

MINUTES OF THE NHLC
DIVISION OF ENFORCEMENT & LICENSING MEETING
FOR WEDNESDAY, NOVEMBER 24, 2021

1. RECOMMENDATION TO ACCEPT THE MINUTES FROM THE COMMISSION MEETING HELD NOVEMBER 18, 2021.

CHAIRMAN MOLLICA ACCEPTED THE MINUTES OF NOVEMBER 18, 2021.

2. SCHEDULED HEARING AT LIQUOR COMMISSION OFFICES, 50 STORRS STREET, CONCORD, NH:

December 1, 2021 at 12:30 p.m.:

Opus Lounge, 14 West Hollis Street, Nashua, NH 03060.

Restaurant, On-Premises, Beverage/Wine/Liquor License #1593703 licensed pursuant to RSA 178:21.

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

Cited for violation of RSA 179:27 – allowed patrons to self-serve alcohol beverages.

Cited for violation of RSA 179:50 – allowed patrons to smoke hookah devices on the premises – 2 counts.

Date of violation: January, 25, 2021, May 7, 2021 & October 30, 2021.

Case #: 21-57-OF, 21-258-OF & 21-575-OF.

3. NOTIFICATION OF ADMINISTRATIVE ACTION PER SETTLEMENT AGREEMENT:

a. 603 Brewery, 42 Main Street, Londonderry, NH 03053.

Beverage Manufacturer License #293518 licensed pursuant to RSA 178:12.

Cited for violation of RSA 178:12/RSA 178:26 – failed to file a monthly tax report and pay required fees by the 10th of the following month.

Date of violation: October 14, 2021.

Case #: 21-539-OF.

\$100 administrative fine, \$75.23 that represents 10% of the total outstanding taxes due for the month of September, 2021 and compliance with RSA 178:12 and RSA 178:26 regarding the filing of reports and payment of taxes by the 10th of the following month.

COMMISSION ACKNOWLEDGED.

b. Lone Wolfe Brewing Company (The), 36 Mill Street, Wolfeboro, NH 03894.

Brew Pub License #2003115 licensed pursuant to RSA 178:13.

Cited for violation of RSA 178:26 - failed to file a report and pay required taxes by the 10th of the following month.

Date of violation: July 14, 2021.

Case #: 21-378-OF.

Violation shall be placed on file for twelve (12) calendar months from the date of adjudication and compliance with RSA 178:13 and RSA 178:26 regarding the payment of taxes by the 10th of the following month.

c. COMMISSION ACKNOWLEDGED.

Lone Wolfe Brewing Company, 82 Haines Hill Road, Wolfeboro, NH 03894.

Beverage Manufacturer License #292018 licensed pursuant to RSA 178:12.

Cited for violation of RSA 178:26 - failed to file a tax report and pay required taxes by the 10th of the following month.

Date of violation: July 14, 2021.

Case #: 21-379-OF.

Violation shall be placed on file for twelve (12) calendar months from the date of adjudication and compliance with RSA 178:13 and RSA 178:26 regarding the filing of reports and payment of taxes by the 10th of the following month.

COMMISSION ACKNOWLEDGED.

