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The License Commission held its regular monthly meeting at 6:00 p.m. on Thursday, November 13, 2014, in the G.A.R. Room at City Hall. Present were Chairman Henry Tartaglia; Commissioners Paul D. Sullivan, Bruce G. Dansby, Scott H. McDuffy and Kathy A. Kenney. Also present were Attorney Katherine Feodoroff, Asst. City Solicitor; License Agents Lieut. Kenneth LeGrice and Scott Uhlman; and Administrative Assistant Bonnie Tucker.

1. Approval of the Minutes of the License Commission Meeting of October 16, 2014 and the Special Meeting of October 27, 2014.

A motion was made by Commissioner Kenney to approve the minutes of the aforementioned meetings which motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

2. Approval of the following police officers as license agents for the month of December, 2014: Lieuts. Paul Bonanca and Kenneth LeGrice; Sgts. George Khoury and Frank Vardaro; Dets. Thomas Hyland, Nazaire Paul, Eric Clark, Santiago Cirino, Jackie Congdon, Chris McDermott and Michael Bunker; and Officer Scott Uhlman.

A motion was made by Commissioner Kenney to approve the police officers as listed as license agents for the month of December, 2014. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

3. Requests for Special One-day Permits:

- (a) **Wine and Malt Beverages** – Cardinal Spellman High School – Ellen Morrissey Rota, Manager, for an Alumni Reunion to be held in the High School's Cafeteria on Wednesday, November 26, 2014, from 4:00 p.m. to 6:00 p.m.

Present was Susan Ashton, 252 Beach Street, Rockland, who stated this is an Alumni Reunion which will be held in the School Cafeteria prior to the football game on the Wednesday before Thanksgiving. They expect approximately 60 people and will be serving beer, wine and some food. The reunion is held every other year. They have made arrangements to have a police detail.

A motion was made by Commissioner Sullivan to approve the permit which motion was seconded by Commissioner Dansby. All members voting in the affirmative, the motion carried.

- (b) **Wine and Malt Beverages** – Yuka Barros Traditional Music – Claudino C. Barros, Manager, for a Dance to be held at the War Memorial Building on Saturday, November 29, 2014, from 8:00 p.m. to 12:00 midnight.

Present was Claudino Barros, 39 Claybourne Street, Dorchester, who stated that this is a Thanksgiving celebration. There will be traditional Cape Verdean artists from Lisbon and France. There will be dancing and music and they would like to have beer and wine. Between 200-300 people are expected to attend. Mr. Barros stated he met with the War Memorial Board and they suggested two police detail officers be hired. He has spoken with Lieut. Barry at the Police Dept.

In response to questions, Mr. Barros stated the event is being promoted to the Cape Verdean communities in Brockton and in Boston and it will be an 18 plus function. Everyone who will be drinking must present an ID to prove they are at least 21 years old. They will also be doing wristbands or stamps.

Commissioner McDuffy suggested that they might want to have some security in addition to the police officers. He cautioned Mr. Barros that he must be aware of anyone passing off drinks to under aged persons.

Ms. Tucker reminded Mr. Barros that he is required to get liquor liability insurance and he agreed to do so. She indicated that it is her understanding that the insurance documents are a requirement of the contract with the Mayor's office. He should provide a copy of the Certificate of Liability Insurance to the License Commission also.

A motion was made by Commissioner McDuffy approve the request subject to proof of the liability insurance and the police details which motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

4. Hearing (postponed from meeting of October 16, 2014) on the request from Clerville, LLC dba Auto Solutions – 1081 Montello Street to amend the licensed premise by eliminating the property at 1067 Montello Street and changing the layout of the vehicles displayed at 1081 Montello Street.

Present was Simon Augustin, 170 Menlo Street.

Mr. Augustin stated that 1067 Montello Street was sold and he will be keeping his dealer's license at 1081 Montello Street only. He has submitted a new plan and Officer Uhlman stated he has met with Mr. Augustin several times. He stated the lot will have to be relined but he has agreed to allow him until June 1st. There will be a chain around the lot at Montello and Perkins and which will also be done by June 1st. He has reviewed the plan and it works out fine.

A motion was made by Commissioner Kenney to approve the request with the provision that the requirements of lining and fencing by completed by June 1st. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

5. Hearing on the request from Mee King Garden Chinese Food Take-Out, Inc. – 185-187 Crescent Street, to transfer the Common Victualer license to MMW Corp. dba Mee King Garden.

Present was Betty Tsang, 5 Heather Drive, Milton and Raymond Wu, 15 Vera Road, Randolph.

Ms. Tucker reviewed that this request is being made in order to straighten out the corporate information required for the license. Kevin Tsang, the original owner, passed away last year and is Mrs. Tsang's husband. The corporation had been changed a number of years ago but the information was not on file with the License Commission.

Ms. Tucker reviewed that the paperwork is in order and they have just completed an expansion of the restaurant. They do need inspections completed. Mr. Wu stated he has had the inspections and will submit the approvals to the Commission.

A motion was made by Commissioner McDuffy to approve the request which motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

6. Hearing on the request from Ni's Family, Inc. dba New China King – 180 Oak Street, to transfer the Common Victualer license to Cao's Kitchen, Inc.

