

MINUTES OF THE NHLC
DIVISION OF ENFORCEMENT & LICENSING MEETING
FOR WEDNESDAY, MAY 8, 2013

1. LICENSEES WHO HAVE NOT ATTENDED MANDATORY TRAINING:

None

2. HEARINGS SCHEDULED AT THE LIQUOR COMMISSION, 50 STORRS STREET, CONCORD, NH:

None

HEARING SCHEDULED AT THE DIVISION OF ENFORCEMENT, 57 REGIONAL DRIVE, CONCORD, NH:

None

3. WARNING LETTERS/FINES/SUSPENSIONS/MANDATORY TRAINING FOR COMMISSION APPROVAL:

- a. Clark's Tavern, 40 Nashua Road, Milford, NH.
Restaurant On-Premise Beverage/Wine/Liquor License #1420603 licensed pursuant to RSA 178:21.
Cited for violation of RSA 179:5, I - served or sold an alcoholic beverage to an individual who was visibly intoxicated or who a reasonable and prudent person would know is intoxicated – 3 counts.
Dates of violations: November 15, 2011 & January 27, 2012.
Case #: 12-42-OF & 12-204-OF.
Recommendation: Settlement reached for a \$500 administrative fine, four (4) points assessed to the liquor license & the license to sell alcohol suspended for three (3) days with two (2) days held in abeyance for twelve (12) months pending no like violation to occur on May 28, 2013.
COMMISSIONER MILLIGAN MOVED TO APPROVE THE RECOMMENDATION; CHAIRMAN MOLLIKA SECONDED THE MOTION; THE MOTION PASSED.
- b. Garagiste, 707 South Lander Street, Seattle, WA.
Direct Shipper Permit #8060933 licensed pursuant to RSA 178:27.
Cited for violation of RSA 178:27, V – failed to report a shipment by the 15th of January, 2013.
Date of violation: March 6, 2013.
Case #: 13-70-OF.
Recommendation: Nol pros.
COMMISSIONER MILLIGAN MOVED TO APPROVE THE RECOMMENDATION; CHAIRMAN MOLLIKA SECONDED THE MOTION; THE MOTION PASSED.
- c. Grapes The Wine Company, 731 North Broadway, White Plains, NY.
Direct Shipper Permit #8104333 licensed pursuant to RSA 178:27.
Cited for violation of RSA 178:27, V – failed to report a shipment by the 15th of October, November & December, 2012 & January & February, 2013.
Date of violations: March 6, 2013.
Case #: 13-71-OF.
Recommendation: \$1,250 administrative fine with \$750 suspended for twelve (12) months pending no like violation.
COMMISSIONER MILLIGAN MOVED TO APPROVE THE RECOMMENDATION; CHAIRMAN MOLLIKA SECONDED THE MOTION; THE MOTION PASSED.

- d. Veterans of Foreign Wars, 1 VFW Way, Milford, NH.
Veterans Club License #19239 licensed pursuant to RSA 178:22, V(h).
Cited for violation of RSA 179:5, I - served or sold an alcoholic beverage to an individual who was visibly intoxicated or who a reasonable and prudent person would know is intoxicated.
Cited for violation of RSA 178:22, V(h)/Liq. 501.04 – served alcohol to a member of the general public.
Date of violations: June 3, 2011.
Case #12-35-OF.
Recommendation: For violation of RSA 179: 5, I, a \$500 administrative fine, four (4) points assessed to the liquor license & the license to sell alcohol suspended for three (3) days held in abeyance for twelve (12) months pending no like violation and for violation of RSA 178:22, V(h)/Liq. 501.04, a \$100 administrative fine.
COMMISSIONER MILLIGAN MOVED TO APPROVE THE RECOMMENDATION; CHAIRMAN MOLLIKA SECONDED THE MOTION; THE MOTION PASSED.
- e. TGI Friday's, 1516 South Willow Street, Manchester, NH.
Restaurant On-Premise Beverage/Wine/Liquor License #1088903 licensed pursuant to RSA 178:21.
Cited for violation of RSA 179:51 – failed to maintain an orderly premise.
Date of violation: October 22, 2011.
Case #: 12-36-OF.
Recommendation: Settlement reached for a \$500 administrative fine.
COMMISSIONER MILLIGAN MOVED TO APPROVE THE RECOMMENDATION; CHAIRMAN MOLLIKA SECONDED THE MOTION; THE MOTION PASSED.