- d. Sea Dog Brewing Co., 1976 White Mountain Highway, Suite #107, North Conway, NH 03860.
Brew Pub License #2002215 licensed pursuant to RSA 178:13.
Cited for violation of RSA 178:13, IV/RSA 178:26 – failed to file a monthly tax report and pay required taxes by the 10th of the following month.
Date of violation: October 14, 2021.
Case #: 21-540-OF.
\$100 administrative fine, \$.31 that represents 10% of the total outstanding taxes due for the month of September, 2021 and compliance with RSA 178:13 and RSA 178:26 regarding the filing of reports and payment of taxes by the 10th of the following month.
COMMISSION ACKNOWLEDGED.
- e. Smutlabs, 47 Washington Street, Dover, NH 03820.
Brew Pub License #2004515 licensed pursuant to RSA 178:13.
Cited for violation of RSA 178:13, IV/RSA 178:26 – failed to file a monthly tax report and pay required taxes by the 10th of the following month.
Date of violation: October 15, 2021.
Case #: 21-543-OF.
\$100 administrative fine, \$32.09 that represents 10% of the total outstanding taxes due for the month of September, 2021 and compliance with RSA 178:13 and RSA 178:26 regarding the filing of reports and payment of taxes by the 10th of the following month.
- f. **COMMISSION ACKNOWLEDGED.**
Smuttnose Brewing, 105 Towle Farm Road, Hampton, NH 03842.
Beverage Manufacturer License #292718 licensed pursuant to RSA 178:12.
Cited for violation of RSA 178:12/RSA 178:26 – failed to file a tax report and pay required taxes by the 10th of the following month.
Date of violation: October 15, 2021.
Case #: 21-547-OF.
\$100 administrative fine, \$107.16 that represents 10% of the total outstanding taxes due for the month of September, 2021 and compliance with RSA 178:12 and RSA 178:26 regarding the filing of reports and payment of taxes by the 10th of the following month.
COMMISSION ACKNOWLEDGED.

4. **RECOMMENDATION FOR NON-CONTESTED ADMINISTRATIVE ACTION FOR COMMISSION APPROVAL:**

None

5. **LICENSE APPLICATIONS RECOMMENDED FOR COMMISSION APPROVAL:**

- a. Border Brewery LLC, 224 North Broadway, Salem, NH 03079.
To be issued Brew Pub License #2006115 pursuant to RSA 178:13.
90-Day Temporary License issued 11/17/2021.
DEPUTY COMMISSIONER JORDAN MOVED TO APPROVE THIS ITEM; CHAIRMAN MOLLIKA SECONDED THE MOTION; THE MOTION PASSED.
- b. Family Dollar, Inc. DBA Family Dollar #23493, 59 Henniker Street, Hillsboro, NH 03244.
To be issued Combination, Off-Premises, Beverage/Wine/Tobacco License #3410247 pursuant to RSA 178:18/RSA 126-K:4.
30-Day Temporary License issued 11/17/2021.
DEPUTY COMMISSIONER JORDAN MOVED TO APPROVE THIS ITEM; CHAIRMAN MOLLIKA SECONDED THE MOTION; THE MOTION PASSED.
- c. J&S Enterprises LLC DBA Clemento's Pizza & Brew, 160 Washington Street, Rochester, NH 03867.
To be issued Restaurant, On-Premises, Beverage/Wine/Liquor License #1635003 pursuant to RSA 178:21.
90-Day Temporary License issued 11/18/2021.
DEPUTY COMMISSIONER JORDAN MOVED TO APPROVE THIS ITEM; CHAIRMAN MOLLIKA SECONDED THE MOTION; THE MOTION PASSED.

- d. MHW Ltd., 1129 Northern Blvd., Suite #312, Manhasset, NY 11030.
To be issued Beverage Vendor License #114631 pursuant to RSA 178:15.
Manufacturer: Potosi Brewing.
30-Day Temporary License issued 11/18/2021.
DEPUTY COMMISSIONER JORDAN MOVED TO APPROVE THIS ITEM; CHAIRMAN MOLLICA SECONDED THE MOTION; THE MOTION PASSED.
- e. Park Theatre (The), 19 Main Street, Jaffrey, NH 03452.
To be issued Performing Arts License #400808 pursuant to RSA 178:22, V(m).
30-Day Temporary License issued 11/17/2021.
DEPUTY COMMISSIONER JORDAN MOVED TO APPROVE THIS ITEM; CHAIRMAN MOLLICA SECONDED THE MOTION; THE MOTION PASSED.

