



**FRIEBERT, FINERTY & ST. JOHN, S.C.**  
ATTORNEYS AT LAW

Two Plaza East - Suite 1250 • 330 East Kilbourn Ave. • Milwaukee, Wisconsin 53202  
Phone 414-271-0130 • Fax 414-272-8191 • www.ffsj.com

CITY OF MILWAUKEE  
2009 DEC 17 PM 5:15

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JOSEPH M. PELT7

\*ALSO ADMITTED IN FLORIDA & ILLINOIS

December 17, 2009

**VIA MESSENGER**

Honorable Common Council of the City of Milwaukee  
c/o Mr. Ronald D. Leonhardt  
City of Milwaukee Clerk  
City Hall, Room 205  
200 East Wells Street  
Milwaukee, WI 53202

Re: Premier Restaurant Management/City of Milwaukee – (Objections to the Report of the Licenses Committee in Connection with the Renewal Application for a Class “B” Tavern License and Tavern Dance License for Bootleggers of Milwaukee at 1023-1027 N. Old World Third Street in the 4th Aldermanic District)

License No. BTAVN 15197

Dear Honorable Members of the Common Council:

This office represents the above-referenced licensee and the undersigned serves as its license agent. Pursuant to § 90-12-5-c-2, *Milwaukee Code of Ordinances* (“MCO”), the licensee does respectfully file these written objections to the December 10, 2009 Report of the Licenses Committee (the “Committee”) including its Findings of Facts and Conclusions of Law that were filed as a result of the renewal hearing on December 8, 2009, recommending suspension of the licensee’s Class “B” Tavern License (hereinafter “License”) for thirty (30) days and an amendment to the floor plan for the premises to delete the rooftop bar from the licensed premise.

The licensee requests that these written objections be considered by the Common Council at its December 22, 2009 meeting during the time in which the Committee’s recommendations are considered. The undersigned will be present at the meeting to present oral argument and to answer questions.

**BACKGROUND**

Bootleggers opened in 2008 on North Old World Third Street following a \$2 million renovation of the old Mader’s gift shop that was then a vacant storefront. Bootleggers’ ownership group is experienced in restaurant and bar operations with 15 establishments in the Twin Cities area, Austin and Miami. Bootleggers is a Prohibition Era themed establishment that brought out the best of its Cream City Brick building and fit in the area of other similar buildings and the brick-paved Turners’ Alley.

Since it opened, Bootleggers has offered an atmosphere and entertainment to Milwaukee's young professional and adult patrons that is complimentary to what was already on Old World Third Street and those businesses that have moved in since.

Bootleggers has all the usual audio-visual equipment, dart boards, pool tables and lounge style seating, but it also offers a variety of live and recorded music. Bootleggers plays **recognizable popular adult contemporary music and not rap, hip-hop, club or house music.** Bootleggers has been very successful and it has made a substantial investment in Milwaukee.

In that regard, the 2009 assessment of the property totals \$1,211,000.00 and the property taxes to be paid amount to \$34,000.00.

#### **A. Operational Plan**

1. *Food Menu.* Bootleggers offers food on weekends for lunch, evening dinners and a late-nite menu. The menu is in the record before the Committee and contains sandwiches, pizzas and entrees. Bootleggers has been open for weekday lunches in the past and will reopen for the lunch crowd when the economy rebounds and demand returns.
2. *Staffing.* Bootleggers employs over 50 people ranging from local management, servers, bartenders, kitchen staff, and security.
3. *Security.* On Thursday-Saturday nights, Bootleggers has a total of 10-12 security guards throughout the entire establishment during its hours of operation. The third floor rooftop deck is staffed on Sunday-Wednesday nights by at least one bartender and at least one server. In addition to that base level staffing, on Thursday-Saturday nights, a security guard is stationed at the western stairway providing access for the rooftop deck and another roving security guard patrols the rooftop deck. In addition to those stationed on the third floor rooftop deck, two (2) security guards are also stationed in the front of the building and one (1) in the rear. The others patrol the establishment on a roving basis.

If there is an altercation, the parties are asked to leave and are escorted out of the building from different exits. The parties are informed that if they do not leave voluntarily, MPD will be contacted. The parties are also instructed not to return that evening. In the event that there is an incident, Bootleggers drafts incident reports and keeps logs of these reports.

4. *MPD Cooperation.* Bootleggers has a good relationship with MPD and local management speaks with the MPD patrol officer at least once every weekend. Additionally, when MPD officers visit Bootleggers, staff asks them how Bootleggers can assist them and they are invited to walk around the establishment with either security or management to ensure that everything is orderly.

