

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, OCTOBER 23, 2014.

The Board met at 5:00 P.M.

The Board Secretary called the roll.

Present were: Board Members Debra Cuseglio, John Minella, 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 Thursday, October 23, 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 October 20, 2014."

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

* * * * *

01. Board Member Minella moved that the following resolution be adopted, seconded by Board Member Cuseglio, which motion was adopted.

RESOLVED, that the renewal of Plenary Retail Consumption Licenses for the period commencing July 1, 2014 through June 30, 2015, be granted to the following licensees:

<u>LICENSEE</u>	<u>LICENSED PREMISES</u>	<u>LICENSE NO.</u>
Hi Hat Caterers Inc.	Pocket License	0901-33-065-003
Melanie's at Prospect Avenue t/a Melanie's	24 Prospect Avenue	0901-33-107-002

Ayes - Board Members Cuseglio, Minella, and Chairman McCabe.

* * * * *

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

CC: ABC Board
S. Ferraro



CITY OF BAYONNE
POLICE DEPARTMENT

630 AVENUE C

BAYONNE, NEW JERSEY 07002
(201) 858-6900

ROBERT KUBERT
Public Safety Director

DREW NIEKRASZ
Chief of Police

October 22, 2014

Alcoholic Beverage Control Board
Municipal Building
630 Avenue C
Bayonne, NJ. 07002

Dear Commissioners,

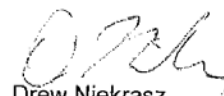
Attached hereto is a synopsis of a case against Sin Kan LLC. (Thai O'Brien's), located at 57 East 32nd Street Bayonne N.J., and the holder of Plenary Retail Consumption License Number 0901-33-117-011.

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

- APP4-N Issuance of license, application, qualifications; criminal record background check, fee (3 Counts)
- APP5-N Issuance of license, application, qualifications; criminal record background check, fee (1 Count)

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,


Drew Niekrasz
Chief of Police
City of Bayonne

RECEIVED
CITY CLERK'S OFFICE
BAYONNE, N.J. 07002
2014 OCT 23 A 11:06

Synopsis of Case

License: Plenary Retail Consumption
Number: 0901-33-117-011
Owner: Sin Kan LLC.
Registered agent: David Ma
Location: 57 East 32nd Street
T/A: Thai O'Brien's
Complaining Officer: Detective Timothy Donaway #236
A.B.C. Supervisors: Detective Captain Robert Geisler
Detective Sergeant Anthony Gonzalez

APP4-N

33:1-25. Issuance of license, application, qualifications; criminal record background check, fee

Applicants for licenses shall answer questions as may be asked and make declarations as shall be required by the form of application for license as may be promulgated by the director from time to time. All applications shall be duly sworn to by each of the applicants. All statements in the applications required to be made by law or by rules and regulations shall be deemed material, and any person who shall knowingly misstate any material fact, under oath, in the application shall be guilty of a misdemeanor. Fraud, misrepresentation, false statements, evasions or suppression of material facts in the securing of a license are grounds for suspension or revocation of the license.

In your license renewal application, corporate structure change application, transfer application or amendment to the foregoing filed on or about 5/22/13, you failed to show or disclose certain material facts, or falsely or inaccurately responded to questions thereon, specifically, providing false answers to questions:

3.7 DOES THE APPLICANT OWN THE BUILDING?

3.9 LANDLORD (HOLDER OF LEASE)

6.3 HAS THE APPLICANT OR ANY OTHER PERSON, CORPORATION OR ENTITY MENTIONED IN THIS LICENSE APPLICATION, OR ANYONE WITH A BENEFICIAL INTEREST IN A NEW JERSEY ALCOHOLIC BEVERAGE LICENSE WHICH WAS SURRENDERED, SUSPENDED OR HAD A PENALTY IMPOSED IN LIEU OF SUSPENSION, NOT RENEWED, REVOKED OR CANCELLED WITHIN THE 10 YEARS PRIOR TO THE DATE OF THIS APPLICATION?

in violation of N.J.S.A. 33:1-25.

