurants)

| | |
|---|--|
| Brain Freeze Ice Cream (South Coast Laundry, Inc. d/b/a)-Plot# 119--58----- | 582,271.14 – <i>No Agreement</i> |
| Chocolate Com Pimerta (Jose J. DaCosta d/b/a)-Plot# 92-70----- | \$308.90 – <i>No Agreement</i> |
| Homlyke Bakery (Homlyke Bakery Southcoast, Inc.-Plot# 127-D-128----- | \$29,940.03 – <i>No Agreement</i> |
| Shawmut Diner (Andros Island, Inc. d/b/a)-Plot# 95-233----- | \$23,760.92 – <i>Agreement/Non-Compliant</i> |
| Shawmut Diner (Andros Island, Inc. d/b/a)-Plot# 95-303----- | \$13,109.82 - <i>Agreement/Non-Compliant</i> |
| | \$649,390.81 |

Class II (Used Car Dealer)

| | |
|--|---|
| Capitol Motors (Ronald Moura d/b/a)-Plot# 23-219----- | \$8,688.70 – <i>2013 Agreement Not Signed</i> |
| Furtado's Auto Sales & Service (Simon Furtado d/b/a)-Plot# 13-138----- | \$4,911.43 – <i>No Agreement</i> |
| Lima's Garage & Auto Body, Inc.-Plot# 97-147----- | \$13,923.39 - <i>Agreement/Non-Compliant</i> |
| Oliver Used Auto Sales & Repairs (Itamar C. Oliveira d/b/a)-Plot# 102-121----- | \$2,073.89 – <i>No Agreement</i> |
| Washington Square Auto Sales (Lee Transportation Corp. d/b/a)-Plot# 36-224-- | \$1,612.26 – <i>Agreement/Compliant (?)</i> |
| | \$31,209.67 |

Liquor Licenses

Common Victualler AA (Restaurants)

| | |
|--|---|
| Chuck's China Inn (Luk & Chen, Inc. d/b/a)-Plot# 111-21----- | \$274.88 – <i>No Agreement</i> |
| Danny's Seafood Restaurant (Norway Café, Inc. d/b/a)-Plot# 108-13----- | \$18,414.43 – <i>Agreement/Compliant</i> |
| Incognito (Anthsand, Inc. d/b/a)-Plot# 104-114----- | \$5,334.33 – <i>No Agreement</i> |
| Jalice Café, Inc.-Plot# 99-3----- | \$9,392.60 – <i>Agreement/Non-Compliant</i> |
| LePlace (Pam-Lu Corporation d/b/a)-Plot# 85-148----- | \$2,783.81 – <i>Agreement/Compliant</i> |
| LePlace (Pam-Lu Corporation d/b/a)-Plot# 85-151----- | \$6,945.63 – |

Agreement/Compliant

| | |
|--|---------------------------------------|
| Me & Ed's Restaurant, Inc.-Plot# 5--7----- | \$12,237.22 – Agreement/Non-Compliant |
| Me & Ed's Restaurant, Inc.-Plot# 4-29----- | \$7,920.52 – Agreement/Non-Compliant |
| Me & Ed's Restaurant, Inc.-Plot# 4-51----- | \$12,899.25 – Agreement/Non-Compliant |
| Mikey B's (Mikey B's, Inc. d/b/a)-Plot# 130-D-139----- | \$644,233.56 – Agreement/Compliant |
| The Pub (Ferdade, Inc. d/b/a)-Plot# 93—240----- | \$7,218.02 – No Agreement |
| The Symposium, LLC-Plot# 123-A-237----- | \$5,631.72 – No Agreement |
| | \$733,285.97 |

Common Victualler Wine & Malt Only (7 Days)

| | |
|--|----------------------------|
| The Boat (Lemieux Enterprises, Inc. d/b/a)-Plot#127-D-141----- | \$9,035.15 – No Agreement |
| The Celtic Coffee House (Celtic Coffee House, LLC d/b/a)-Plot#53--180----- | \$9,143.17 – No Agreement |
| The Celtic Coffee House (Celtic Coffee House, LLC d/b/a)-Plot#53--144----- | \$19,817.53 – No Agreement |
| | \$37,995.85 |

Clubs AA

| | |
|---|---------------------------------------|
| New Bedford Lodge No. 73 – BPO Elks.-Plot#46--86----- | \$14,119.55 – No Agreement |
| The Bisca Tournament Club, Inc.-Plot#37-3----- | \$4,313.06 – Agreement/Non-Compliant |
| The Bisca Tournament Club, Inc.-Plot#37-322----- | \$5,226.02 – Agreement/Non-Compliant |
| The New Cape Verdean Ultramarine Band Club, Inc.-Plot#42-183----- | \$12,034.23 – Agreement/Non-Compliant |
| Whaling City Club, Inc.-Plot#104-164----- | \$1,437.748 – Agreement/Compliant |
| | \$37,130.60 |

Retail Package Store W & M

| | |
|---|---------------------------------------|
| Costa's Gas & Mini-Mart (MMRB Corp., Inc. d/b/a)-Plot#92-267----- | \$16,820.11 – Agreement/Non-Compliant |
| | \$16,820.11 |

Outstanding Owed = \$1,505,293.01

- **NEXT TWO (2) MEETING DATES:** December 16th & January 21, 2014 (Tuesday, in Room 205) - **Approved**
- **MEETING ADJOURNED:** 8:01 p.m.