5. *Patron Intoxication Levels.* Security is instructed to stop any person at the front door who appears to be inebriated and not to permit the person to enter. In addition to the responsible server course required by the City of Milwaukee, staff attends separate training courses twice a year by an independent third party server training company.

Staff is prohibited from consuming alcohol on the premises when working, including bartenders.

Patrons are only permitted to have one (1) drink in front of them (patrons cannot order pitchers) and only when they are half finished will staff take an order for another drink such that, when delivered, the most they will have is 1 ½ drinks at any one time.

Staff is instructed to stop serving patrons who appear overly intoxicated and to ask overly intoxicated patrons to leave the tavern (staff evaluates the patron to make sure the patron may leave safely, locates the people who came to the tavern with the patron to notify them that their friend is leaving and safely escort the patron from the premises; if no one else from the patron's party can be located, transportation is arranged and often paid for by Bootleggers).

Staff is instructed that any mess made outside the tavern, irrespective of whether caused by its patrons or those from another establishment, is to be cleaned up. Staff cleans outside after closing each night and broom sweeps the west and north alley areas abutting the property weekly.

6. *Neighborhood Action Plan.* Bootleggers has taken steps to provide its Neighborhood Action Plan, attached hereto as **Exhibit A**, and incorporated herein by reference as a set of conditions to the renewal of its licenses.

## **B. Responses to Rooftop Deck Issues**

Concerning the unlawful trespass by patrons to a rooftop to the south, management relocated tables and chairs away from the vicinity of the suspected access point and staff has been instructed to monitor the area. Further, staff has been instructed to detain anyone attempting to enter or exit the suspected access point and to then call the Milwaukee Police Department ("MPD").

In the event that the neighboring resident discovers individuals on his property, Bootleggers has provided phone numbers for reaching the General Manager or other appropriate high-level management to coordinate a response to the situation including, but not limited to, calling MPD and preventing the individuals from returning to the Bootleggers' rooftop deck for escape. Similarly, in the event that the neighboring resident discovers evidence that individuals have been on his property, Bootleggers has asked him to contact the General Manager or other appropriate high-level management to report and document the occurrence.

Within 24 hours of being notified by the local alderman, on May 6, 2009, Bootleggers installed a security wall at the suspected access point to prevent easy access to the adjacent rooftops. Due to continued issues, Bootleggers intends to extend the installed wall and has already commenced dialogue with the Milwaukee Historic Preservation Commission (“HPC”) staff for approval of this addition. *See* Exhibit A (Neighborhood Action Plan).

Concerning any patrons throwing items from the rooftop deck, Bootleggers has a “zero tolerance” policy for incidents of which it is aware. Because some concerns have been raised with respect to the need for screening, Bootleggers will install latticework or another appropriate screening element along the north side of the planter boxes on the rooftop to a height of approximately seven (7) feet to extend the screening of the rooftop deck. Bootleggers has already commenced dialogue with HPC staff for approval of this addition. *See* Exhibit A (Neighborhood Action Plan). Bootleggers will also reinstall the green edge of boxwood bushes along the newly-installed screening pursuant to the original Certificate of Appropriateness (“COA”) by virtue of more mature plantings that are already or soon will be at the six (6) foot height recommended in the COA.

Bootleggers will also install appropriate window treatments on the second floor to screen views into and out from that level from the residential units to the north.

### **ISSUES AND GENERAL OBJECTIONS TO THE RECOMMENDATIONS**

Bootleggers denies that it is operated in a way that creates a public nuisance and that a 30 day suspension and the closure of its rooftop deck is warranted to protect the health, welfare and safety of the citizens of Milwaukee. As discussed in more detail below, Bootleggers’ position is based on the record before the Committee such that a fair and unbiased review of such record would require a reasonable person to vote to renew the licenses without a suspension or amendment.

The Committee’s action appeared to be grounded in the combination of the Police Report as presented and the certain witness testimony that seemingly coincided with certain elements of the Police Report. Both matters will be briefly examined below in turn.

#### **A. Bootleggers Responded Completely to the Relatively Minor Police Report Entries**

Interestingly and perhaps a harbinger of things to come, before Bootleggers even opened, it faced objections to its license application by a competitor (Buckhead Saloon) when it first applied for a license in 2007. The Committee, however, saw past such shallow objections and granted the initial license. In 2008 for its renewal, Bootleggers had one (1) item on the Police Report but it was renewed without any issue.