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 19, 2021: 1,385

None

8. DIRECT SHIPPER APPLICATIONS RECOMMENDED FOR COMMISSION DENIAL:

None

9. NOTIFICATION OF APPROVED PETITIONS:

- a. Border Brewery, 224 North Broadway, Salem, NH 03079.
Brew Pub License #2006115 licensed pursuant to RSA 178:13.
Requested an extension of service, to wit, to extend service for outdoor seating with a capacity of 8 pursuant to RSA 179:21, II.
COMMISSION ACKNOWLEDGED.
- b. Windmill Restaurant (The), 172 Loudon Road, Concord, NH 03301.
Restaurant, On-Premises, Beverage/Wine/Liquor License #414003 licensed pursuant to RSA 178:21.
Requested an exception to opening requirements, to wit, licensee was previously approved for reduced hours until 12/31/2021 and is now requesting to extend this exception until 12/31/2022 pursuant to RSA 179:21, II.
COMMISSION ACKNOWLEDGED.

10. PETITIONS RECOMMENDED FOR COMMISSION DENIAL:

None

11. TABLED ITEMS:

LSUS 7 LLC DBA Liquor Barn, 1837 Plaudit Place, Lexington, KY 40509.
To be issued Direct Shipper, Retailer Permit pursuant to RSA 178:27.
(Retailer)
ON NOVEMBER 18, 2021, CHAIRMAN MOLLICA APPROVED THE DIVISION OF ENFORCEMENT'S REQUEST TO TABLE THIS ITEM.
THIS ITEM REMAINED TABLED.

12. MISCELLANEOUS ITEMS RECOMMENDED FOR COMMISSION APPROVAL:

Country Corner Mile, Route 31, Greenville, NH 03048.
Agency Store, Off-Premises, Liquor Only License #980404 licensed pursuant to RSA 177:9.
Requests approval for renewal of license, to wit, to renew Agency Store, Off-Premises, Liquor Only License for renewal period 1/1/2022 to 12/31/2022 pursuant to RSA 177:9.
DEPUTY COMMISSIONER JORDAN MOVED TO APPROVE THIS ITEM; CHAIRMAN MOLLIKA SECONDED THE MOTION; THE MOTION PASSED.

13. MISCELLANEOUS ITEMS RECOMMENDED FOR COMMISSION DENIAL:

None

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

None

15. RECOMMENDATION FOR ADMINISTRATIVE ACTION ON COMPLIANCE CHECKS FOR COMMISSION APPROVAL:

Alcohol Compliance Checks -

Littleton, NH:

- a. Alburritos Mexican Restaurant, 106 Main Street, Littleton, NH 03561.
Restaurant, On-Premises, Beverage/Wine/Liquor License #1398503 licensed pursuant to RSA 178:21.
Cited for violation of RSA 179:5, I - served or sold alcoholic beverage to a minor during a compliance check.
Date of violation: May 2, 2021.
Case #: 21-246-OF.
Warning, four (4) points assessed to the liquor license and mandatory completion of a Management Training Seminar (MTS) by a manager within ninety (90) days from the date of the violation.
DEPUTY COMMISSIONER JORDAN MOVED TO APPROVE THIS ITEM; CHAIRMAN MOLLIKA SECONDED THE MOTION; THE MOTION PASSED.
- b. Gold House Pizza/Greek Restaurant, 87 Main Street, Littleton, NH 03561.
Restaurant, On-Premises, Beverage & Wine License #1220803 licensed pursuant to RSA 178:20.
Cited for violation of RSA 179:5, I - served or sold alcoholic beverage to a minor during a compliance check.
Date of violation: May 2, 2021.
Case #: 21-246-OF.
Warning, four (4) points assessed to the liquor license and mandatory completion of a Management Training Seminar (MTS) by a manager within ninety (90) days from the date of the violation.
DEPUTY COMMISSIONER JORDAN MOVED TO APPROVE THIS ITEM; CHAIRMAN MOLLIKA SECONDED THE MOTION; THE MOTION PASSED.

Tobacco Compliance Checks -

Sullivan County:

- c. Ralph's Supermarket, 197 Main Street, Charlestown, NH 03603.
Combination, Off-Premises, Beverage/Wine/Tobacco License #3093647 licensed pursuant to RSA 178:18/RSA 126-K:4.
Cited for violation of RSA 126-K:4 - sold tobacco to an underage person during a

compliance check.

Date of violation: September 20, 2021.

Case #: 21-443-OF.

Warning and mandatory completion of a Management Training Seminar (MTS) by a manager within ninety (90) days from the date of the violation.