Representing the applicant was Attorney Christopher Coleman, 121 Lincoln Street, Boston.

Attorney Coleman stated the new restaurant will be called Cao's Kitchen. It is approximately 1,500 square feet with three booths and total seating for 12 right now although there is capacity for 18 seats. The applicant has been in the business for ten years and her husband will be working with her. The menu will change slightly but the hours of operation will remain the same. They are in the process of getting the inspections done.

A motion was made by Commissioner McDuffy to approve the transfer of the license pending receipt of the inspection approvals. The motion was seconded by Commissioner Sullivan. All members voting in the affirmative, the motion carried.

7. Hearing on the request from Capp's Auto Sales, Inc. – 1829 Main Street, to transfer the Class II Used Motor Vehicle Dealer license to Frederick Laham dba Laham Auto Sales and Service at 770 Main Street.

Present were Frederick Laham, 30 Summerdale Farms Way, Bridgewater and Rich Cappiello, 31 Rockland Street, No. Easton.

Officer Uhlman stated that he has reviewed the plan submitted and it is not acceptable. Mr. Laham will be having a professional plan drawn up and submitted. He will be installing lighting, signs and a fence and will also line the lot. He is looking to have 12 to 15 cars.

A motion was made by Commissioner McDuffy to approve the transfer of the license pending a new plan being reviewed and approved by Officer Uhlman. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

8. Hearing on the request from Kenworth of SE New England, Inc. for a Class I New Motor Vehicle Dealer license to be located at 1120 and 1150 West Chestnut Street.

Representing the applicant was Attorney Richard Lawton, 157 Belmont Street. Also present was Dan Porrazzo, 97 Vesey Street, representing Condyne which is the owner of the building; Dan Dintino, Chief Operating Officer for Kenworth of SE New England, Inc., 5271 Briercliff Drive, Hamburg NY.

Attorney Lawton stated that Kenworth of SE New England, Inc. has five dealerships, four in the State of New York and one currently in Stoughton, MA. They will be closing the Stoughton dealership and moving to Brockton in June. They have entered into a lease with Condyne who owns and manages the properties at 1120 and 1150 West Chestnut Street. They are requesting a Class I license. Renderings of the dealership were reviewed. The building at 1150 West Chestnut Street will be renovated. The building at 1120 West Chestnut Street will be removed by Condyne once all permits are in place and that will be turned into a parking lot and will be part of the dealership. He explained that they have an application pending before the ZBA on December 9th for a variance to allow the sale of used cars for the reason that this is an Industrial Zone which only permits new car sales without the variance. There is also an application before the City Council for a Repair license.

Commissioner McDuffy commented that it is great to have them come to the City. Mr. Dintino stated they hope to add 10 to 15 high paying jobs in the first 10 to 15 months. They are bringing 25 employees from the Stoughton location. He stated their corporate headquarters are in Buffalo, NY but there will be some corporate functions they will be moving to the new location as they expand into North Boston and to Providence. This will be their flagship regional headquarters.

The Adm. Asst. stated the Mayor has sent a letter in support of this application.

In response to questions, Attorney Lawton stated that they hope to have all the permits in order by the end of December and once they do, Condyne will demolish the building at 1120 West Chestnut and the lease will become effective. He stated that time is of the essence because of weather and Dan Porrazzo is responsible for overseeing all of the work being done on the project.

With no further information to be presented, a motion was made by Commissioner Kenney to approve the license which motion was seconded by Commissioner McDuffy. All members voting in the affirmative, the motion carried.

9. Hearing on the charge brought by the local police against MJS Group, Inc. dba Bridgeway Liquors – Jasvir Kaur, Manager, 142 Howard Street, of an alleged violation of M.G.L. Chapter 138, Section 34, to wit: “whoever makes a sale or delivery of any such beverages to any person under twenty-one years of age, either for his or her own use”, reported on June 12, 2014 at approximately 6:00 p.m.

Present were Jasvir Kaur, Satnam Kaur and Malkiat Singh all of 60 Beacon Park.

On direct examination by Attorney Feodoroff, Det. Eric Clark stated he was working a sting in the City on June 12, 2014. The police were working with an under aged operative conducting compliance checks. The operative was provided to the Brockton Police by Health Imperatives which is an organization trying to curb under aged drinking. A photo of Joe Champagne, the under aged operative, was submitted and reviewed. Joe’s date of birth is 12/25/96 making him 18 years of age. At 5:58 p.m., he entered Bridgeway Liquors and purchased a six pack of Bud Light. He was not asked for identification. The under aged operative had been given a twenty dollar bill which was photographed at the police station. After coming out of the store he had \$13.39. The male clerk who had sold the beer was identified by Joe Champagne and was identified as Kulwant Singh. Det. Clark stated they gave Mr. Singh a Notice of Violation which Mr. Singh signed and they retrieved the \$20 bill which was used in the purchase and gave him back the \$13.39 change and the beer.

Det. Clark stated that on June 12, 2014, detectives went to 32 establishments conducting the compliance checks.

Mr. Kulwant Singh stated that it was a mistake in selling to a minor. At the time, the individual looked to be over 21 years of age. He apologized for not asking for an ID. He stated that to prevent this in the future, all employees have been instructed to check IDs and they have placed a scanner on the premise.