4. NOTIFICATION OF NON-CONTESTED TITLE XIII VIOLATION FINES PAID IN FULL:

Lebanon Village Pizza, 45 Hanover Street, Lebanon, NH.
Restaurant On-Premise Cocktail Lounge License #275903 licensed pursuant to RSA 178:22.
Cited for violation of RSA 179:27, II - served or consumed alcoholic beverage in areas not approved by the Commission – 2 counts.
Date of violation: September 7, 2012.
Case #12-261-OF.
\$500 administrative fine paid.
COMMISSION ACKNOWLEDGED.

5. NOTIFICATION OF COMPLIANCE CHECKS SCHEDULED WITHIN NINETY (90) DAYS:

Allenstown, NH;
Bow, NH; and
Henniker, NH.

6. NOTIFICATION OF ALCOHOL COMPLIANCE CHECKS:

None

7. NOTIFICATION OF TOBACCO COMPLIANCE CHECKS:

None

8. NOTIFICATION OF NEW APPROVED LICENSES:

- a. Flynn, Bonnie DBA Flynnagan's, 237 Ossipee Lake Road, Tamworth, NH 03886.
Issued Restaurant On-Premise Beverage and Wine License #1464803 pursuant to RSA 178:20.
COMMISSION ACKNOWLEDGED.
- b. Francoeur, Paul DBA Café On The Oval, 285 Union Square, Milford, NH 03055.
Issued Restaurant On-Premise Beverage and Wine License #1456403 pursuant to RSA 178:20.
COMMISSION ACKNOWLEDGED.

9. NOTIFICATION OF APPROVED SOLICITORS/REPRESENTATIVE & DIRECT SHIPPER APPLICATIONS:

TOTAL NUMBER OF ACTIVE DIRECT SHIPPER PERMITS ENDING MAY 6, 2013: 995

- a. Hill Wine Company LLC DBA Hill Wine Company, 1001 Silverado Trail, Saint Helena, CA 94574.
Issued Direct Shipper Permit #8206433 pursuant to RSA 178:27.
COMMISSION ACKNOWLEDGED.
- b. Alvarez Vineyards LLC DBA Miraflores Winery, 2120 Four Springs Trail, Placerville, CA 95667.
Issued Direct Shipper Permit #8206533 pursuant to RSA 178:27.
COMMISSION ACKNOWLEDGED.
- c. Flying Goat Cellars, Inc., 1520 East Chestnut Court, Unit A, Lompoc, CA 93436.
Issued Direct Shipper Permit #8206633 pursuant to RSA 178:27.
COMMISSION ACKNOWLEDGED.
- d. Burrell School Vineyards, Inc. DBA Burrell School Vineyards,
24060 Summit Road, Los Gatos, CA 95033.
Issued Direct Shipper Permit #8206733 pursuant to RSA 178:27.
COMMISSION ACKNOWLEDGED.
- e. 26 Brix LLC DBA B Cellars Napa Valley Blends, 400 Silverado Trail, Calistoga, CA 94515.
Issued Direct Shipper Permit #8206833 pursuant to RSA 178:27.
COMMISSION ACKNOWLEDGED.
- f. Barlow Vineyards LLC DBA Barlow Vineyards, 4411 Silverado Trail, Calistoga, CA 94515.
Issued Direct Shipper Permit #8206933 pursuant to RSA 178:27.
COMMISSION ACKNOWLEDGED.
- g. Delicato Vineyards, Inc. DBA Black Stallion Winery, 4140 E. French Camp Road, Manteca, CA 95336.
Issued Direct Shipper Permit #8207033 pursuant to RSA 178:27.
COMMISSION ACKNOWLEDGED.
- h. California Fruit Exchange DBA Golden Gate Fruit, 356 S. Sunset, Lodi, CA 95240.
Issued Direct Shipper Permit #8207133 pursuant to RSA 178:27.
COMMISSION ACKNOWLEDGED.
- i. Pali Wine Company LP DBA Pali Wine Company,
401 Wilshire Blvd., Suite 300, Santa Monica, CA 90401.
Issued Direct Shipper Permit #8207233 pursuant to RSA 178:27.
COMMISSION ACKNOWLEDGED.

10. CANCELLATION OF PERMITS FOR COMMISSION APPROVAL:

None

11. NOTIFICATION OF APPROVED PETITIONS:

Dube, Eric, 55 Chocorua Road, Tamworth, NH 03886.
Wine Manufacturer Off-Premise Wine Only License #564230, licensed pursuant to RSA 178:8.
Requested approval for authorization of other areas, to wit, Tamworth Farmer's Market at Unitarian
Universalist Fellowship of the Eastern Slopes, 30 Tamworth Road, Tamworth, NH 03886 on May 18 & 25,
2013 from 9 am to 12 pm pursuant to RSA 178:24 and Liq. 404.05.
COMMISSION ACKNOWLEDGED.

