

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, MARCH 20, 2014.

The Board met at 5:00 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 March 20, 2014 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 March 18, 2014."

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, Kenneth Poesl, residing or located at 102-104 East 22nd Street 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. 0901-33-066-006, now held by David Poesl for premises located at 102-104 East 22nd Street 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. 0901-33-066-006, above described, be and is hereby transferred from David Poesl, the present holder of the same, to Kenneth Poesl; 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 March 21, 2014.

Ayes - Board Members Colasurdo and Chairman McCabe.

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

February 10, 2014

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

Dear Commissioners,

Attached hereto is a synopsis of a case against Manny's Liquors located at 941 Broadway Bayonne, N.J., and holder of Plenary Retail Distribution Liquor License Number 0901-44-081-003.

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

FETAL)	Posting of Notice Required
E141	Maintaining Current List of Employees
ORDIN	Violation of any Municipal Ordinance (1 Count)
BOOKS2	Records to be maintained on the licensed premises
DISCQ1	Disqualified Criminal Employee
TRANS	Transportation of Alcoholic Beverages, Insignia Required

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/
Ralph Scianni

Chief of Police
City of Bayonne

Synopsis of Case

File: 2013-67974
License: Plenary Retail Distribution License
Number: 0901-33-081-003
Owner: R P and Sons, Inc.
Registered agent: Samir Patel
9 Patrician Court
Parsippany, NJ 07054

Location: 941 Broadway, Bayonne, NJ
T/A: Manny's Liquors

Persons Involved: Police: Detective Donaway #236
Detective Cotter #175

Manager: Samir Patel

Employee: Tyrone Felton
17 East 48th Street
Bayonne, NJ 07002
Shane Jacoby
184 Orient Street
Bayonne, NJ 07002

Complaining Officer: Detective Donaway #236

A.B.C. Supervisor: Captain Deitrich
Sergeant Gonzalez #S67

Violations

E141

On October 24, 2013, you conducted your licensed business without keeping on your licensed premises or having available for inspection upon demand an employee list complete in all respects in violation of N.J.A.C. 13:2-23.13(a)3.

13:2-23.13 Maintaining copies of current license certificate; application; list of employees on the licenses premises.

3. A list, on a form prescribed by the Director, containing the names and addresses of, and required information with respect to, all persons currently employed on retail licensed premises, is kept on the licensed premises. A licensee shall be deemed to have complied with this requirement if this information is contained in a computer system, accessible from the licensed premises, and the information can be immediately produced.

FETAL

October 24, 2013, you the holder of a retail license failed to prominently post a warning notice prepared by the Department of Health in any service area as well as on a wall, towel dispenser or other appropriate location in any public rest room for women patrons on the licensed premises warning that alcohol consumption during pregnancy has been determined to be harmful to the fetus in violation of N.J.S.A. 33:1-12a

§33:1-12a. Posting of notice required:

A person who holds a Class C license, except a plenary retail transit license, or a club license shall ensure that a warning notice prepared by the Department of Health is posted prominently in any service area as well as a wall, towel dispenser or other appropriate location in any public rest room for women patrons on the licensed premises. The notice shall warn patrons that alcohol consumption during pregnancy has been determined to be harmful to the fetus and can cause birth defects, low birth weight and Fetal Alcohol Syndrome, which is one of the leading causes of mental retardation.

ORDIN

On October 24, 2013, you engaged in, allowed, permitted or suffered the violation of a municipal ordinance(s) or regulation(s) of the issuing authority or municipal governing body, specifically, ORD 6-6.2 "Work Permit Required" in violation of N.J.S.A. 33:1-31h.

6-6.2 Work Permit Required for Employment.

All persons employed by any Retail Consumption, Club or Retail Distribution Licensees shall obtain a work permit issued by the Department of Law Enforcement before commencing employment. Application for such work permit shall be made in person to the A.B.C. Bureau of the Police Department. Licenses and their employees shall be bound by the following rules and regulations:

- a. Every licensee, agent, bartender, waiter, waitress or other employees shall make full and complete answers on prescribed forms furnished by the Department of Law Enforcement.
- b. Every licensee, agent or any other employees, connected with or employed by the licensee shall submit to the taking by the Department of Law Enforcement of impressions of the thumb and fingertips of both hands and the taking of photographs, and shall authorize a criminal record check to be made. The

application shall pay a fee of twenty-five (\$25.00) dollars to the City of Bayonne by check or money order for the work permit. The applicant shall also pay by money order payable to "Division of State Police-S.B.I.," a fee for the processing of fingerprints and a criminal record check which shall be the current fee established by the State Police at the time of the application.

