

REGULAR MEETING

OF THE ALCOHOLIC BEVERAGE CONTROL BOARD OF THE CITY OF BAYONNE, IN THE COUNTY OF HUDSON, NEW JERSEY, HELD IN THE COUNCIL CHAMBER, MUNICIPAL BUILDING, 630 AVENUE C, ON THURSDAY, JULY 29, 2010.

The Board met at 7:06 P.M.

The Board Secretary called the roll.

Present were: Board Member Patrick Colasurdo, Board Member Donna Marie James, and Chairman H. Mickey McCabe

The Chairman announced, "I would like to advise all those present that notice of this Regular Meeting of the Alcoholic Beverage Control Board of the City of Bayonne of July 29, 2010 has been provided to the public in accordance with the provisions of the Open Public Meetings Act of the State of New Jersey. Notice of time and place has been posted and filed with the City Clerk and was forwarded to the Jersey Journal and the Star Ledger by fax and regular mail on July 23, 2010."

The board secretary led the Pledge of Allegiance to the Flag.

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01. The board secretary announced that this was the time and place scheduled for the hearing of disciplinary charges filed by the Chief of Police against Plenary Retail Consumption License No. 0901-33-054-004, issued to Batory Corporation t/a Liquid for premises located at 269 Broadway.

Susan Ferraro, Esq., city prosecutor appeared on behalf of the Chief of Police. Robert Bator, president of the licensee, appeared for the licensee.

The prosecutor advised that a plea bargain had been agreed to wherein the licensee would plead guilty to the charges and recommended a total closing of 30 days.

Chairman McCabe moved the following resolution, seconded by Board Member James, which motion was adopted.

ALCOHOLIC BEVERAGE CONTROL BOARD OF THE CITY OF BAYONNE

In the matter of the proceedings to	}	RESOLUTION AND ORDER
discipline Plenary Retail Consumption		
License No. 0901-33-054-004, issued to		
Batory Corporation t/a Liquid for		
premises located at 269 Broadway ,		

Bayonne, New Jersey)

Notice having been duly served upon Batory Corporation t/a Liquid, holder of Plenary Retail Consumption License No. 0901-33-054-004 that certain charges therein set forth had been preferred against it and that a hearing thereon would be held at the time and place specified in the notice, and the said Batory Corporation t/a Liquid, having entered a plea of guilty to certain of the charges, on the specific condition that the licensee waives its right to an appeal and will not appeal, and further waives its right to apply to the Director of Alcoholic Beverage Control for conversion to a monetary penalty;

IT IS THEREFORE, on this 29th day of July, 2010 , on motion duly made and seconded

RESOLVED AND ORDERED, that the said Batory Corporation t/a Liquid, be and is hereby determined to be found guilty of the charges of violations of:

N.J.S.A. 33:1-31.h – Sale in violation of A.B.C. Control Act (Unlicensed Employee)
N.J.A.C. 13:2-23.6(a)2 – Prohibition Against Immoral Activities; Disturbance; Nuisance on Premise
6-6.2 - Work Permit; and be it further

RESOLVED AND ORDERED, that the license of the said Batory Corporation t/a Liquid, heretofore issued by the Municipal Council of the City of Bayonne be suspended for ten days for the violation of N.J.S.A. 33:1-31.h and Ordinance section 6-6.2, and suspended for 30 days for the violation of N.J.A.C. 13:2-23.6(a)2, both suspensions to run concurrently for a total of 30 days with 10 days remitted in consideration of the plea of guilty, effective from 2:00 A.M. Friday the 30th day of July, 2010, to 6:00 A.M. Thursday, the 19th day of August, 2010, both dates inclusive.

Ayes - Board Members Colasurdo, James, and Chairman McCabe.

N.B.: THIS MATTER WAS RE-OPENED AND THE RESOLUTION AND ORDER WAS AMENDED AS ITEM NUMBER 04, BELOW.

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02. Board Member James moved that the following resolution be adopted, seconded by Board Member Colasurdo, which motion was adopted.

RESOLVED, that the renewal Plenary Retail Consumption License for the period commencing July 1, 2010 through June 30, 2011, be granted to the following licensee whose Tax Clearance Certificate has been received:

In the matter of the proceedings to
discipline Plenary Retail Consumption
License No. 0901-33-117-011, issued to
San Kan LLC t/a Thai O'Brien's for
premises located at 57 East 32nd Street,
Bayonne, New Jersey.