The Adm. Asst. stated there is no history of violations at this establishment since the current owners took over in 2005.

In view of there being no prior violations, Attorney Feodoroff recommended a letter of warning be placed in the file.

Commissioner McDuffy commented that he realizes every business makes mistakes but if another mistake is made they will be facing a different situation.

A motion was made by Commissioner McDuffy to place a letter of warning in the file. Commissioner Kenney seconded the motion. With all members voting in the affirmative, the motion carried.

10. Hearing on the charge brought by the local police against St. Mena Corp. dba 7-Eleven – Armand Singer, Manager, 65 Oak Street Ext., of an alleged violation of M.G.L. Chapter 138, Section 34, to wit: “whoever makes a sale or delivery of any such beverages to any person under twenty-one years of age, either for his or her own use”, reported on June 18, 2014 at approximately 6:15 p.m.

Present was Armand Singer, 16 Anania Terrace and Lourdes Rodrigues, 23 Lisa Road, Randolph.

The following individuals were sworn in by Attorney Feodoroff:

Armand Singer
Lourdes Rodrigues
Det. Eric Clark

In response to questions from Attorney Feodoroff, Mr. Singer stated they will not be cross examining any witnesses and admitted that the sale did happen.

Attorney Feodoroff then submitted the report as evidence that the sting occurred and stated for the record that the licensee has admitted to liability. She then stated that this violation occurred on June 18th and there was a different under aged operative used than on June 12th. She stated that there is no history of prior violations.

Det. Clark stated the manager, Mr. Singer, was cooperative.

Mr. Singer stated that they do have programs set up in the stores and all of the employees are required to take tests and have certificates. 7-Eleven has a Bars program set up where they send their own people in to test the cashiers. He stated that the employee who made the sale that evening lost his job. Proper procedure requires the employee to ask for the ID and then scan it. Mr. Singer stated they have a policy that everyone 30 and under should be carded and scanned. Since the violation, all of the employees had to take a test and become recertified.

Attorney Feodoroff then made the recommendation that they be issued a letter of warning to be placed in the file with the admission of a violation.

A motion was made by Commissioner Kenney to find the licensee in violation and a letter of warning be placed in the file. She also commended them on such a good policy.

The motion was then seconded by Commissioner Dansby. All members voting in the affirmative, the motion carried.

11. Hearing on the charge brought by the local police against C.M. Petti, Inc. – Kathleen A. Petti, Manager, 216 Belmont Street, of an alleged violation of M.G.L. Chapter 138, Section 34, to wit: “whoever makes a sale or delivery of any such beverages to any person under twenty-one years of age, either for his or her own use”, reported on June 18, 2014 at approximately 7:08 p.m.

Present was Kathy Petti, 152 West Street, who was sworn by Attorney Feodoroff.

Ms. Petti admitted to the violation and stated it was a mistake by her employee who mistook the person for one of their regular customers. They are in the practice of carding everyone except for their regulars.

Det. Clark stated the operative they used that day was 18 years of age. The report contained an error and the person used was Jermal Murray, d.o.b. 04/23/96.

Chairman Tartaglia then reviewed that Petti’s Market has been in business for 100 years and this is the first time they have been called in on a violation. Ms. Tucker confirmed that there are no prior violations on file.

A motion was made by Commissioner McDuffy to find the licensee in violation and to place a letter of warning in the file. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

12. Hearing on the charge brought by the local police against Mardom, Inc. dba Shanley’s Liquor Store – Maria S. Viega, Manager, 429 Belmont Street, of an alleged violation of M.G.L. Chapter 138, Section 34, to wit: “whoever makes a sale or delivery of any such beverages to any person under twenty-one years of age, either for his or her own use”, reported on June 18, 2014 at approximately 4:55 p.m.

Representing the licensee was Attorney George Asack, 95 West Elm Street. Also present was Maria Viega.

Ms. Viega was sworn by Attorney Feodoroff.

Attorney Asack stated there is no contest as to the liability.

Attorney Feodoroff explained for the record that they will move the report as evidence and there is an admission of liability. There are no prior violations at this location.

Det. Jackie Congdon, clarified for the record that the violation occurred at 18:55 hours and not 16:55 hours as indicate on the report.

Attorney Asack stated that Ms. Viega is the manager and she has been operating Shanley's for 5-6 years. She has indicated they have very strict guidelines for their employees and that they have a two week training program for new employees. This involves either herself or her husband working with the individual to explain the rules. He stated the two golden rules are that no one steals and no one allows under aged people to buy alcohol. If either of these rules are broken, the employee will be fired. The employee who made the sale on this occasion has been terminated. Ms. Viega has purchased a machine to check for fake ID's with the intention that the employees would be using it. Since this occurred, she has hired an additional employee to make sure it is properly policed. She is also in the process of signing all of her employees up for TIPS Training.

Commissioner McDuffy indicated he is somewhat concerned with this establishment since the next item on the agenda involves the same ownership and manager. Although nothing has happened at Shanley's previously, they have indicated they are just now educating their employees. He stated this should have been done years ago and they now have two stores who are found selling to minors on the same day. He stated that he knows Hayden's has a recent history of prior violations.

Ms. Viega stated that they do train their employees the best they can but they cannot control things all of the time. They have told their employees that if anyone sells to someone underage they will be terminated.