1st offense.....10 day suspension

(3 Counts).....30 day suspension

APP5-N

33:1-25. Issuance of license, application, qualifications; criminal record background check, fee

Applicants for licenses shall answer questions as may be asked and make declarations as shall be required by the form of application for license as may be promulgated by the director from time to time. All applications shall be duly sworn to by each of the applicants. All statements in the applications required to be made by law or by rules and regulations shall be deemed material, and any person who shall knowingly misstate any material fact, under oath, in the application shall be guilty of a misdemeanor. Fraud, misrepresentation, false statements, evasions or suppression of material facts in the securing of a license are grounds for suspension or revocation of the license.

In a license application, or amendment thereto, filed on or about 5/22/13, you failed to show or disclose certain material facts, or falsely or inaccurately responded to questions thereon related to a disqualification, or to a person disqualified from licensure, specifically, question 7.2 WOULD ANY PERSON OR CORPORATION NAMED IN THIS APPLICATION FAIL TO QUALIFY FOR OWNERSHIP OF THE LICENSE IF APPLYING ASA AN INDIVIDUAL BECAUSE OF AGE, CRIMINAL CONVICTION OR PROHIBITED INTERESTS IN OTHER LICENSES? in violation of N.J.S.A. 33:1-26.

1st offense.....45 day suspension
(1 Count)

Total Suspension Time.....75 days

NARRATIVE

Reference is made to an investigation conducted by Detective Donaway into the corporate structure change and legal ownership of Thai O'Briens. During a review of the 12 page Division of Alcoholic Beverage Control application submitted by David Ma, hereafter referred to as the applicant, Detective Donaway discovered several discrepancies in the application. A detailed review of the application dated 05/22/13, revealed the applicant falsified several questions. These specific questions would disqualify him from holding an interest in a liquor license in the State of New Jersey. Said application was submitted to the Bayonne City Clerk's Office on 06/24/2013.

Below is a list of the specific numbered questions which were falsely answered by the applicant.

3.7 DOES THE APPLICANT OWN THE BUILDING?

The applicant falsely answered "NO"

Investigation revealed that said property is owned by D & M MA REALTY CORP, which said applicant is a member of.

3.9 LANDLORD (HOLDER OF LEASE)

The applicant's answer lists himself as the landlord/ holder of lease.

6.3 HAS THE APPLICANT OR ANY OTHER PERSON, CORPORATION OR ENTITY MENTIONED IN THIS LICENSE APPLICATION, OR ANYONE WITH A BENEFICIAL INTEREST IN IT, HAD AN INTEREST IN A NEW JERSEY ALCOHOLIC BEVERAGE LICENSE WHICH WAS SURRENDERED, SUSPENDED OR HAD A PENALTY IMPOSED IN LIEU OF SUSPENSION, NOT RENEWED, REVOKED OR CANCELLED WITHIN THE 10 YEARS PRIOR TO THE DATE OF THIS APPLICATION?

The applicant falsely answered "NO"

On 05/08/2010, Detective Donaway conducted an investigation into Sin Kan LLC and charged the licensee with the following violations:

- 1.) Ordinance 6-5.1 "Serving After Hours"
- 2.) Ordinance 6-3.3 "License Required"

The licensee subsequently plead guilty to the aforementioned charges before the Bayonne Alcoholic Beverage Control Board on 07/29/2010. As a result, the licensee received a 10 (ten) day suspension for each violation which ran concurrently, with 5 (five) days remitted, for a total closing of 5 (five) days.

7.2 WOULD ANY PERSON OR CORPORATION NAMED IN THIS APPLICATION FAIL TO QUALIFY FOR OWNERSHIP OF THE LICENSE IF APPLYING AS AN INDIVIDUAL BECAUSE OF AGE, CRIMINAL CONVICTION OR PROHIBITED INTERESTS IN OTHER LICENSES?

The applicant falsely answered "NO"

On 02/09/81, the applicant was arrested by the N.Y.P.D. and charged with the following crimes:

1. Criminal Possession Controlled Substance – 3rd: Narcotic Drug Intent to Sell
2. Grand Larceny 1st Degree
3. Grand Larceny 2nd Degree

The applicant was convicted upon verdict after trial and sentenced to 5 years probation and ordered to pay the fine amount of \$426,000.00.

The applicant's criminal conviction has been determined to be a crime of Moral Turpitude and disqualifies him to hold any interest in a liquor license in the State of New Jersey.