12. FELON EXCEPTIONS FOR COMMISSION APPROVAL:

Bon Bon's Mobil, 140 D.W. Highway, Merrimack, NH.
Combination Off-Premises Beverage/Wine/Tobacco #3232347 licensed pursuant to RSA 178:18/126-K:4.
Requests approval for a Felon Exception for John Wright as a Person In Charge pursuant to
RSA 178:4, RSA 179:23 and Liq. 404.06(c).
Case #: 13-108-OF.
Recommendation: Approval.
**COMMISSIONER MILLIGAN MOVED TO APPROVE THE RECOMMENDATION; CHAIRMAN
MOLLICA SECONDED THE MOTION; THE MOTION PASSED.**

13. **COMMISSION DECISIONS PENDING AFTER AGENDA MEETING:**

- a. Sanora Hospitality LLC, 605 Daniel Webster Highway, Merrimack, NH 03054.
Issued Combination Off-Premise Beverage/Wine/Tobacco Liquor License #3297847 pursuant to RSA 178:18/126-K:4
Licensee requesting exception to RSA 178:3 not a resident alien.
Recommendation : **DENIAL.**
COMMISSIONER MILLIGAN MOVED TO TABLE THIS ITEM; CHAIRMAN MOLLIKA SECONDED THE MOTION; THE MOTION PASSED; CHIEF EDWARDS OF THE DIVISION OF ENFORCEMENT STATED THE PROSPECTIVE LICENSEE LACKS THE PROPER ALIEN STATUS TO HOLD A LIQUOR LICENSE; THE PROSPECTIVE LICENSEE, SANDEEP ARORA, VERBALLY EXPRESSED HIS NEED FOR A LIQUOR LICENSE, THAT HE FELT HE WAS QUALIFIED TO HOLD A LICENSE UNDER THE LAW, THAT THE FORMS COMPLETED TO OBTAIN THE LICENSE WERE UNCLEAR RELATIVE TO ALIEN STATUS, AND THE DAMAGES HE WOULD SUFFER IF NOT GRANTED A LICENSE; THE COMMISSION INSTRUCTED CHIEF EDWARDS TO SEEK A LEGAL OPINION FROM THE ATTORNEY GENERAL'S OFFICE; CHIEF EDWARDS AND THE PROSPECTIVE LICENSEE SHALL SUBMIT TO THE COMMISSION A WRITTEN ARGUMENT TO SUPPORT THEIR POSITION.
THE ATTORNEY GENERAL'S OFFICE INFORMED THE DIVISION OF ENFORCEMENT THAT THE PROSPECTIVE LICENSEE'S ALIEN STATUS DOES NOT BAR HIM FROM OBTAINING A LIQUOR LICENSE.
COMMISSION MILLIGAN MOVED FOR THE LICENSEE TO OPERATE UNDER A TEMPORARY LIQUOR LICENSE; THIS ITEM WILL BE VOTED UPON WHEN THE LICENSEE APPEARS BEFORE THE COMMISSION; CHAIRMAN MOLLIKA SECONDED; THE MOTION PASSED.
THE LICENSEE WILL COME BEFORE THE COMMISSION ON MAY 8, 2013.
COMMISSIONER MILLIGAN MOVED TO TAKE THIS ITEM OFF THE TABLE AND TO APPROVE THE LIQUOR LICENSE; CHAIRMAN MOLLIKA SECONDED THE MOTIONS; THE MOTIONS PASSED.
- b. Tuckaway NH LLC, 58 Route 27, Raymond, NH 03077.
Combination Off-Premise Beverage/Wine Liquor License #3288447 licensed pursuant to RSA 178:18.
Requests permission to hold a brew pub license on the same property as the current combination license; the Licensee currently holds a combination license and a Restaurant On-Premise Beverage/Wine/Liquor License #1442903 on the same property and plans to change the restaurant to a brew pub.
Recommendation: **TO BE DISCUSSED.**
LISA SOIETT APPEARED BEFORE THE COMMISSION WITH LICENSEE, PAUL SUMBLIARIS AND PAUL PIRAINO TO CHANGE THE RESTAURANT LICENSE TO A BREW PUB LICENSE; THE LICENSE QUESTIONED WHETHER THE LICENSEE COULD SELL BEER IN HIS ESTABLISHMENT THAT HAD BEEN MANUFACTURED BY OTHER BEER PRODUCERS; CHIEF EDWARDS OF THE DIVISION OF ENFORCEMENT STATED THE LICENSEE COULD ONLY SELL ON HIS PROPERTY BEER THAT HE PRODUCED; CHIEF EDWARDS AND THE LICENSEE WERE INSTRUCTED TO SUBMIT A WITTEN ARGUMENT SUPPORTING THEIR RESPECTIVE POSITIONS.
THE DIVISION OF ENFORCEMENT ARGUES THAT THE LICENSEE INTENDS TO BREW BEER AND SELL IT UNDER BOTH THE COMBINATION AND BREW PUB LICENSES BUT WOULD ALSO LIKE TO SELL BEER PRODUCTS PRODUCED BY OTHER MANUFACTURERS WHICH IS NOT ALLOWED PURSUANT RSA 179:11; THE COMMISSION IS AWAITING A WRITTEN ARGUMENT FROM THE LICENSEE.
ON APRIL 25, 2013, THE DIVISION OF ENFORCEMENT LEFT VOICEMAIL FOR THE LICENSEE REGARDING SUBMITTING A WRITTEN ARGUMENT; THE LICENSEE DID NOT RETURN THE CALL.