RESOLUTION AND ORDER

_____)

Notice having been duly served upon San Kan LLC t/a Thai O'Brien's, holder of Plenary Retail Consumption License No. 0901-33-117-011 that certain charges therein set forth had been preferred against it and that a hearing thereon would be held at the time and place specified in the notice, and the said San Kan LLC t/a Thai O'Brien's, through its attorney, William Finnerty, Esq., having entered a plea of guilty to charges of two violations of NJAC 33:1-31(h) based on a recommendation of the prosecutor with the licensee's consent that the original charges of two ordinance violations be amended to charge violations of NJAC 33:1-31(h), which plea was entered on the specific condition that the licensee waives its right to an appeal and will not appeal, and further waives its right to apply to the Director of Alcoholic Beverage Control for conversion to a monetary penalty;

IT IS THEREFORE, on this 29th day of July, 2010, on motion duly made and seconded

RESOLVED AND ORDERED, that the said San Kan LLC t/a Thai O'Brien's, be and is hereby determined to be found guilty of the charges of two violations of:

NJAC 33:1-31(h) based on violations of section 6-5.1 – Serving after hours, and section 6-3.3 – license required, of the Revised General Ordinances of the City of Bayonne; and be it further

RESOLVED AND ORDERED, that the license of the said San Kan LLC t/a Thai O'Brien's, heretofore issued by the Municipal Council of the City of Bayonne be suspended for 10 days for each violation to run concurrently, with 5 days remitted in consideration of the plea of guilty for a total closing of 5 days, effective from 2:00 A.M. Wednesday the 1st day of September, 2010 to 6:00 A.M., Monday, the 6th day of September, 2010, both dates inclusive.

Ayes - Board Members Colasurdo, James, and Chairman McCabe.

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04. Chairman McCabe moved that the matter of disciplinary charges filed against Plenary Retail Consumption License No. 0901-33-054-004, issued to Batory Corporation t/a Liquid for premises located at 269 Broadway, be re-opened at the request of the licensee, seconded by Board Member Colasurdo, which motion was adopted.

Robert Batory, president of the licensee, and Charles Carangelo, manager of the establishment represented to the board that the licensed premises was booked for a

private party on Saturday, July 31, 2010, and requested that the suspension be effective commencing Sunday, August 1, 2010, rather than Friday, July 30, 2010. Chairman McCabe moved to amend the Resolution and Order to change the closing dates for the suspension to commence 3:00 A.M., Sunday, August 1, 2010, through 6:00 A.M., Saturday, August 21, 2010, seconded by Board Member Colasurdo, which motion was adopted.

Ayes - Board Members Colasurdo, James, and Chairman McCabe.

The amended Resolution and Order is as follows:

ALCOHOLIC BEVERAGE CONTROL BOARD
OF THE CITY OF BAYONNE

In the matter of the proceedings to	} RESOLUTION AND ORDER
discipline Plenary Retail Consumption	
License No. 0901-33-054-004, issued to	
Batory Corporation t/a Liquid for	
premises located at 269 Broadway ,	
<u>Bayonne, New Jersey</u>	}

Notice having been duly served upon Batory Corporation t/a Liquid, holder of Plenary Retail Consumption License No. 0901-33-054-004 that certain charges therein set forth had been preferred against it and that a hearing thereon would be held at the time and place specified in the notice, and the said Batory Corporation t/a Liquid, having entered a plea of guilty to certain of the charges, on the specific condition that the licensee waives its right to an appeal and will not appeal, and further waives its right to apply to the Director of Alcoholic Beverage Control for conversion to a monetary penalty;

IT IS THEREFORE, on this 29th day of July, 2010 , on motion duly made and seconded

RESOLVED AND ORDERED, that the said Batory Corporation t/a Liquid, be and is hereby determined to be found guilty of the charges of violations of:

- N.J.S.A. 33:1-31.h – Sale in violation of A.B.C. Control Act (Unlicensed Employee)
- N.J.A.C. 13:2-23.6(a)2 – Prohibition Against Immoral Activities; Disturbance; Nuisance on Premise
- 6-6.2 - Work Permit; and be it further

RESOLVED AND ORDERED, that the license of the said Batory Corporation t/a Liquid, heretofore issued by the Municipal Council of the City of Bayonne be suspended for ten days for the violation of N.J.S.A. 33:1-31.h and Ordinance section 6-6.2, and suspended for 30 days for the violation of N.J.A.C. 13:2-23.6(a)2, both suspensions to run concurrently for a total of 30 days with 10 days remitted in consideration of the plea of guilty, effective from 3:00 A.M. Sunday the 1st day of August, 2010, to 6:00 A.M. Saturday, the 21st day of August, 2010, both dates inclusive.

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05. Board Member James moved that the following resolution be adopted, seconded by Board Member Colasurdo, which motion was adopted.

