

AGENDA OF THE NHLC
DIVISION OF ENFORCEMENT & LICENSING MEETING
FOR THURSDAY, DECEMBER 6, 2018

1. RECOMMENDATION TO ACCEPT THE MINUTES FROM THE COMMISSION MEETING HELD NOVEMBER 29, 2018.

2. SCHEDULED HEARINGS:

None

3. NOTIFICATION OF DISCIPLINARY ACTION:

Imperial Buffet & Lounge, 152 Washington Street, Claremont, NH.

Restaurant, Full Service With Lounge License #1301603 issued pursuant to

RSA 178:21, II(a)(1)/RSA 178:22, V(q).

Cited for violation of RSA 179:5, I - served or sold alcoholic beverage to an individual who was visibly intoxicated or who a reasonable and prudent person would know is intoxicated.

Date of violation: December 23, 2016.

Case #: 16-406-OF.

An administrative fine of \$500 due, four (4) points shall be assessed to the liquor license, the license to sell, serve or consume alcohol shall be suspended in the cocktail lounge only for three (3) days with one (1) day held in abeyance for twelve (12) months pending no like violation commencing December 13, 2018 and re-granted on December 15, 2018 and Maria Horsky shall attend a Total Education in Alcohol Management (TEAM) seminar in a classroom within thirty (30) days from the date of this fully signed agreement.

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

None

5. LICENSE APPLICATIONS RECOMMENDED FOR COMMISSION APPROVAL:

- a. DG Retail LLC DBA Dollar General Store #18150, 1264 Main Street, Bethlehem, NH 03574.
To be issued Combination, Off-Premises Beverage/Wine/Tobacco #3377247
pursuant to RSA 178:18/RSA 178:19-a.
30-Day Temporary License issued 11/28/2018.
- b. Definitive Brewing Company, 35 Industrial Way, Portland, ME 04103.
To be issued Beverage Vendor License #89831 pursuant to RSA 178:15.
Manufacturer: Definitive Brewing Company.
- c. G & S Restaurant Management LLC DBA Maza Mediterranean Grill,
274 Daniel Webster Highway, Nashua, NH 03060.
To be issued Restaurant, On-Premises Beverage & Wine License #1574203 pursuant to RSA 178:20.
30-Day Temporary License issued 11/29/2018.
- d. Greater Portsmouth Chamber of Commerce,
Sheraton Portsmouth, 250 Market Street, Portsmouth, NH 03801.
To be issued a One-day, Voluntary Nonprofit Organizations Beverage/Wine/Liquor License
pursuant to RSA 178:22, V(l).
Event date: 12/19/2018.
- e. Mishank, Inc. DBA Pick N Pay, 803 Lafayette Road, Portsmouth, NH 03801.
To be issued Combination, Off-Premises Beverage/Wine/Tobacco License #3377847
pursuant to RSA 178:18/RSA 178:19-a.
30-Day Temporary License issued 11/21/2018.

- f. O'Shea's Caife and Tae LLC, 44 Nashua Road, Unit 20A, Londonderry, NH 03053.
To be issued Restaurant, On-Premises Beverage & Wine License #1564003 pursuant to RSA 178:20.
30-Day Temporary License issued 11/29/2018.
- g. Smokeshow Barbeque LLC, 2800 Lafayette Road, Unit 9, Portsmouth, NH 03801.
To be issued Restaurant, On-Premises Beverage & Wine License #1568003 pursuant to RSA 178:20.
30-Day Temporary License issued 11/29/2018.
- h. Wolffer Estate Vineyard, Inc., 133 Sagg Road, Sagaponack, NY 11962.
To be issued Beverage Vendor License #87631 pursuant to RSA 178:15.
Manufacturer: Wolffer Estate Vineyard, Inc.
- i. Xaysana, Vongphachanh DBA Thai Taste, 499 Central Avenue, Dover, NH 03820.
To be issued Restaurant, On-Premises Beverage & Wine License #1575003 pursuant to RSA 178:20.
30-Day Temporary License issued 11/21/2018.