At the 2009 hearing before the Committee, MPD introduced a Police Report with five (5) items on it and it is fair to say that the contents are in some respects relatively minor in that they *do not*

contain violations such as service to underage patrons, excessive need for MPD resources, shootings, stabbings, large scale fights or drug dealing.<sup>1</sup>

Bootleggers comprehensively responded to each Police Report entry during the hearing although the Findings of Fact fail to set forth any reference to the record in that respect. Bootleggers therefore incorporates by reference the testimony of its license agent, Class B Manager and general manager in the record from the hearing available in the City's electronic records and the forthcoming hearing transcript ordered by Bootleggers but not yet delivered.

#### **B. Credibility Questions Undercut the Reliability of the Witness Testimony**

Finally, the credibility of the witnesses who testified at the Committee's hearing is in serious question as revealed by their direct testimony, counsel's cross examination, and an investigation since the hearing.

Two of the witnesses are the co-owners of a competitor (Buck Bradley's) and one is the girlfriend of the bar manager for another competitor (Old German Beer Hall). Another witness testified in detail as to his belief that broken windows at his property were caused by our customers when the record before the Committee – and most important – the Police Record – unequivocally showed that was not the case and in both instances Bootleggers' staff was essential in catching the guilty parties. The final witness was an individual who testified that he had so many problems living next door in 2008 that he moved away but when his job brought him back to Milwaukee recently, he moved right back into the same apartment but that he objected to the noise and having to look at people in Bootleggers and them looking back.<sup>2</sup> Bootleggers has since learned from his twitter<sup>®</sup> that this last individual is a patron of numerous competitors (including the Beer Hall). Bootleggers also submits to the Common Council that certain witnesses and those in relationships to certain witnesses have themselves behaved unreasonably. *See* Affidavit of James O'Meara (**Exhibit B**), Affidavit of Michael Hoffenberg (**Exhibit C**), Affidavit of Joshua Hurley (**Exhibit D**), Affidavit of Adam T. Reed (**Exhibit E**), and Statement of Hurley/Hoffenberg/Klemeneic (**Exhibit F**).

To the extent the Committee's recommendations were based upon the witness testimony and the Common Council weighs that testimony in considering the recommendations, Bootleggers submits that these credibility concerns, unclean hands and what appear to be questionable

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<sup>1</sup> Bootleggers does not mean to imply that it should receive credit for doing what it should be doing by not having such serious incidents. It will hereinafter merely point to less severe suspensions and sanctions levied against other establishments with problems that are much more severe. This point will be examined further in the due process section, below.

<sup>2</sup> Counsel reminded the Committee that Old World Third Street is one of Milwaukee's premier entertainment districts along with Water Street, Milwaukee Street and the 5<sup>th</sup> and National areas, so noise and nightlife should not be surprising. Counsel further noted that noise and street activity are also caused during the day by industries such as Usinger's and its constant stream of delivery trucks as well as the Bradley Center and its events with crowds of several thousand.

motivations by some or all of the witnesses severely diminishes the reliability of any penalties based on such testimony.

Moreover, counsel's cross examination questioning revealed the generalities of their testimony and the fact that they could not pinpoint that the incidents are directly related to or caused by Bootleggers as opposed to the numerous other establishments in the area. The Findings of Fact fail to set forth any reference to these mitigating admissions that are in the record but Bootleggers nevertheless incorporates by reference the cross examination of each witness as well as the testimony of its license agent, Class B Manager and general manager in the record from the hearing available in the City's electronic records and the forthcoming hearing transcript ordered by Bootleggers but not yet delivered.

However, Bootleggers acknowledges that the testimony of the witnesses did present certain issues that must be corrected and Bootleggers takes responsibility to immediately address them and has so committed to the neighbors, the Old World Third Street Association, and the Alderman for the District.

### **LEGAL OBJECTIONS TO THE RECOMMENDATIONS**

#### **A. The Committee Failed to follow its Customary and Required Principles of Progressive Discipline**

While Bootleggers faced the objections by a competitor when it first applied for a license in 2007 and it had one (1) item on the Police Report for its renewal in 2008, the licenses were granted and renewed without any issue. At the 2009 hearing before the Committee, MPD introduced a Police Report with five (5) items on it and it is fair to say that the contents are in some respects relatively minor in that they *do not* contain violations such as service to underage patrons, excessive need for MPD resources, shooting, drug dealing or large scale fights.<sup>3</sup>

In any event, Bootleggers responded comprehensively to each Police Report entry although the Findings of Fact fail to set forth any reference to the record in that respect. Bootleggers therefore incorporates by reference the testimony of its license agent, Class B Manager and general manager in the record from the hearing available in the City's electronic records and the forthcoming hearing transcript ordered by Bootleggers but not yet delivered.