Attorney Asack clarified that the steps they have taken with regard to training of employees and purchasing the machine to check for fake IDs had all been done prior to this violation. It is the TIPS Training they will be requiring the employees to attend.

Attorney Feodoroff asked if Ms. Viega has been the manager of Hayden's on Torrey Street for 4 or 5 years and he indicated she has been the manager for the same period of time. Between both stores, she spends approximately 70 hours per week and goes back and forth between the two stores. The same training and ID machine are at the Torrey Street store.

Attorney Feodoroff stated her recommendation would diverge from the prior hearings where there was no history of prior violations since the same management is in place at both stores and Hayden's has had two prior violations of selling to an under aged person. On this occasion, it was not as if a fake ID had been presented but an 18 year old had made the purchase and no ID was asked for. She suggested that the penalty has to be greater in this case where there have now been four sales to under aged persons under the same owner and manager. She recommended a one day suspension on the Shanley's violation and three days on the Hayden's.

Attorney Asack stated that in both establishments, the employees making the sales were terminated. One had been employed there for one year and the other for two years.

Commissioner Kenney stated it is the management's responsibility and both stores have the same person as the manager. It is also the same corporation holding both licenses so it is no as if they are unaware of the history. It is her opinion that the Commission should not ignore this particular store because there have been no prior violations when in fact this is the fourth violation under the same manager.

Attorney Feodoroff stated they should have made it very clear to the employees of both establishments after the 2009 violation and again, after the 2012 violation.

Attorney Asack stated he disagrees that the manager failed to convey the message and Ms. Viega has made it clear that they have a very detailed set of rules that their employees are told to follow. He indicated he feels it is unfair to characterize this as a situation where they didn't set rules and weren't strict about conveying the message to their employees.

In response to questions from Commissioner Dansby, Ms. Viega stated that her employees do not work at both stores.

Chairman Tartaglia then suggested that each location be taken up separately in making their decision.

A motion was then made by Commissioner Dansby to find the licensee guilty as admitted and that there be a one day suspension of the license. The motion was seconded by Commissioner Kenney. With Commissioners Dansby, Kenney and McDuffy voting in the affirmative and Commissioners Tartaglia and Sullivan voting opposed, the motion carried.

(Refer to item #13)

13. Hearing on the charge brought by the local police against Mardom, Inc. dba Hayden's West Side – Maria S. Viega, Manager, 104 Torrey Street, of an alleged violation of M.G.L. Chapter 138, Section 34, to wit: "whoever makes a sale or delivery of any such beverages to any person under twenty-one years of age, either for his or her own use", reported on June 18, 2014 at approximately 6:45 p.m.

Attorney Feodoroff incorporated by reference the evidence which has already been heard in agenda #12 and stated for the record that there has been an admission to liability. She noted the history which includes violations of M.G.L. Chapter 138, Section 34 in 2009 resulting in a letter of warning and the 2012 violation resulted in a two day license suspension. She re-iterated to the Commission that despite the effort by management to educate the employees, it has been unsuccessful. She then recommended a three day suspension on this establishment.

A motion was made by Commissioner McDuffy with the recommendation that they be given a three day suspension to take place on a Thursday, Friday and Saturday. The motion was seconded by Commissioner Kenney. With Commissioners McDuffy, Kenney and Dansby

voting in the affirmative and Commissioners Tartaglia and Sullivan voting opposed, the motion carried.

Commissioner McDuffy indicated he is very disappointed and that a little over a year ago they were found in violation of serving an under aged person. At the time, the Stonehill College students were looking at the location as the place to go to buy their alcohol. He cautioned them that they must take stricter measures to prevent this in the future.

At the end of the hearing, Officer Uhlman stated that when he served the notice to this establishment, he found that they have expanded the store without coming before the board with plans and this is a violation. In addition, they might require zoning approval. He intends to write this up and submit a report to the Commission.

14. Hearing on the charge brought by the local police against Thi & Gia, LLC dba Crescent Variety – Thi Minh Do, Manager, 163-165 Crescent Street, of an alleged violation of M.G.L. Chapter 138, Section 34, to wit: “whoever makes a sale or delivery of any such beverages to any person under twenty-one years of age, either for his or her own use”, reported on June 18, 2014 at approximately 6:45 p.m.

(This matter was taken up after agenda #17)

Present was Thi Minh Do, 84 Walpole Street, Canton.

Mr. Do stated that on the day of the violation, his brother was working the counter and he had taken a bathroom break. In the short period of time he was away, the under aged individual came in and his other employee who was covering the counter had sold to the individual without asking for any identification.

Attorney Feodoroff asked Mr. Do what kind of measures have been taken to prevent this from happening again. He stated that both he and his brother have tips training and enforce the rules with their employees. Attorney Feodoroff reviewed that in 2012 they were found violating the same law. Mr. Do stated that ever since that first violation, his brother had taken over the counter. They have been trying their best. His employee had been caught off guard that day and had just been stepping up to help at the counter while his brother had taken a break. She cautioned Mr. Do that they must ensure that their employees are better trained.

Attorney Feodoroff then reviewed that in similar situations, first time violators have been given a letter of warning and for the second violation, their license has been suspended for two days. She indicated this licensee has been cooperative.