6. LICENSE APPLICATIONS RECOMMENDED FOR COMMISSION DENIAL:

None

7. DIRECT SHIPPER APPLICATIONS RECOMMENDED FOR COMMISSION APPROVAL:

TOTAL NUMBER OF ACTIVE DIRECT SHIPPER PERMITS ENDING NOVEMBER 30, 2018: 1,194

Magnavita Cellars LLC, 950 Randolph Street, Napa, CA 94558.
To be issued Direct Shipper, Wine Manufacturer Permit pursuant to RSA 178:27.
(Winery)

8. DIRECT SHIPPER APPLICATIONS RECOMMENDED FOR COMMISSION DENIAL:

None

9. NOTIFICATION OF APPROVED PETITIONS:

Sap House Meadery LLC, 6 Folsom Road, Center Ossipee, NH 03814.
Wine Manufacturer License #563130 issued pursuant to RSA 178:8.
Date petition received: 11/21/2018.
Date petition approved: 11/21/2018.
Requested approval for authorization for tasting at farmers' market, to wit, Made in NH EXPO, Double Tree By Hilton, 700 Elm Street, Manchester, NH on Saturday, December 8, 2018 between 10 am and 7:30 pm and Sunday, December 9, 2018 between 10 am and 5 pm pursuant to RSA 178:24/RSA 179:44, II-a; the City of Manchester has approved retail sales at this event.

10. PETITIONS RECOMMENDED FOR COMMISSION DENIAL:

None

11. TABLED ITEMS:

1-800 Wine Shop.com, Inc., 525 Airpark Road, Napa, CA 94558.
Renewal Application for Direct Shipper, Wine Manufacturer Permit #8007233 pursuant to RSA 178:27.
Recommend denial pursuant to RSA 178:27, I(a)/Liq. 1101.01(f) because Permittee is a Retailer.
ON NOVEMBER 8, 2018, DEPUTY COMMISSIONER MILLIGAN MOVED TO TABLE THIS ITEM;
CHAIRMAN MOLLIKA SECONDED THE MOTION; THE MOTION PASSED.
ON NOVEMBER 15, 2018, THIS ITEM REMAINED TABLED.
ON NOVEMBER 29, 2018, DEPUTY CHIEF SCOTT DUNN INFORMED THE COMMISSION THAT DISCUSSIONS WITH THIS PERMITTEE CONCERNING HIS PERMIT TYPE CONTINUE AND

RECOMMENDED THAT THIS ITEM REMAIN TABLED; THE COMMISSION ACCEPTED THE RECOMMENDATION.

12. MISCELLANEOUS ITEMS RECOMMENDED FOR COMMISSION APPROVAL:

Pabst Brewing Company LLC, 121 Interpark Boulevard, Suite 300, San Antonio, TX 78216.
Beverage Vendor License #4131 licensed pursuant to RSA 178:15.
Requests approval of Not Your Father's Lemonade with an alcohol content of 7.92% at 60 degrees Fahrenheit by volume pursuant to RSA 178:1, LXIV-a/RSA 179:40-a; sample provided.

13. MISCELLANEOUS ITEMS RECOMMENDED FOR COMMISSION DENIAL:

None

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

None

15. NOTIFICATION OF COMPLIANCE CHECKS:

None

16. NOTIFICATION OF DENIED FELON WAIVER:

None

17. ADMINISTRATIVE HEARING DECISION PENDING:

Eclipse Bar and Restaurant, 253 Wilson Street, Manchester, NH.
Denial of Restaurant, Full Service With Lounge License issued pursuant to
RSA 178:21, II(a)(1)/RSA 178:22, V(q).
COMMISSION ACKNOWLEDGED.
THE HEARING WAS HELD ON NOVEMBER 16, 2018 BEFORE CHIEF HEARINGS OFFICER
JOSEPH PLAIA.

ON NOVEMBER 28, 2018, CHIEF HEARINGS OFFICER JOSEPH PLAIA ORDERED THAT THE COMMISSION'S DECISION TO DENY A LIQUOR LICENSE TO ECLIPSE BAR & RESTAURANT IS UPHOLD. NO LICENSE SHALL BE ISSUED FOR ECLIPSE BAR & RESTAURANT.

DISCUSSION AND DISPOSITION: RSA 178:3 VII PROVIDES IN PERTINENT PART "THE COMMISSION SHALL NOT ISSUE A LICENSE UNDER THIS CHAPTER UNLESS IT IS SATISFIED THAT:...(B) THE APPLICANT AND ANY PERSON LISTED...LEAVE NO SUBSTANTIAL DOUBT THAT THE PROPOSED BUSINESS SHALL BE OPERATED IN STRICT ACCORDANCE WITH ALL APPLICABLE STATE AND FEDERAL ALCOHOLIC BEVERAGE CONTROL LAWS AND RULES...AND (E) THE PERSON OR PERSONS ACTUALLY MANAGING THE PROPOSED BUSINESS...ARE PROFESSIONALLY QUALIFIED TO PERFORM SUCH WORK IN A MANNER WHICH COMPLIES WITH THE LAWS OF THIS STATE AND THE RULES OF THE COMMISSION."