14. COMMISSION DECISIONS PENDING AFTER HEARING:

- a. Irokos Group LLC, 101 Tremont Street, Suite 908, Boston, MA 02108.
Beverage Vendor Off-Premise Beverage Only License #66931 licensed pursuant to RSA 178:15.
Requests approval of three new brands, MOJO Tropical Fruit, Strawberry Kiwi and Fruit Punch; these products are clear liquid, resembling water and are packaged in containers that resemble specialty water products; the lettering stating alcohol content and alcohol percentage are not easily seen and the containers could easily be thought to contain non-alcoholic product pursuant to RSA 179:33.
Recommendation: **DENIAL.**
COMMISSIONER MILLIGAN MOVED TO APPROVE THE RECOMMENDATION; CHAIRMAN MOLLICA SECONDED THE MOTION; THE MOTION PASSED.
LICENSEE REQUESTED A HEARING ON MARCH 28, 2013.
PRE-HEARING CONFERENCE HELD APRIL 10, 2013; HEARING RESCHEDULED FROM APRIL 10, 2013 TO MAY 8, 2013.
A HEARING WAS HELD ON MAY 8, 2013 AT 1:30 P.M.; THE COMMISSION HAS TAKEN THIS MATTER UNDER ADVISEMENT PENDING RECEIPT OF DATA FROM THE PETITIONER AND DOCUMENTATION REFERENCED AT THE ENFORCEMENT AGENDA MEETING OF MARCH 13, 2013; ALL DOCUMENTS ARE TO BE SUBMITTED TO THE HEARINGS OFFICER BY MAY 15, 2013; A DATE FOR DELIBERATIONS WILL BE SET AT A LATER DATE.
- b. Yen Yen Restaurant, Shopping Village, Route 202, Peterborough, NH.
Restaurant On-Premise Cocktail Lounge License #267103 licensed pursuant to RSA 178:22.
Cited for violation of RSA 179:5, I - served or sold an alcoholic beverage to an individual who was visibly intoxicated or who a reasonable and prudent person would know is intoxicated.
Date of violations: August 24, 2012.
Case #: 12-298-OF.
A HEARING WAS HELD ON MAY 6, 2013 AT 10:00 A.M.; THE COMMISSION WILL HOLD ITS DELIBERATIONS AFTER THE ENFORCEMENT AGENDA MEETING ON MAY 22, 2013.

15. HEARING RESULTS:

None

16. MISCELLANEOUS ITEMS FOR COMMISSION APPROVAL:

Ruckus Brewing Company LLC, 261 W 35th Street, Suite 1002, New York, NY 10001.
Beverage Vendor License #57931.
Licensed pursuant to RSA 178:15.
Requests approval of Hedonism Red Ale with an alcohol content of 7% percent at 60 degrees Fahrenheit by volume pursuant to RSA 178:1 LXIV-a & RSA 179:40-a.
Recommendation: **DENIAL.**
COMMISSIONER MILLIGAN MOVED TO APPROVE THE RECOMMENDATION; CHAIRMAN MOLLICA SECONDED THE MOTION; THE MOTION PASSED TO DENY APPROVAL OF THIS PRODUCT.

17. EXECUTIVE SESSION ITEMS:

None