That all said, the Committee customarily applies progressive discipline principles to applicants before it when considering imposing sanctions. In fact, Wisconsin courts have noted that such principles are appropriate in order to satisfy the equal protection requirements of the U.S. Constitution, 14<sup>th</sup> Amendment. *See Village of Menomonee Falls v. Michelson*, 104 Wis. 2d 137, 145-46 (Ct. App.).

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<sup>3</sup> Bootleggers does not mean to imply that it should receive credit for doing what it should be doing by not having such serious incidents. It is merely pointing to less severe suspensions and sanctions levied against other establishments with problems that are much more severe. This point will be examined further in the due process section, below.

Rather than mandating that Bootleggers immediately respond to the issues presented by the Police Report and neighboring witnesses – either by giving Bootleggers a chance to remedy all of the concerns or imposing a short, reasonably appropriate sanction to impress upon it the importance of the matter – the Committee instead arbitrarily imposed a thirty (30) day suspension and removed the unique and custom-built rooftop deck from the plan of operation altogether. Bootleggers submits that a much shorter or no suspension was more appropriate and that closing the deck was an unreasonable penalty in light of the City’s progressive discipline principles that should have applied in this situation.

**B. Bootleggers’ Basic Principles Due Process were Violated by the Committee’s Action**

Bootleggers’ interest in the renewal of its licenses is a constitutionally protected property right. *See Tavern League of Wis. v. Madison*, 131 Wis. 2d 477, 489 (Ct. App. 1986). Bootleggers is therefore entitled to procedural due process in the consideration of renewing its licenses. *See Polenz v. Parratt*, 83 F.2d 551, 557 (7th Cir. 1989). The following due process principles were not observed by the Committee at its hearing.

1. *Due Process Requires a Separate Hearing on any Penalties Imposed.* In criminal trials, the judge or jury rules on the evidence before it in trial proceedings but due process requires a separate hearing to set the penalty with the right to be heard. This further serves to satisfy Bootleggers’ equal protection rights as guaranteed by the 14<sup>th</sup> Amendment. With the process utilized by the Committee, the penalty was only discussed and set when the file was “in committee” without any opportunity for counsel to be heard. This failure to allow Bootleggers to participate in the discussion or parameters of any penalty to be established violates the most basic principles of due process to be accorded to Bootleggers. This also left the Committee’s recommendation exposed to an equal protection challenge in that it is arbitrary, oppressive and unreasonable based upon the record before the Committee and previous application decisions made by the City.
2. *Bootleggers’ Right to Due Process was Violated in Light of the Penalties Imposed.* Bootleggers received a 30 day suspension and an amendment to its plan of operation to eliminate the rooftop deck. A sample comparison of penalties imposed on other establishments with service to underage patron violations, excessive need for MPD resources, shootings, stabbings, large scale fights or drug dealing reveals that these much more severe offenses and problems yielded much less significant penalties. *See Exhibit G* (Suspension Chart based on City Records).
3. *Deficient Denial Notice Language.* Bootleggers was not provided proper notice for the possible reasons for non-renewal or imposition of penalties. Section 90-11-2, *MCO*, requires that renewal applicants receive a notice of potential non-renewal including a statement of reasons upon which that could be based or conditioned as with penalties such as a suspension. In this matter, Bootleggers received a notice of the possibility that the application may be denied for the following reasons:

*See* attached police report. Neighborhood Objections to loitering, littering, loud music and noise, parking and traffic problems, fights, sales to intoxicated persons, trespassing, patrons leaving the rooftop space deck of the premises and trespassing on private property, vandalism, operation of the premises in such a manner that it creates a public nuisance, disorderly patrons, and conduct which is detrimental to the health, safety, and welfare of the neighborhood.

*See* November 25, 2009 Committee Meeting Notice. Many of the reasons listed had no foundation in the Police Report or in the testimony. Therefore, Bootleggers' due process rights were violated because the notice did not actually specify the reasons the licenses may be denied or subject to penalty as it simply provided a laundry list of reasons upon which any renewal application could be denied.