RESOLVED, that the renewal Permanent Club License for the period commencing July 1, 2010 through June 30, 2011, be granted to the following licensee whose Tax Clearance Certificates has been received:

<u>LICENSEE</u>	<u>LICENSED PREMISES</u>	<u>LICENSE NO.</u>
Joyce Herbert Post 226 VFW of Us	16-18 West Ninth Street	0901-31-168-001

Ayes - Board Members Colasurdo, James, and Chairman McCabe.

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06. Board Member James moved that the following resolution be adopted, seconded by Board Member Colasurdo, which motion was adopted.

WHEREAS, Brothers Tavern, Inc. t/a Mi Pueblito Mexican Restaurant with corporate offices located 369 Broadway, Bayonne, in the State of New Jersey, has made application for the transfer to it of Plenary Retail Consumption License No. 0901-33-016-002 now held by Andrade Cirilo, 369 Broadway, Bayonne, New Jersey, and there being no good cause why the said transfer should not be allowed; and

WHEREAS, the applicant has disclosed and the issuing authority has reviewed the source of all funds used in the purchase of the license and the licensed business, and all additional financing obtained in connection with the licensed business; and

WHEREAS, a tax clearance certificate issued by the New Jersey Division of Taxation has been received in connection with this application; now, therefore, be it

RESOLVED, That Plenary Retail Consumption License No. 0901-33-016-002 above described, be and is hereby transferred from Andrade Cirilo, the present holder of the same, to Brothers Tavern, Inc. t/a Mi Pueblito Mexican Restaurant with corporate offices located 369 Broadway, Bayonne, in the State of New Jersey; and be it further

RESOLVED, That the Board Secretary be and is hereby authorized and directed to execute the endorsement of this person to person and place to place transfer herein made, upon the said license on behalf of the Alcoholic Beverage Control Board; and be it further

RESOLVED, That the effective date of the said transfer is July 30, 2010.

Ayes - Board Members Colasurdo, James, and Chairman McCabe.

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07. Board Member James moved that the following disciplinary charges be received and filed and that the resolution following them be adopted, seconded by Board Member Colasurdo, which motion was adopted.

July 23, 2010

Alcoholic Beverage Control Board
Municipal Building
630 Avenue C
Bayonne, NJ

Dear Commissioners,

Attached hereto is a synopsis of a case against Kileen, Inc. t/a DiGiorgio's located at 990 Broadway, Bayonne, N.J., and holder of Plenary Retail Consumption Liquor License Number 0901-33-151-003.

As Chief of Police of the City Of Bayonne, I recommend that disciplinary proceedings be brought against said license for the following violations:

6-5.1a – Serving After Hours
6-5.1b – Hours of Operation
33:1-31h – Violation of City Ordinances

Upon receipt of your notification as to time and place of hearing, the necessary witnesses from this department will be instructed to appear for this case.

Very truly yours

/s/ Robert Kubert
Chief of Police
City of Bayonne

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Synopsis of Case

License: Plenary Retail Consumption License
Number: 0901-33-151-003
Owners: Kileen, Inc.
T/A: Di Giorgio's
Location: 990 Broadway, Bayonne, NJ

Registered agent: Dominick DiGiorgio

Persons Involved: Police: Detective Timothy Donaway #236
P.O. Wade #224
P.O. Davis #253

Employees: Glenn DiGiorgio (Manager)
124 West 44th Street, Bayonne, NJ
Jessica Vicari (Bartender)
29 Phillips Road Edison, NJ

Patrons: Keith W. Gorski
9 Lincoln Parkway, Bayonne, NJ
Brian C. Pipher
101 West 45th Street, Bayonne, NJ
Richard L. Reed
926 Broadway, Bayonne, NJ
Peter Rapczynski
69 Prospect Avenue, Bayonne, NJ

Complaining Officer: Detective Timothy Donaway #236

A.B.C. Supervisor: Sergeant Kevin Gallagher #S31

Violations: 6-5.1a – Serving After Hours
6-5.1b – Hours of Operation
33:1-31H – Violation of City Ordinances

The following shall apply:

Serving After Hours

a. No alcoholic beverage shall be sold, served or delivered by licensees of any class nor shall any such licensee suffer or permit the sale, service or delivery of any alcoholic beverages directly or indirectly upon the licensed premises on the following days, between the hours set forth opposite such days:

Weekdays, except Saturdays, Sundays and legal holidays, 2:00 a.m. to 6:00 a.m.

Saturdays and legal holidays, except those holidays falling on Sunday, 3:00 a.m. to 6:00 a.m.

Sundays, 3:00 a.m. to 9:00 a.m.