Mr. Do stated they have a set of rules for their employees and he has trained them himself.

Commissioner Kenney commented that in reviewing the report it appears that the employee who made the sale is an older gentleman and she does not understand how they could make the sale to a person who is 18. She then asked who would be penalized in view of the next agenda item which is a request to transfer this license.

The Adm. Asst. stated that if they suspend the license, it will have to be served prior to the transfer of the license taking place. She indicated that the transfer will be sent to the ABCC and it will take at least a month to occur so the suspension could be imposed during that time.

A motion was made by Commissioner Kenney to find the licensee in violation and to suspend the license for one day, preferably on a Friday prior to the license being transferred. The motion was seconded by Commissioner Dansby. With Commissioners Kenney, Dansby, McDuffy and Tartaglia voting in the affirmative and Commissioner Sullivan opposed, the motion carried.

15. Hearing on the request from Thi & Gia, LLC dba Crescent Variety – Thi Minh Do, Manager, 163-165 Crescent Street, to transfer the Wine and Malt Package Store license to D and K Food Mart Corp. dba Crescent Variety – Pinakin Patel, Manager.

Present were Pinaken Patel, 85 E. Main Street, Avon and Thi Minh Do, 84 Walpole Street, Canton.

In response to questions, Mr. Patel stated he owns a liquor store in Avon and also owns East Side Package Store. He stated he has a scanner system so anyone who appears to be under 30 years old has their id scanned. He indicated he has had no violations in Avon.

A motion was made by Commissioner Kenney to approve the transfer of the license which motion was seconded by Commissioner McDuffy. All members voting in the affirmative, the motion carried.

16. Hearing on the charges brought by the local and State police against Maria and Manuel Rodrigues dba Cristal Restaurant – 250 Main Street, of the following alleged violations:

June 12, 2014, approximately 7:10 p.m.

- (a) **M.G.L. Chapter 138, Section 34**, to wit: “. . . whoever makes a sale or delivery of any such beverages to any person under twenty-one years of age, either for his or her own use”;
- (b) **M.G.L. Chapter 138, Section 63A**, to wit: “Any person who hinders or delays any authorized investigator...or who refuses to give to such investigator, inspector or agent such information as may be required for proper enforcement of this chapter”;

- (c) **Brockton License Commission Rule 13**, to wit: "A current list of employees shall be available upon request of authorized agents of the License Commission and the License Commissioners."

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M.G.L. Chapter 138, Section 63A, to wit: "Any person who hinders or delays any authorized investigator...or who refuses to give to such investigator, inspector or agent such information as may be required for proper enforcement of this chapter.", reported by State Police.

Representing the licensee was Attorney John Creedon, 71 Legion Parkway.

The following individuals were sworn by Attorney Feodoroff:

Maria Rodrigues, 95 Fairview Avenue
Lieut. Kenneth LeGrice, Brockton Police
Det. Jackie Congdon, Brockton Police
Trooper Anthony Pereira, Mass. State Police
Sgt. John Brooks, Mass. State Police

Attorney Creedon asked that any comments concerning Dets. Hilliard or Royster's observations be limited since they are not present this evening. Attorney Feodoroff suggested that this is an administrative board and hearsay evidence is allowed. They are entitled to read the police report.

Attorney Feodoroff indicated she would take up the June 13th incident first which involved the State Troopers.

The first witness called by Attorney Feodoroff was Trooper Anthony Pereira who stated he was working with the Community Action Team in Brockton on Friday, June 13, 2014. While on stationary patrol, he and Trooper DaSilva were flagged down by a truck driver who stated there were two black males arguing in the alley between Cristal Restaurant and they looked as though they were going to assault each other. As they exited their cruiser, the two black males were observed to be face to face arguing with one another in a loud aggressive manner. He and Trooper DaSilva separated the males. The male he had separated was extremely vocal and became defensive. He refused to provide identification when asked and became extremely belligerent yelling to get his parents out there to speak to the officers. The individual was later identified as Jorge Rodrigues, d.o.b. 10/08/79. At the time they did not know who his parents were but they later found out that they are the owners of the Cristal Restaurant.

Trooper Pereira continued and stated that Trooper DaSilva approached the black male and told him to place his hands behind his back. This individual broke away from him and ran into the rear entrance of Cristal Restaurant. Trooper Pereira pursued the individual and saw

him reach into the right side of his waist band and grab something in his waistband. Through his training and expertise, it appeared he was reaching for a weapon.

Attorney Creedon objected to that statement on the grounds that it is opinion based on his experience as a State Trooper.

In response to questions from Attorney Feodoroff, Trooper Pereira stated he was a Corrections Officer for ten years, a Freetown Police Officer for six years and a State Trooper for a year. In the course of those years he has been trained in identifying people with weapons. The manner in which Mr. Rodrigues grabbed his waistband is indicative of someone reaching for a weapon.

Attorney Feodoroff stated to the Commission that in terms of the objection, if this was a Court of Law, expert opinion/testimony is allowable and expert testimony can be based on years of service and Trooper Pereira has many years of law enforcement service. Since they are not in a Court of Law, the Rules of Evidence are relaxed.

