

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, SEPTEMBER 27, 2012.

The Board met at 5:10 P.M.

The Board Secretary called the roll.

Present were: Board Member Patrick Colasurdo, 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 September 27, 2012 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 of the meeting has been included in the annual notice of meetings, which was posted and filed with the City Clerk, and with the Jersey Journal and the Star Ledger. an additional notice of time and place was posted and filed with the City Clerk and was forwarded the Jersey Journal and the Star Ledger by fax and regular mail on September 21, 2012."

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

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01. Board Member Colasurdo moved that the following resolution be adopted, seconded by Chairman McCabe, which motion was adopted.

WHEREAS, SUCATO, JAMES A., holder of Plenary Retail Consumption License No. 0901-33-022-010, which has been inactive for more than two years has made application to and received from the Director of the Division of Alcoholic Beverage Control, a SPECIAL RULING TO PERMIT THE FILING OF RENEWAL APPLICATION OF AN INACTIVE LICENSE FOR THE 2012-2013 LICENSE TERMS PURSUANT TO N.J.S.A. 33:1-12.39 under Docket No. 07-12-7708 issued September 11, 2012; and

WHEREAS, the said SUCATO, JAMES, A., has made application for the renewal of the aforesaid license for the 2012-2013 license terms, and has paid the appropriate fees and satisfied all other requirements for renewal; now therefore, be it

RESOLVED, that the renewal of Plenary Retail Consumption License with No. 0901-33-022-010 for the period commencing July 1, 2012 through June 30, 2013, be granted.

Ayes - Board Members Colasurdo and Chairman McCabe.

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

WHEREAS, HAPPY 24 HOURS, INC., holder of Plenary Retail Consumption License No. 0901-33-150-005, which has been inactive for more than two years has made application to and received from the Director of the Division of Alcoholic Beverage Control, a SPECIAL RULING TO PERMIT THE FILING OF RENEWAL APPLICATION OF AN INACTIVE LICENSE FOR THE 2010-2011, 2011-2012 and 2012-2013 LICENSE TERMS PURSUANT TO N.J.S.A. 33:1-12.39 NUNC PRO TUNC under Docket No. 09-12-7829, issued September 14, 2012; and

WHEREAS, the said HAPPY 24 HOURS, INC., has made application for the renewal of the aforesaid license for the 2010-2011, 2011-2012 AND 2012-2013 license terms, and has paid the appropriate fees and satisfied all other requirements for renewal; now therefore, be it

RESOLVED, that the renewal of Plenary Retail Consumption License with No. 0901-33-150-005 for the period commencing July 1, 2010 through June 30, 2013, be granted.

Ayes - Board Members Colasurdo and Chairman McCabe.

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03. Board Member Colasurdo moved that the following resolution be adopted, seconded by Chairman McCabe, which motion was adopted.

WHEREAS, CHIBAY, LLC, holder of Plenary Retail Consumption License No. 0901-33-100-005, which has been inactive for more than two years has made application to and received from the Director of the Division of Alcoholic Beverage Control, a SPECIAL RULING TO PERMIT THE FILING OF RENEWAL APPLICATION OF AN INACTIVE LICENSE FOR THE 2012-2013 LICENSE TERMS PURSUANT TO N.J.S.A. 33:1-12.39 under Docket No. 07-12-7708 issued September 11, 2012; and

WHEREAS, the said CHIBAY LLC, has made application for the renewal of the aforesaid license for the 2012-2013 license terms, and has paid the appropriate fees and satisfied all other requirements for renewal; now therefore, be it

RESOLVED, that the renewal of Plenary Retail Consumption License with No. 0901-33-100-005 for the period commencing July 1, 2012 through June 30, 2013, be granted and

BE IT FURTHER RESOLVED, that no further renewals will be granted unless license is being actively used at an approved site on or before June 30, 2013.

Ayes - Board Members Colasurdo and Chairman McCabe.

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04. Board Member Colasurdo moved that the following resolution be adopted, seconded by Chairman McCabe, which motion was adopted.