Disciplinary History of Retail Plenary Consumption License 0901

Hearing Date:	July 29 th , 2010
Resolution & Order	10-07-29-005
Date of Violations:	05/08/2010
Violations:	Ordinance 6-5.1 "Serving After Hours" Ordinance 6-3.3 "License Required"
Complaining Officer:	Detective Donaway

On July 29th 2010, the licensee entered a Plea of Guilty for each violation. The licensee received a 10 (ten) day suspension for each violation which ran concurrently, with 5 (five) days remitted, for a total closing of 5 (five) days.

Second offense of 6-5.1 "Serving after Hours" reflected in current charges under **HRS1**.

BE IT RESOLVED, that the Alcoholic Beverage Control Board hereby receives and files disciplinary charges preferred by the Chief of Police against Sin Kan LLC t/a Thai's O'Brien's, holder of Plenary Retail Consumption License No. 0901-33-117-011, for premises located at 57 East 32nd Street , Bayonne, NJ; and be it further

RESOLVED, that the board hereby fixes Thursday, November 20, 2014 , 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 Cuseglio, Minella, and Chairman McCabe.

* * * * *

03. Board Member Minella moved that the following resolution be adopted, seconded by Board Member Cuseglio, which motion was adopted.

BE IT RESOLVED, that the official minutes of the regular meetings of the Alcoholic Beverage Control Board of the City of Bayonne held Thursday, August 21, 2014 and September 18, 2014, be and the same are hereby approved.

Ayes - Board Members Cuseglio, Minella, and Chairman McCabe.

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04. The Board Secretary announced that this was the time and place set for the hearing of disciplinary charges filed by the Chief of Police against Sin Kan LLC t/a Thai O'Brien's for premises located at 57 East 32nd Street.

Assistant City Attorney William Opel appeared on behalf of the Chief of Police Vincent Biancielli, Esq. appeared for the licensee.

Counsel advised that a plea agreement had been reached. Board Member Minella moved that the following resolution be adopted, seconded by Board Member Cuseglio, which motion was adopted.

ALCOHOLIC BEVERAGE CONTROL BOARD
OF THE CITY OF BAYONNE

In the matter of the proceedings to) **14-10-23-004**
discipline Plenary Retail Consumption)
License No. 0901-33-117-011, issued to) RESOLUTION AND ORDER
Sin Kan LLC t/a Thai O'Brien's for)
premises located at 57 East 32nd Street,))
Bayonne, New Jersey)

Notice having been duly served upon Sin Kan LLC t/a Thai O'Brien's, holder of Plenary Retail Consumption License No. 0901-33-106-003 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 Sin Kan LLC t/a Thai O'Brien's, through its attorney, Vincent Biancielli, Esq., having entered a plea of guilty to certain of the charges;

IT IS THEREFORE, on this 23rd day of October, 2014, on motion duly made and seconded

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

1. N.J.A.C. 13:2-23.6 Prohibition against immoral activities; disturbance; nuisance on premises (1 Count)
2. 6-5.1 Hours of Operation (2 Counts); and be it further

RESOLVED AND ORDERED, that the license of the said Sin Kan LLC t/a Thai O'Brien's, heretofore issued by the Municipal Council of the City of Bayonne be suspended for fifty (50) days, with (20) days remitted in consideration of the plea of guilty, for a total suspension of thirty (30) days, effective from 2:00 A.M. Saturday, the 1st day of November, 2014, to 6:00 A.M. Monday, the 1st day of December, 2104, both dates inclusive; and further

RESOLVED AND ORDERED, that during the closure period the licensee will attempt to reconcile license application issues that are the subject of additional charges preferred by the Chief of Police and the license will be allowed to petition the board to reconsider the current closure if the license application issue is resolved prior to the expiration of the thirty day closure period.

Ayes - Board Members Cuseglio, Minella, and Chairman McCabe.

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At 5:30 P.M., Board Member Minella moved to adjourn, seconded by Board Member Cuseglio, which motion was adopted.

Ayes - Board Members Cuseglio, Minella, and Chairman McCabe.

H. Mickey McCabe, Chairman

Robert F. Sloan, Secretary