As he opened the door to go into the restaurant, Trooper Pereira stated he observed Rodrigues clench on to his waistband and turned back. There was a long corridor to the business and the restaurant was crowded with patrons so based on this, he did not pull his firearm and retrieved back to get more assistance. He lost sight of Rodrigues.

Trooper Pereira stated that both he and Trooper DaSilva then entered the restaurant through the rear door in an attempt to locate the black male. There were approximately 15 to 20 patrons in the restaurant. They attempted to find the business owners. There was a second male who came out of the kitchen and became belligerent. He would not give them his name. This individual was later identified as Tony Rodrigues, d.o.b. 05-11-78. They told him they were looking for a black male who had run into the restaurant. Tony stated he was in the back kitchen eating and no one had entered the establishment and the restaurant was closed. Trooper Pereira stated that as he was speaking to Tony, an elderly black male and female began to intervene in the conversation and stated they were the owners. They all started to speak in a different language and would not answer any questions. The son was very vocal and upset and was yelling at the officers and told them to get out and that they had no business in the establishment. Officer Pereira stated he had confirmed with local authorities that Tony Rodrigues was Jorge Rodrigues' brother. The restaurant was shut down and they ordered everyone out of there. Tony stated that the restaurant was his parents and said he was in law enforcement

In response to further questions from Attorney Feodoroff, Trooper Pereira identified Mrs. Rodrigues as being the elderly person who was at the restaurant. She would not answer the officers' questions and was speaking to her husband in a foreign language. He indicated she was taking orders from her son who was speaking for all of them. Trooper Pereira then identified attachments to his report which included a record of Jorge Rodrigues and Tony Rodrigues.

On cross examination by Attorney Creedon, Trooper Pereira stated he was not sure what time this occurred. There were 15 to 20 people inside the restaurant. He was dressed in uniform that evening. No one was arrested. He described Jorge as a black male wearing all black, being approximately 5'11" 230 pounds and husky. He was not apprehended. After entering the restaurant, another male inside the establishment identified as Tony told him his parents owned the establishment. Tony did not show him any form of Dept. of Correction identification. He did not show a license to carry a firearm nor did he tell him he had been suspended from the Dept. of Corrections. Tony told him he was in the back kitchen eating at the time and that the person he was looking for was not there and that no one had run through. Neither Officer Hilliard nor Royster was there at the time. Tony told him he should leave the premise because the place was closed. Officer Pereira stated he informed him there was an investigation going on and they were looking for someone. Officer Pereira stated he does not know what other liquor establishments are located along the area of the Cristal Restaurant. He handed the information over the Brockton Police for investigation and had no further involvement in the matter.

On re-direct by Attorney Feodoroff, Officer Pereira stated that he observed Jorge Rodrigues run into the back door of Cristal Restaurant and he used the same door to chase him. When he confronted Tony Rodrigues, he was belligerent and uncooperative. Mrs. Rodrigues refused to speak to him in English and deferred to her son, Tony. Mr. Rodrigues, the father, also refused to speak in English. Tony requested him to leave the establishment. The patrons were still there. Tony Rodrigues was interviewed in the restaurant and outside.

The next witness called by Attorney Feodoroff was Sgt. John Brooks who stated he has been a State Police officer for 30 years. On Friday, June 13, 2014, he was in the City of Brockton. He responded to the location as a result of being called for service. He stated he arrived at the Main Street side of the business and was walking through the front door of the Cristal Restaurant. He could see people walking out the back hall. Several minutes later he saw Trooper Pereira. When he first arrived he waited out front for further instruction and could then hear loud yelling from the back. He then went around to the back of the building and saw Tony Rodrigues face to face with Trooper Pereira. He could hear him yelling that they were harassing him. Tony's mother was standing there and they attempted to find out who owned the restaurant. Tony told him that his parents owned the business and that his mother did not speak English. Tony directed Trooper Pereira to walk up the alley and he continued to shout and be loud and belligerent. Sgt. Brooks stated he was very disorderly and probably should have been arrested. He had not had any direct discussion with Tony Rodrigues or Mrs. Rodrigues. Mrs. Rodrigues was speaking in a foreign language.

On cross examination by Attorney Creedon, Sgt. Brooks stated did not have any conversation with Tony Rodrigues. He indicated Tony should have been arrested for being a disorderly person because of his behavior which consisted of being totally unruly, yelling and screaming and causing 20 people to gather around.

Commissioner Dansby asked why Tony was so upset because the troopers were inquiring about a situation. Attorney Creedon stated that through his investigation with the family, it was because they were accusing their other son as being involved in the confrontation. The Troopers kept asking him where is your brother who was running through restaurant.

Attorney Feodoroff stated that the testimony was that the officer did not know that Tony Rodrigues was the brother of Jorge Rodrigues. There is no testimony as such except for the statements of the licensee's attorney. It would be impossible for the officers to refer to him as his brother or their son because they didn't know the connection at the time.

In response to questions from Commissioner Kenney, Trooper Pereira stated that the picture of Jorge Rodrigues which is attached to the report is the person he had the altercation with outside and who ran into the restaurant. Mrs. Rodrigues identified the picture from the report as being her son, Jorge.