Hours of Operation

b. All licensed premises shall be securely closed, locked and made inaccessible to any person except the licensee or his employees on the following days between the hours set forth opposite such days:

Weekdays, except Saturdays, Sundays and legal holidays, 2:00 a.m. to 6:00 a.m.

Saturdays and legal holidays, except those holidays falling on Sunday, 3:00 a.m. to 6:00 a.m.

Sundays, 3:00 a.m. to 9:00 a.m.

1. Exceptions. Licensed premises, having halls for hire or who provide catering shall be permitted to open the premises for functions, such as communion breakfasts, or any other Sunday before-noon affairs, for ticket holders, providing a special permit to cater or to hold the affair is issued by the Municipal Council. There shall be no fee for this permit.

c. Paragraphs a. and b. of this subsection shall not apply on January 1 in any year.

33:1-31h – Violation of City Ordinances.

h. Any violation of any ordinance, resolution or regulation of any other issuing authority or governing board or body.

Synopsis of incident one:

07/23/2010 Bayonne Police file #2010-50148

On 7-23-2010 Detective Donaway was conducting checks of the bars and taverns in the city to ensure that they were properly closed and in compliance with the Alcoholic Beverage Control regulations, laws and municipal ordinances. At 02:18 hours Detective Donaway exited his vehicle and looked into the window of DiGiorgio's where he observed five persons inside the establishment drinking beer and mixed drinks. He continued to observe these individuals as he awaited the arrival of backup officers. These individuals continued to consume alcohol while engaged in a "beer pong" game in the rear of the bar.

P.O.'s Wade and Davis arrived on the scene and entered the bar with Detective Donaway through an unlocked side door. Upon entering, a male loudly remarked "OH SHIT". This male identified himself to Detective Donaway as Glenn DiGiorgio, the manager of the bar. Detective Donaway then spoke to the bartender, Jessica Vicari, and Mr. DiGiorgio, and advised them of his observations. While speaking to them paper currency and coins were observed lying on the bar near partially consumed drinks.

Detective Donaway requested identification from the patrons and there were identified as:

Keith Gorski – d.o.b. 3-17-1984 – address 9 Lincoln Parkway, Bayonne, NJ
Brian Pipher – d.o.b. 4-8-1983 – address 101 West 54th Street, Bayonne, NJ
Richard L. Reed – d.o.b. 2-25-1946 – address 926 Broadway, Bayonne, NJ
Peter F. Rapczynski – d.o.b. 9-17-1984 – address 69 Prospect Avenue, Bayonne, NJ

Detective Donaway issued Special Complaint Summons #030497 to Mr. DiGiorgio for violating the "Hours of Operation" ordinance, 6-5.1b Special Complaint Summons #030498 was issued to Jessica Vicari, the bartender, for violating 6-5.1a, the "Serving After Hours" ordinance.

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BE IT RESOLVED, that the Alcoholic Beverage Control Board hereby receives and files disciplinary charges preferred by the Chief of Police against Kileen, Inc. t/a

DiGiorgio's, holder of Plenary Retail Consumption License No. 0901-33-151-003 , for premises located at 990 Broadway , Bayonne, NJ; and be it further

RESOLVED, that the board hereby fixes Thursday, August 26, 2010, at 1:00 P.M. and the Council Chambers, or the Municipal Court Room, Municipal Building, 630 Avenue C, Bayonne, NJ, as the time and place when and where the Board will meet to hear and consider such charges; and be it further

RESOLVED, that the Board Secretary be and is hereby directed to notify the licensee to show cause why the license should not be suspended or revoked.

Ayes - Board Members Colasurdo, James, and Chairman McCabe.

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08. Board Member James moved that the following resolution be adopted, seconded by Board Member Colasurdo, which motion was adopted.

BE IT RESOLVED, that the official minutes of the regular meeting of the Alcoholic Beverage Control Board of the City of Bayonne held Thursday, June 24, 2010, be and the same are hereby approved.

Ayes - Board Members Colasurdo, James, and Chairman McCabe.

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09. Board Member James moved that the following resolution be adopted, seconded by Board Member Colasurdo, which motion was adopted.

RESOLVED, that the meeting time for the regular meeting of Thursday, August 26, 2010 be changed from 7:00 P.M. to 1:00 P.M.

Ayes - Board Members Colasurdo, James, and Chairman McCabe.

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At 7:40 P.M., Board Member James moved to adjourn, seconded by Board Member Colasurdo, which motion was adopted.

Ayes - Board Members Colasurdo, James, and Chairman McCabe.

H. Mickey McCabe, Chairman

Robert F. Sloan, Secretary