- c. Upon approval of a work permit for an applicant, the Department of Law Enforcement shall furnish to the licensee at whose premises the applicant for work permit is to be employed a work permit in the form of an identification card showing compliance with the provisions of this subsection which shall be kept on file on the licensed premises and shall be produced upon demand by a Police Officer, Law Enforcement Agent or other person authorized to enforce the Alcoholic Beverage Laws of the State of New Jersey at any time. Work permits shall only be issued for employment at a specified licensed premises and may not be transferred to any other licensed premises. A duplicate permit shall be issued to any approved employee for employment at an additional licensed premises upon application for same.
- d. Upon the termination of employment for any reason or any holder of a work permit issued pursuant to this subsection, the licensee shall notify the A.B.C. Bureau of the Police Department. The A.B.C. Bureau shall recover the identification card for such employee from the licensee and shall keep it on file. If at any time within (5) years of termination of employment the employee seek reemployment at the same or a different licensed premises, a work permit shall be issued upon application for renewal and payment of the renewal fee as hereinafter provided. If application for re-issuance for a different premises is made while the permit is still in effect, it shall be re-issued upon payment of the fee for a duplicate permit as provided in paragraph c.
- e. Work permits issued pursuant to this subsection shall be valid for a period of one (1) year commencing July 1 and shall expire on June 30 of the license year for which the work permit has been issued. Before expiration of the work permit, all persons to whom such permits have been issued shall apply for renewal. Applicants for renewal shall pay a renewal fee of fifteen (\$15.00) dollars payable to the City of Bayonne by check or money, shall consent to criminal record check through the State Police and shall pay the current fee established by the State Police for the record check by money order payable to "Division of State Police-S.B.I." Annual renewal of work permits shall not apply to those individuals, partners, corporate officers or shareholders who are listed as the owners of licenses on the license application filed with the City Clerk and the State Division of A.B.C., provided they have been finger printed, photographed and had their records checked in connection with the issuance or transfer of their license.
- f. The application procedures established by this subsection shall apply to all applications for new work permits and to all application for renewal.
- g. Licensing expiring on June 201 2001 are hereby extended and shall remain valid and effective through August 15, 2001.

§ 33:1-31. Suspension, revocation of license

Any license, whether issued by the director or any other issuing authority, may be suspended or revoked by the director, or the other issuing authority may suspend or revoke any license by the director, or the other issuing authority may suspend or revoke any licenses issued by it, for any of the following causes:

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

BOOKS2

On October 24, 2013, you failed to keep or maintain books of account which were true, complete and accurate in all respects on your licensed premises or failed to produce same for inspection upon demand in violation of N.J.A.C. 13:2-23.32

Reference is made to an A.B.C. inspection conducted by Detective Cotter and Detective Donaway on 10/24/2013, under case 2013-67974: On 10/24/2013, Samir Patel was served with a "Notice to Produce Records Within Seven Days" form which he acknowledged receipt of by signature. As of October 31st, 2014, Samir Patel failed to produce the above requirements, and is in violation of N.J.A.C. 13:2-23.32.

Records to be maintained on the licensed premises; other required records.

(d) All licensees shall produce the above-enumerated records for inspection immediately upon request by the Director, the issuing authority or the agents or representatives thereof and any other law enforcement officer, peace officer or any other person whose powers or duties include the enforcement of the Alcohol Beverage Control Act and officers as defined by N.J.S.A. 33:1-1(p), unless a different time period is prescribed in N.J.A.C. 13:2-29.4, at a location designated by the requester. The failure to comply with this subsection shall be considered in violation of N.J.S.A. 33:1035 and N.J.A.C. 13:2-23.30.

DISQ1

On October 24, 2014, you knowingly employed or had connected in a business capacity with you, Tyrone Felton, a person who had been convicted of a crime involving moral turpitude, specifically:

- 1.) 3rd Degree Felony Conviction, Cocaine Possession, Disposition 07/03/1991.
- 2.) 3rd Degree Felony Conviction, CDS on School Property, Disposition 07/20/1994
- 3.) 3rd Degree Felony Conviction, CDS on School Property, Disposition 01/20/1999
- 4.) 3rd Degree Felony Conviction, CDS on School Property, Disposition 01/20/1999
- 5.) 3rd Degree Felony Conviction, CDS on School Property, Disposition 10/13/2006

without said person first having had the statutory disqualification resulting from said conviction removed or without first having been issued a Rehabilitation Employment Permit by the Director, Division of Alcoholic Beverage Control, in violation of N.J.S.A. 33:1-26, -31.2 or N.J.A.C. 13:2-14.5.

13:2-14.5 Restrictions upon employing criminally disqualified persons

No licensee shall knowingly employ or have connected with him in any business capacity any person who has been convicted of a crime involving moral turpitude unless the statutory disqualification resulting from said conviction has been removed by order of the Director, in accordance with N.J.A.C. 13:2-15, or such person has first obtained the appropriate rehabilitation employment permit or temporary work letter from the Director.