Attorney Feodoroff stated her point to the Commission is that the trooper did not realize the connection, therefore, it is impossible to justify the belligerence because there was no question to Mrs. Rodrigues as to where was her son. In the trooper's mind they were looking for an unidentified assailant who had gone through their building and were confronted with belligerence without drawing the connection. The connection was discovered after. It is her contention that the reason for Tony's belligerence is because there is a known connection to the Rodrigues.

In response to questions from the Commissioners, Officer Pereira stated he had chased after Jorge and when he went to his waistband, he went back and got his partner which took about a minute from the time Jorge had run into the door. It would have been enough time for Jorge to escape out the front door. Tony had come out of the kitchen and the patrons stood up because there was yelling. Tony opened up his wallet and said he was on the job and closed his wallet. He then wanted everyone out of the establishment. The patrons heard him talking. None of the patrons came forward to say they had seen anything.

Attorney Creedon called Maria Rodrigues to testify. Mrs. Rodrigues stated that it was 1:00 a.m. The only people there were the employees working. She was counting money and Tony was in the back eating soup. One of the waitresses was washing dishes. She stated she saw the door open and saw the police officer who asked if she had seen anyone pass by. She said no that she saw the door bang and he went outside. He then came back in and asked her where her son was and she told him her son was in the kitchen. The officer then went in the kitchen and she starting counting her money again. The officer then went over to Tony but she stated she did not pay attention to what they were saying. After about 20 minutes, she stated she saw the officer looking through the trash and she asked what had happened. Her son, Tony, told her to let him talk to the officer. Tony told her not to say anything. When she asked again what happened, Tony told her he was a police officer and he has the right to do anything. Tony told her the officer had seen someone come inside to Crystal. After the officer checked everything in the dining room, he asked Tony where her other son

was and she said she has three sons. Tony had just gotten through work as a Corrections Officer and came to the restaurant. Mrs. Rodrigues said that she then saw more than 20 police officers.

In reply to questions from Attorney Feodoroff, Mrs. Rodrigues stated she heard someone running but didn't hear any yelling. Her son did not raise his voice at the trooper. She indicated that they spoke with the state troopers in English despite the fact that both troopers had testified that she refused to speak with them.

Commissioner Kenney asked if Mrs. Rodrigues knew the troopers and she stated it was the first time she had seen them that night. Attorney Creedon stated that they knew Jorge was her son because of the statement he made outside to go get his parents. Mrs. Rodrigues stated her son Jorge is skinny and weighs less than 200 pounds.

Attorney Feodoroff stated that the point of the testimony is not to say the person had a gun but to say that this was an emergent situation in the officer's estimation and there was a fear of safety for the officer. He was trying to ascertain information from the owners and was unsuccessful.

Attorney Creedon stated that when the conversation became heated, Tony told the officer he worked for the Department of Corrections and gave him his identification that he could have a gun. Commissioner Kenney indicated that is not relevant because Tony was not the person who they were chasing and thought had a weapon.

Attorney Creedon argued that he does not call any of Tony's actions or his yelling and screaming hindering and that hindering would consist of them stonewalling questions that are specific.

Attorney Feodoroff then argued that this is a matter of credibility and that is what the Commission is here to determine. In this instant there is an emergent situation and there is an unidentified man who is in an argument in a back alley who ran from the police and while doing so grabbed his waistband. Whether he had a gun or not is irrelevant but that the police have the right to protect their safety and react accordingly. She reviewed that they then ran into the building in an attempt to apprehend the individual. It is not a question of Fifth Amendment rights but it is a manager of a licensed restaurant who owns the privilege of holding that license and they have the obligation to cooperate with the police.

Attorney Feodoroff further reviewed that there is a history of violations at this establishment which go to their credibility. In this instance the officers have testified that Tony was belligerent with them and that Mrs. Rodrigues refused to assist.

Attorney Creedon stated that Dets. Hilliard and Royster were there and they backed off when Tony told them there was a camera there. He stated he has never seen a trooper who

did not pursue immediately regardless of his life or safety to get someone who might have a gun.

Commissioner Kenney stated that from what the trooper said, it is her understanding that he backed off because of the danger to the patrons still inside.

With no further evidence to present, a motion was made by Commissioner Kenney to find the licensee guilty of the violation of hindering. The motion was seconded by Commissioner McDuffy. With Commissioners Kenney, McDuffy, Dansby and Sullivan voting in the affirmative and Chairman Tartaglia opposed, the motion carried.

Attorney Feodoroff advised the Commissioners that it is their discretion whether they wish to hear the testimony on the charges hearing on June 12th and then consider the imposition of the penalty. She indicated she has spoken with Attorney Creedon concerning the other charge. Attorney Creedon indicated that they will not be arguing on the charge of serving an under aged person but would like to explain what had happened.

Attorney Creedon then stated that Mrs. Rodrigues' daughter, Lisa, who is an employee at the Cristal Restaurant, was working and had to leave for about an hour. Her friend from Portugal was there and there was no one in the bar. Lisa asked her to friend to watch the bar while she ran out for about thirty minutes. During that time, the under aged person came in and was served. The officers came in and his client understands that is was a violation but wants them to know that Lisa's friend does not speak English and did not understand anything. She agrees that she should not have been behind the bar. Attorney Creedon stated that this was the only sting conducted on June 12th.