DEPUTY COMMISSIONER JORDAN MOVED TO APPROVE THIS ITEM; CHAIRMAN MOLLIKA SECONDED THE MOTION; THE MOTION PASSED.

16. ADMINISTRATIVE HEARING DECISION PENDING:

None

17. ADMINISTRATIVE HEARING DECISION:

Cheers & Beers, 1055 Elm Street, Manchester, NH 03104.

Restaurant, On-Premises, Beverage/Wine/Liquor License #1623603 licensed pursuant to RSA 178:21.

Cited for violation of RSA 178:2, II/Liq. 603.01(c) - failed to attend a required training program within 45 days of licensure.

Cited for violation of RSA 179:50 – allowed the premises to be used for a purpose contrary to law – allowed patrons to smoke inside the establishment.

Cited for violation of RSA 179:51 – failed to maintain an orderly premise when an altercation lead to a patron being shot inside the establishment.

Cited for violation of RSA 179:20, II – allowed an employee to consume alcoholic beverage while working.

Cited for violation of RSA 179:27 – allowed patrons to self-serve alcohol beverages.

Date of violations: September 25, 2021.

Case #: 21-513-OF.

CHIEF MARK ARMAGANIAN REPORTED THAT THE LICENSEE REQUESTED AND WAS GRANTED A CONTINUANCE ON OCTOBER 7, 2021; NEW HEARING DATE TO BE DETERMINED.

ASSENTED-TO MOTION TO CONTINUE FILED BY THE DOE AND GRANTED ON 11/5/2021; NEW HEARING DATE NOVEMBER 10, 2021 AT 1:30 P.M.

PRE-HEARING CONFERENCE WAS HELD ON 11/10/2021.

“DISCUSSION - DISPOSITION:

The Petitioner alleges that Cheers & Beers License# 1623603 has produced an atmosphere that is detrimental to the health and safety of the public as a result of the investigation into the shooting that occurred inside the premise on September 25, 2021. The investigation revealed, and the licensee has stipulated to the following violations: failing to maintain an orderly premise contrary to RSA 179:51, allowing employees to consume alcoholic beverages contrary to RSA 179:20, allowing patrons to self-serve liquor from liquor bottles contrary to RSA 179:27, allowing patrons to smoke inside the licensed premises contrary to RSA 179:50, and management failing to attend a management training seminar within 45 days of the issuance of a license contrary to RSA 178:2.

The licensee admits to having a lack of experience in the service industry, and acknowledges the policies in place at the time of the incident were inadequate. As a result, the licensee has replaced the general manager with Ms. Snow, who has over 15-years of experience in the service industry, has hired a new chief of security, new security staff, has terminated employees responsible for the consuming of alcohol violations, and has updated its policies and business plan to address the Division of Enforcement's concerns.

It is also concerning that there was conflicting information presented during the hearing regarding the status of Mr. Edwin Pares' involvement in the licensed

establishment. Lt. Ellston proffered that Mr. Pares is a convicted felon, and no request for a felon waiver was submitted to the Division of Enforcement & Licensing. Although Mr. Simons and Ms. Snow testified he is now only an investor, is no longer a manager, and will not be involved with the operations of the licensed establishment going forward, he is listed as an owner on licensee's exhibit "A" with a date of November 3, 2021. It is further unclear whether or not Mr. Pares' felony conviction is merely possession or if it was for distribution of controlled substances. Whether or not Mr. Pares is involved with the business, he is listed as an owner on the business plan, and has money invested in the licensed establishment. This needs to be clarified so the licensee, Mr. Pares and the Division of Enforcement are aware of his status and whether or not he could be eligible for a felon waiver in the future.