WHEREAS, Mitchell Burakovsky, residing or located at 275 Broadway in the City of Bayonne, County of Hudson, State of New Jersey, has made application for the transfer to him of Plenary Retail Consumption License No. 0901-33-009-003, now held by Italia Ristorante & Delicatessen, Inc. t/a Italia Ristorante for premises located at 275 Broadway in the City of Bayonne, 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. 0901-33-009-003, above described, be and is hereby transferred from Italia Ristorante & Delicatessen, Inc. t/a Italia Ristorante, the present holder of the same, to Mitchell Burakovsky; and be it further

RESOLVED, that the Board Secretary be and is hereby authorized and directed to execute the endorsement of the 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 June 30, 2012, nunc pro tunc.

Ayes - Board Members Colasurdo and Chairman McCabe.

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

WHEREAS, Italia Ristorante & Delicatessen, Inc., holder of Plenary Retail Consumption License No. 0901-33-009-003, for premises located at 275 Broadway, failed to timely file for renewal of its license for the license term commencing July 1, 2012 through June 30, 2013; and

WHEREAS, subsequent to the June 30, 2012 filing date for renewal, Mitchell Burakovsky, a potential transferee of said license, filed a full 12 page application with the Alcoholic Beverage Control Board on August 21, 2012 and paid the appropriate renewal fees, and filed a petition with the Director of the Division of Alcoholic Beverage Control on August 27, 2012, requesting the issuance of a "new" license pursuant to N.J.S.A. 33:1-12.18; and

WHEREAS, the Director of the Division, in Agency No. 08-12-7826, on September 11, 2012, issued a Special Ruling approving the issuance of a "new" license for the 2012-2013 license term to Mitchell Burakovsky, provided the Alcoholic Beverage Control Board first approves a transfer of the said license to Mitchell Burakovsky effective retroactively as of June 30, 2012, nunc pro tunc, and provided the transferee complies with the advertising requirements of N.J.A.C. 13:2-2.5; and

WHEREAS, the Alcoholic Beverage Control Board has considered and approved Mitchell Burakovsky's application for a transfer of the said license effective retroactively as of June 30, 2012, nunc pro tunc, and the transferee has complied with the advertising requirements of N.J.A.C. 13:2-2.5; now, therefore be it

RESOLVED, that a "new" Plenary Retail Consumption Licenses for the period commencing July 1, 2011 through June 30, 2012, be issued to the following licensee:

<u>LICENSE NO.</u>	<u>LICENSEE</u>	<u>LICENSED PREMISES</u>
0901-33-009-004	Mitchell Burakovsky	275 Broadway

Ayes - Board Members Colasurdo and Chairman McCabe.

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

WHEREAS, by Resolution No. 12-04-26-002 this board approved the person to person transfer of Plenary Retail Consumption License No. 0901-33-150-003, held by Happy 24 Hours, Inc. t/a Scarab for premises located at 147 Avenue & and 50 East 17th Street in the City of Bayonne to Scarab Entertainment, LLC t/a Scarab, effective April 27, 2012; and

WHEREAS, the board has been advised by the State of New Jersey, Division of Alcoholic Beverage Control that said renewal be rescinded under the provision of N.J.S.A. 33:1-12.39; now, therefore, be it

RESOLVED, Resolution No. 12-04-26-002, adopted April 26, 2012 approving the person to person transfer of Plenary Retail Consumption License No. 0901-33-150-003, held by Happy 24 Hours, Inc. t/a Scarab for premises located at 147 Avenue E & 50 East 17th Street in the City of Bayonne to Scarab Entertainment, LLC, be and the same is hereby rescinded; and be it further

RESOLVED, that the effective date of this resolution is April 28, 2012 nunc pro tunc.

Ayes - Board Members Colasurdo and Chairman McCabe.

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07. Board Member Colasurdo moved that the following resolution be adopted, seconded by Chairman McCabe, which motion was adopted.