Attorney Feodoroff stated that Det. Congdon is present and she can testify that the police officers went to other establishments on that same date to conduct alcohol compliance checks.

Det. Condon stated that on June 12, 2014, detectives had gone to 32 establishments – 18 bars and 14 liquor stores and found three violations. The under aged operative was 18 years old.

Lieut. LeGrice then stated that on June 12, 2014, he entered the Cristal Restaurant with Dets. Congdon and Clark. He was standing at the counter while they waited for one of the individuals who did not speak English to leave the establishment to get someone. One of the females returned to the store with another female. Det. LeGrice stated he did not know who she was but was later identified as Lisa Rodrigues who is Maria Rodrigues' daughter. As the detectives were standing there, Lisa became belligerent, asking them if they had gone to Joe Angelo's and how many other places were being checked that night. Lisa asked when they were going to stop harassing her family and give them their 2:00 a.m. license. Lieut. LeGrice stated he explained to her that he was at last month's meeting and that her mother had withdrawn her request because of another pending violation at the time. He told her

that they were not trying to harass them in any way. At that point, Lisa started yelling at him and became extremely belligerent and dismissed him with a hand gesture to leave. He then asked Lisa for an employee list which she refused to provide. At that point, Lieut. LeGrice stated he felt it was best that they leave and report the incident to the License Commission.

In response to questions from Attorney Creedon, Lt. LeGrice stated he does not know if Lisa is an employee because he was not provided with the list requested.

Attorney Feodoroff advised the Commission that the manager is responsible for their employees and there has to be cooperation. She indicated that this again goes to credibility and Lisa was belligerent and uncooperative to the police department.

Attorney Feodoroff then reviewed for the Commission that there has been an admission to the sale to a minor and that the board will have to make a finding to the second hindrance charge.

A motion was made by Commissioner McDuffy to find the licensee guilty of violating M.G.L. Chapter 138, Section 34 as admitted to by the licensee. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

A second motion was made by Commissioner McDuffy to find the licensee guilty of M.G.L. Chapter 138, Section 63A on June 12, 2014 which motion was seconded by Commissioner Kenney. With Commissioners McDuffy, Kenney, Dansby and Sullivan voting in the affirmative and Chairman Tartaglia opposed, the motion carried.

A third motion was made by Commissioner Kenney to find the licensee guilty of violating Brockton License Commission Rule 13. The motion was seconded by Commissioner Dansby. All members voting in the affirmative, the motion carried.

Attorney Feodoroff suggested to the Commission that the hours of operation be rolled back to midnight for a period of six months as a result of the violations found on June 12, 2014.

Lieut. LeGrice indicated he would go along with Attorney Feodoroff's recommendation, however, he feels there should also be a closing of the business for a period of time due to the fact that there were no employees on the premise, people off the street selling alcohol inside with no supervision as admitted to by the licensee.

Attorney Creedon suggested that the Commission suspend the license for a number of days for the three or four violations and he feels this will not put them out of business but will send a huge message.

The Adm. Asst. asked that it be stated that the hours will not automatically go back to 1:00 a.m. at the end of six months but that it only allow the licensee to apply to extend the hours at the end of six months.

A motion was made by Commissioner McDuffy to rollback the hours to 12:00 midnight for a period of six months with the provision that the licensee may apply to extend the hours at the end of the six month period. The motion was seconded by Commissioner Kenney. With Commissioners McDuffy, Kenney, Dansby and Sullivan voting in the affirmative and Chairman Tartaglia opposed, the motion carried.

Attorney Feodoroff then suggested that for the second hindering violation found on June 13, 2014, there be a three day suspension of the license to take place on a Thursday, Friday and Saturday due to the history of not cooperating with the authorities and the fact that these violations occurred one right after the other which shows a pattern of behavior unacceptable to the Commission. She further stated that this is also based on the history of violations which are on file with the Commission.

A motion was made by Commissioner Dansby to suspend the license for three (3) days to take place on a Thursday, Friday and Saturday. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

17. Hearing (tabled at meeting of September 18, 2014) on the request from Maria and Manuel Rodrigues dba Cristal Restaurant to extend the closing hour to 2:00 a.m. on Thursdays, Fridays, Saturdays and on eves of legal holidays.

Attorney John Creedon and Maria Rodrigues were present on this matter also.

A motion was made by Commissioner Kenney to deny the request which motion was seconded by Commissioner Dansby. All members voting in the affirmative, the motion carried.

18. Communications

A follow up report which the Commission had requested was submitted by Det. Cummings regarding the Brazilian Rodeo which had been held at the Brockton Fairgrounds on October 15, 2014.

A hearing will be held on the report submitted by Det. Paul regarding Malu's Lounge.

19. Any other business to properly come before the Commission.

With no further business to come before the Commission, a motion was made by Commissioner McDuffy to adjourn the meeting. The motion was seconded by Commissioner Kenney. All members voting in the affirmative, the motion carried.

Respectfully submitted,

Henry Tartaglia
Chairman

APPROVED:

Paul D. Sullivan, Commissioner

Scott H. McDuffy, Commissioner

Bruce G. Dansby, Commissioner

Kathy Kenney, Commissioner

Catherine B. Holbrook
Alternate Commissioner

Paul Merian
Alternate Commissioner