THE LICENSEE DID NOT DISPUTE THE VIOLATIONS OF HOURS OF SALE CONTRARY TO RSA 179:17, EMPLOYEE RESTRICTIONS CONTRARY TO RSA 179:20, II AND OPERATING WHILE CLOSED TO THE GENERAL PUBLIC CONTRARY TO RSA 178:22 ON JULY 28, 2018, AND ADDITIONAL VIOLATION OF HOURS OF SALE CONTRARY TO RSA 179:17 THE VERY NEXT NIGHT OF JULY 29, 2018. PRIOR TO THE LICENSE APPLICATION RENEWAL, SUBSTANTIAL DOUBT ALREADY EXISTED AS TO WHETHER THE BUSINESS WOULD BE OPERATING IN STRICT ACCORDANCE

WITH STATE AND FEDERAL LAWS AND RULES. ONCE GIVEN A TEMPORARY LICENSE ON SEPTEMBER 21, 2018, A PREMISE CHECK REVEALED THREE ADDITIONAL VIOLATIONS THAT VERY DAY. SGT. ELLSTON TESTIFIED SHE PERSONALLY OBSERVED THE MANAGER DRINKING ALCOHOL IN THE OFFICE OF ECLIPSE BAR & RESTAURANT WHILE HOLDING AN ILLEGAL POKER GAME. THE LICENSEE ONLY DISPUTED WHETHER THE MANAGER WAS DRINKING, AND ONLY PRODUCED HEARSAY TESTIMONY TO DENY THE ALLEGATION.

THE LICENSEE QUESTIONS WHY HOLDING A POKER GAME AND CONSUMING ALCOHOL IN THE OFFICE IS PROHIBITED. FIRST, HE ATTENDED A MANAGEMENT TRAINING SEMINAR DETAILING WHAT AREAS ARE APPROVED FOR SERVICE OF ALCOHOL AND THAT GAMBLING IN THE ESTABLISHMENT WAS A VIOLATION OF TITLE XIII. SECOND, RSA 178:22 (V)(Q) PROVIDES WHERE AND WHEN SERVICE OF ALCOHOLIC BEVERAGES CAN TAKE PLACE IN COCKTAIL LOUNGES LOCATED FULL SERVICE RESTAURANTS. IT IS SPECIFICALLY LIMITED TO THE RESTAURANT AND COCKTAIL LOUNGE AND MUST BE OPEN TO THE PUBLIC. LIQ. RULE 404.05 DETAILS SERVICE IN OTHER AREAS REQUIRES PETITIONING THE COMMISSION AND PRIOR APPROVAL. AS FOR THE POKER GAME, LIQ. RULE 404.01 STATES "NO LICENSEE SHALL USE, OR ALLOW TO BE USED, THE PREMISES FOR THE ILLEGAL SALE OF LOTTERY TICKETS OR GAMES OF CHANCE, GAMBLING, OR BOOKING OF HORSES OR SPORTS EVENTS."

MR. AROCHO BECAME THE LICENSEE FOR ECLIPSE BAR & RESTAURANT ON MARCH 17, 2018 AND ATTENDED A MANAGEMENT TRAINING SEMINAR ON MAY 23, 2018. THE ESTABLISHMENT WAS ISSUED FOUR ADMINISTRATIVE NOTICES FOR VIOLATIONS IN JULY, ALL OF WHICH WERE UNCONTESTED. ONCE APPROVED FOR A TEMPORARY TWENTY-DAY LICENSE ON SEPTEMBER 21, 2018, THE LICENSEE COMMITTED THREE VIOLATIONS THAT VERY SAME DAY. THESE ALL OCCURRED WITHIN A TWO-MONTH PERIOD.

I FIND BY A PREPONDERANCE OF THE EVIDENCE THERE IS SUBSTANTIAL DOUBT ECLIPSE BAR & RESTAURANT WOULD BE OPERATED IN STRICT ACCORDANCE WITH ALL APPLICABLE STATE AND FEDERAL ALCOHOLIC BEVERAGE CONTROL LAWS AND RULES, AND THE PERSONS ACTUALLY MANAGING ECLIPSE BAR & RESTAURANT ARE PROFESSIONALLY QUALIFIED TO PERFORM SUCH WORK IN A MANNER WHICH COMPLIES WITH THE LAWS OF THIS STATE AND THE RULES OF THE COMMISSION. SEE RSA 178:3.

18. ADMINISTRATIVE HEARING DECISION:

None

19. MISCELLANEOUS ITEMS FOR INFORMATION ONLY:

None