WHEREAS, Scarab Entertainment, LLC, t/a Scarab, residing or located at 147 Avenue E in the City of Bayonne, County of Hudson, State of New Jersey, has made application for the transfer to it of Plenary Retail Consumption License No. 0901-33-150-003, now held by Happy 24 Hours, Inc. for premises located at 147 Avenue E and in the City of Bayonne, 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. 0901-33-150-003, above described, be and is hereby transferred from Happy 24 Hours, Inc., the present holder of the same, to Scarab Entertainment, LLC, t/a Scarab; and be it further

RESOLVED, that the Board Secretary be and is hereby authorized and directed to execute the endorsement of the 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 September 27, 2012.

Ayes - Board Members Colasurdo and Chairman McCabe.

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08. Board Member Colasurdo moved that the following disciplinary charges be received and file and that the resolution following same be adopted, seconded by Chairman McCabe, which motion was adopted.

August 29, 2012

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

Dear Commissioners,

Attached hereto is a synopsis of a case against Wine Warehouse located at 1 LeFante Way, Bayonne, N.J., and holder of Plenary Retail Distribution Liquor License Number 0901-44-131-006.

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

(1 Count) 13:2-23.27 Prohibited activities during license suspension

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

Ralph Scianni
A/Chief of Police
City of Bayonne

Synopsis of Case

License:	Plenary Retail Consumption License
Number:	0901-44-131-006
Owners:	South Cove Entertainment, LLC
T/A:	Wine Warehouse

Location: 1 LeFante Way, Bayonne, NJ

Registered agent: Paresh Patel

Persons Involved: Police: Sergeant A. Gonzales #S67
Detective Timothy Donaway #236

Complaining Officer: Detective Timothy Donaway #236

A.B.C. Supervisor: Sergeant Kevin Gallagher #S31
Sergeant Anthony Gonzalez #S67

Violations:

13:2-23.27 Prohibited activities during license suspension

4. Advertise that the licensed premises is closed or the licensed business stopped because of repairs, or alterations or for any reason other than the suspension.

Synopsis of incident:

08/16/2012 Bayonne Police File #2012-48377

On August 16, 2012 Sergeant Gonzales and Detective Donaway of the Bayonne Police Alcoholic Beverage Control Bureau conducted a check of the Wine Warehouse located at 1 LeFante Way. The purpose of this check was to ensure that the business was in compliance with the order of suspension which was imposed on their liquor license by the Bayonne Alcoholic Beverage Control Board.

While conducting this check four (4) separate printed signs were observed outside of the store near the entrance. The signs consisted of printed paper that read "Due to Inventory counting we cannot sell the Liquor, Wine and Beer product. We open for only Lottery, Soda, Cigar and Cigarettes sell. Sorry for the inconvenience." Sgt. Gonzalez photographed the signs for evidentiary purpose and then advised the manager, Tushar Patel, of the observed violation.

BE IT RESOLVED, that the Alcoholic Beverage Control Board hereby receives and files disciplinary charges preferred by the Chief of Police against South Cove Entertainment, LLC t/a Wine Warehouse, holder of Plenary Retail Distribution License No. 0901-44-131-006, for premises located at 1 LeFante Way, Bayonne, NJ; and be it further

RESOLVED, that the board hereby fixes Thursday, October 25, 2012 , at 5:00 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 and Chairman McCabe.

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

RESOLVED, that the hearing of disciplinary charges preferred by the Chief of Police against Plenary Retail Consumption License No. 0901-33-059-004, issued to BAD Associates, LLC t/a Buon Appetito for premises located at 906-908, be rescheduled to the meeting of October 25, 2012 at 5:00 P.M.

Ayes - Board Members Colasurdo and Chairman McCabe.

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10. Board Member Colasurdo moved that the following resolution be adopted, seconded by Chairman McCabe, which motion was adopted.

BE IT RESOLVED, that the official minutes of the special meeting of the Alcoholic Beverage Control Board of the City of Bayonne held Thursday, August 23, 2012, be and the same are hereby approved.

Ayes - Board Members Colasurdo and Chairman McCabe.

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At 5:17 P.M., Board Member Colasurdo moved to adjourn, seconded by Chairman McCabe, which motion was adopted.

Ayes - Board Members Colasurdo and Chairman McCabe.

H. Mickey McCabe, Chairman

Robert F. Sloan, Secretary