TRANS

On February 6, 2014, you transported alcoholic beverages without required documents, specifically, by permitting "delivery person" Robert E. Compodonico utilize his personally owned vehicle to transport and deliver alcoholic beverages to customers, in violation of N.J.A.C. 13:2-20.1

No licensee shall transport alcoholic beverages into, out of, or within the State of New Jersey in any vehicle unless it is owned, leased or contracted for by the licensee. Such vehicle, while so used, shall first have issued therefore a transit insignia, or transportation license insignia issued pursuant to the provisions of this subchapter, or a limited transportation permit or emergency trip permit issued pursuant to the provisions of N.J.A.C. 13:2-21

Synopsis of incident:

10/24/2013 Bayonne Police File # 2013-67974

On 10/24/2013 Detectives Richard Cotter #175 and Timothy Donaway #236 of the Bayonne Police Department's Alcoholic Beverage Control Unit proceeded to Manny's Liquors to conduct an A/B/C/ inspection of the licensed premises. Upon entering the liquor store they spoke to Samir Patel, who identified himself as the manager/owner of the liquor store. While speaking to Mr. Patel, the detectives observed a male stocking liquor onto the shelves of the store. This male was identified as Tyrone Felton. Detective Donaway had prior knowledge of Mr. Felton and know in fact that he was a disqualified employee due to several prior felony convictions. Several month prior, Detective Donaway provided Mr. Felton with an application for a Rehabilitation Employment Permit from the New Jersey State Alcoholic Beverage Control. Detective Donaway also provided Mr. Felton with detailed instructions on how to prepare the application and advised that he was barred by law from working at Manny's Liquors until his application was approved by the Director of the State A.B.C. Detective Donaway then asked Mr. Felton and Mr. Patel as to why they never applied for the rehabilitation work permit through the N.J. State A.B.C. as previously instructed. Both Mr. Felton and Mr. Patel apologized to Detective Donaway and assured him that they would comply with his instructions and submit the necessary to the N.J. State A.B.C.

The detectives continued their inspection and asked Mr. Patel to provide them with documents and records which are to be stored on the licensed premise.

Upon request, Mr. Patel provided the detectives with the "E141-A" Employee List, examination of this document revealed the following deficiencies:

1.) "EVER BEEN CONVICTED OF A CRIME? (1ST through 4th Degree)?" YES/NO
The question regarding employee "Tyrone Felton" indicated a false answer of "NO."

2.) "IS AN ABC REHAB. PERMIT OR DISQUAL. REMOVAL REQUIRED? YES/NO"

The question regarding employee "Tyrone Felton" was not answered.

3.) Employee "Shane Jacoby" was not listed on the prescribed form.

4.) Employee "Joseph Colon", termination date and place of birth not listed.

The detective then asked Mr. Patel to inspect his payroll records. Mr. Patel stated that he did not keep those records on the premises. Detective Donaway then asked Mr. Patel to produce a valid "Off Premise Storage of Records Permit". Mr. Patel failed to do so. Subsequent investigation revealed that he does not have permission from the Director of New Jersey State A.B.C. to keep his records off premise. The detective then served Mr. Patel with a "Notice to Produce Records Within Seven Days" FROM AND A "Notice of Inspection" form which he acknowledged and signed for.

On October 31, 2013, Mr. Patel responded to the Bayonne Police Department's A.B.C. office and submitted a folder of documents to comply with the "7 Day Notice." An examination of these documents proved that Mr. Patel is keeping un-true books of account, specifically payroll records. None of records provided and examined indicate that Mr. Patel is properly paying or filing taxes for employees Tyrone or Shayne Jacoby.

As a result of this inspection/investigation, the following summonses were issued:

- 1.) Work Permit Required, Ordinance 6-6.2, Summons SC037620
- 2.) Work Permit Required, Ordinance 6-6.2, Summons SC037619

02/06/2014 Bayonne Police Supplementary Report File #2013-67974

On 02/06/2014, at 21:55 hrs., Detectives Donaway and Galano conducted an inspection of Manny's Liquors. Upon entering the liquor store the detective spoke to Samir Patel, the owner/manager. The detective advised Mr. Patel that they wanted to inspect the delivery vehicle that his employee was using to deliver alcoholic beverages.

Mr. Patel then stated that the business delivery vehicle was out of service, further stating that his delivery person was utilizing his own person vehicle to deliver alcohol to customer.

While the detectives were speaking to Mr. Patel they observed the delivery person preparing a delivery, he was identified as Robert E. Campondonico by New Jersey Driver's License (D.L.# C0371 65865 11516) and Bayonne Police A.B.C. Work Permit. Mr. Campondonico advised the detective that he has been delivering alcohol in his personally owned vehicle for approximately three (3) weeks. Mr. Patel was the asked to produce proof of a New Jersey State A.B.C. Transit Insignia which is required to transport or deliver alcoholic beverages in this state. Mr. Patel replied that only the business vehicle is registered with the N.J. State A.B.C. and exhibits a Transit Insignia. Detectives Donaway and Galano inspected Mr. Patel's vehicle which displayed N.J. State Insignia #11191, which expired on August 31st, 2013.

Ayes - Board Member 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.

BE IT RESOLVED, that the official minutes of the special meeting of the Alcoholic Beverage Control Board of the City of Bayonne held Thursday, January 16, 2014, be and the same are hereby approved.

Ayes - Board Member Colasurdo and Chairman McCabe.

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At 5:04 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