The Division of Enforcement recommends license revocation. Liq. 603.02 is relevant to the Division's request, as generally it states if the violation was proven, and in consideration of the danger posed to public health and safety by the violation, the commission shall impose an appropriate penalty considering all circumstances, subject to the limitations of RSA 179:57, I. See generally N.H.Liq.R. 603.02. 179:57 provides that . . ." If any licensee violates any of the provisions of law or any of the rules of the commission adopted under this title or fails to superintend in person or through a manager approved by the commission the business for which the license was issued or allows the premises with respect to which the license was issued to be used for any unlawful purposes or knowingly designates to be in charge of the premises any person who has been convicted of a felony, unless the person has been approved by the commission pursuant to RSA 179:23, V, or otherwise fails to carry out in good faith the purposes of this title or if the premises are regularly the site of violence the license of such licensee may be suspended or revoked after notice and hearing, in accordance with RSA 541-A:31-36. Notwithstanding any other provisions of this chapter, the commission after the appropriate hearing may impose a fine of a specific sum, which shall not be less than \$100 nor more than \$5,000 for any one offense. Such a fine may be imposed instead of, or in addition to, any suspension or revocation of a license by the commission." See N.H.Rev.Stat. Ann. 179:57, I.

In the past, the commission has revoked licenses in which the danger posed to public health and safety was evident, however in those cases there was also a finding those premises were regularly the site of violence, and some of those included circumstances involving firearms. When this hearings officer has imposed such a penalty, evidence was presented showing multiple incidents and calls for service over a period of time. Although that penalty is available and may be appropriate, given the isolation of one incident and the plan proposed by the licensee going forward, I am going to grant an opportunity for Cheers & Beers to retain their license.

Penalty

Pursuant to the authority granted by RSA 179:57 license #1623603 is hereby revoked. However, the revocation shall be held in abeyance for a period of one year on the following conditions and limitations:

1. The licensee's hours of service of alcoholic beverages shall be reduced to no later than 11:00 P.M. for a period of thirty days to allow the licensee adequate time to implement their new policies, new menu, their partnership with "door dash" and adequately train employees.

2. At the end of the 30-day period, the licensee shall provide the Division of Enforcement & Licensing proof of sales documentation showing the food to beverage sales ratio is either 50%/50% or that food sales are projected to reach \$75,000 annually. Following the initial 30 days, the licensee shall provide this documentation quarterly.

3. All employees selling or serving alcoholic beverages shall complete TEAM training within 45 days, and future employees shall complete TEAM training within 45 days of their start date during the one-year period. It shall be the licensee's responsibility to notify the Division of enforcement of new employees required to take this training and proof of its completion.

4. All employees with front of house management responsibilities shall complete MTS training within 45 days and all future employees with front of house management responsibilities shall complete MTS training within 45 days if their start date during the one-year period. It shall be the licensee's responsibility to notify the Division of enforcement of new employees required to take this training and proof of its completion.

5. Mr. Edwin Pares shall not be an owner, manager or have any responsibilities in the operation of the licensed establishment unless and until it can be shown he is eligible for a felon waiver and receives one from the Division of Enforcement & Licensing, or until his record is annulled. For the time being, his status is limited to a silent investor, as represented by Attorney Sisti, Mr. Simons and Ms. Snow. The licensee shall provide proof of the business arrangement between he and Mr. Pares to the Division of Enforcement & Licensing within 30 days. Should no such proof exist, Mr. Simons shall provide an affidavit confirming Mr. Pares has no controlling ownership interest and no management/person in charge responsibilities for the licensed establishment.

6. The licensee shall not commit any like violations during the one-year period, including but not limited to RSAs 178:2, 179:20, 179:27, 179: 50, 179:51, 179:5, 178:3 and 178:21.

7. The licensee shall comply with the Updated Management Protocols submitted as Licensee Exhibit "A" (copy attached).

8. Failure to comply with any of the limitations and conditions of this decision and order during this one-year period will result in the hours of sale and service of beverages and liquor to be reduced to 10:00pm immediately upon written notification from the Division, and will remain in effect until such case is adjudicated. If such violation is proved by the Division of Enforcement, after a hearing the imposition of a fine of a minimum of \$2,000, not to exceed \$5,000, and immediate license revocation will be imposed.

So Ordered this 18th day of November 2021".

COMMISSION ACKNOWLEDGED.

18. MISCELLANEOUS ITEMS FOR INFORMATION ONLY:

None