4. *Burden of Proof Improperly Shifted to Bootleggers.* In violation of Bootleggers' right to due process, the Committee placed the burden of proof on Bootleggers to disprove that the incidents recounted in the Police Report were true, or not related to Bootleggers, while the City was allowed to put its case to the Committee first in the form of the Police Report. The allegations of the MPD were therefore taken as fact without any evidence being put forth to prove the content of the report as it relates to Bootleggers.

### **C. The Committee Failed to Adopt Findings of Fact and Conclusions of Law**

Bootleggers objects to the entire Findings of Fact, Conclusions of Law and Recommendation in that the Committee never adopted the findings. That requirement is established in § 125.12(2)(b)(3), Wis. Stats., and § 90-11-2-c-2., *MCO*. Here, the record from the hearing available in the City's electronic records and the forthcoming hearing transcript ordered by Bootleggers but not yet delivered will demonstrate that Ald. Kovac made very minimal findings in making his motion.

However, the recommendation may be accepted only on the basis of the findings explicitly made at the hearing and its decision cannot be affirmed on the basis of its attorney's *post hoc* rationalizations for the Committee's action or because the contents of the record support conclusions that the Committee has not stated. *See Republic of Texas Corp. v. Board of Governors of Federal Reserve System*, 649 F.2d 1026, 1043 (5<sup>th</sup> Cir. 1981) ("When, as here, an agency makes only minimal findings, its decision rests on precarious ground."). Moreover, the attorney's document is entitled to little deference. *See Securities Indus. Ass'n v. Board of Governors*, 468 U.S. 137, 144, 104 S.Ct. 2979, 2983, 82 L.Ed.2d 107 (1984).



When a body, as it did here, makes only minimal findings on the record at the hearing, its decision “rests on precarious ground.” See *Republic of Texas Corp.*, 649 F.2d at 1043; see also *Securities Indus. Ass’n*, 468 U.S. at 144, 104 S.Ct. 2979, 2983, 82 L.Ed.2d 107 (1984); *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168-69, 83 S.Ct. 239, 9 L.Ed.2d 207 (1962) (well-settled rule that agency action must be upheld, if at all, on the basis articulated by the agency itself at time of its determination, and that post hoc explanations should not be considered).

### CONCLUSION

For all of the foregoing reasons, most notably the record before the Committee as compared to other license applicants and the inability to be heard on the proposed penalty, Bootleggers respectfully requests that the Common Council renew its Class “B” Tavern License and Tavern Dance License without any suspension and without an amendment to the floor plan for the premises to delete the rooftop bar from the licensed premise. If any penalty is deemed appropriate based upon the record, Bootleggers submits that it be limited to a warning letter or a shorter suspension. Such a reduced sanction is appropriate where the applicant has demonstrated to the neighbors, the District Aldermen, and the entire Common Council an immediate commitment to resolving the issues raised during the Committee’s hearing.

Thank you for your consideration of these objections and the matter before the Common Council.

Very truly yours,

FRIEBERT, FINERTY & ST. JOHN, S.C.

*Brian C. Randall / JMR*

Brian C. Randall  
bcr@ffsj.com

BCR/ier  
Enclosures

cc: Mr. Robert Carlson (w/attachs./encls.) - Via E-mail & U.S. Mail  
Mr. Korey Bannerman (w/attachs./encls.) - Via E-mail  
Mr. Ryan Wentz (w/attachs./encls.) - Via E-mail  
Mr. Michael Hoffenberg (w/attachs./encls.) - Via E-mail  
Mr. Joshua Hurley (w/attachs./encls.) - Via E-mail  
John D. Finerty, Esq.

## Bootleggers Neighborhood Action Plan

To follow is an action plan to follow up on concerns regarding Bootleggers patio and operations:

- Late night neighborhood cleaning. Bootlegger staff will clean all streets from The Spicehouse to Buck Bradley's on the west side of N. Old World 3<sup>rd</sup> street, and from the north end of Usingers to their parking lot on the east side of the street. Door hangers/flyers will be left each evening stating "Enjoy Your Clean Street" on behalf of Bootleggers. Each flyer/hanger will also include a coupon for a free appetizer. This will be done every Thursday/Friday/Saturday evening.
- Monthly Neighborhood Meetings. Times and dates to be determined to allow for maximum attendance. Bootleggers will donate food and drink for the meeting and one member of the ownership group will always be in attendance. The agenda will simply be "How are we doing?" All neighbors, business or residential, will have time to specifically share their concerns. All concerns will be noted and addressed.
- A security camera will be mounted on the southeast wall of the patio, aimed to deter and monitor activity in that direction.
- A sign will be placed on the southeast corner of the patio, near the camera, stating that anyone caught attempting to gain access to neighboring buildings will be arrested and charged with trespassing to the fullest degree allowed by local law.
- A barrier will be built on the north side of the patio to the maximum height allowed by The Historical Preservation Society. Plans will be submitted asap and commence upon approval, with the entire project finished by February 28<sup>th</sup>, 2010.
- Bootleggers intends to extend the wall on the south side of the rooftop deck to prevent individuals from accessing neighboring roofs and has already commenced dialogue with the Milwaukee Historic Preservation Commission staff for approval of this addition.



To Whom It May Concern:

On Numerous occasions in my nine months working at Bootleggers in Milwaukee, we had situations arise where staff as well as management at Bootleggers were threatened and or harassed by Josh from German beer hall as well as Andy Wagner. (both at the time lived next door in separate apartment in the spice house building)

There were two incidents that were more dangerous then others.

The first happened in July of 09 at approximately 2:30a I was called to the patio by our head of security (Adam) because of bottles being thrown from the deck of the apartment next door which was Josh's from German beer hall. When I arrived to the patio, there was broken glass everywhere. We were very fortunate that no one was hit with any of these bottles the injuries could have been very severe.

On another occasion, an extremely intoxicated Josh from German Beer hall showed up at the front door of Bootleggers looking to cause a fight fortunately we had Security on sight and he left without incident.

These are just two situations, but there was numerous more where our staff was threatened as they walked to there cars as well as numerous situations where staff actually had bottles of beer thrown at them as they walked to there cars.

Not to mention numerous more occasions of verbal abuse from Josh and Andy directed at our staff, mgmt, and even our guests. We had many occasions of guests coming to us concerned as they were walking through the parking lot and being threatened and or verbally abused by Josh and Andy.

If there are any questions, please let me know.

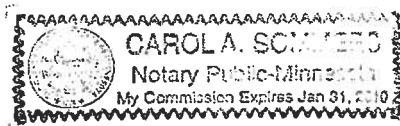
Jim O'Meara

State of Minnesota County of Dakota  
Signed or attested before me on: 12-17-09

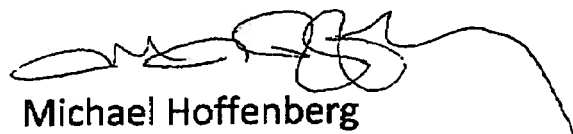
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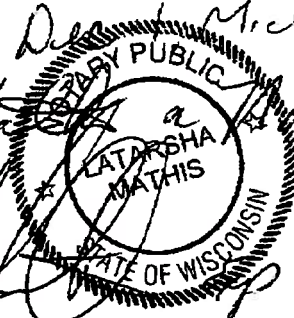

Signature of notarial Officer

Title and rank  
My commission expires: 1-31-2010



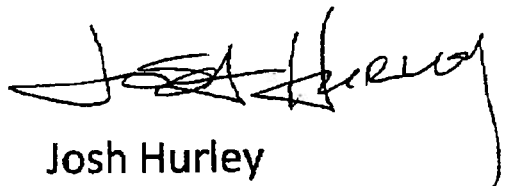
I, Michael Hoffenberg, on one of my first shifts working at Bootleggers as a bartender left for the evening through the rear exit of the restaurant. I can not recall the exact date but it was in June of 2008. As I was leaving a co-worker told me to be careful because the neighbors were throwing bottles at employees and patrons leaving the establishment. As I left the building I saw one of our employee trainers, Jessica Tillson, and began to speak with her. We were standing behind the spice house building right next to her residence which was at the time in the building where Tutto resides. As we were talking, I noticed people screaming on the patio of the 2<sup>nd</sup> floor of the spice house residences. One voice said, "Dude, he's peeing on your car!" I looked around and noticed that Jessica and I were the only 2 people in the vicinity and neither of us were urinating. As that happened, Josh (Old German Beer Hall GM) approached me and started mumbling words which I couldn't understand. He was showing obvious signs of intoxication. He was nodding to a blue BMW. At the point I noticed 4 other gentleman walking down the patio steps toward me and Jessica, one of them carrying a golf club. Jessica then said 'let's go inside before something bad happens.' We went through the back door of her building and stayed there for about 10 minutes.

  
 Michael Hoffenberg

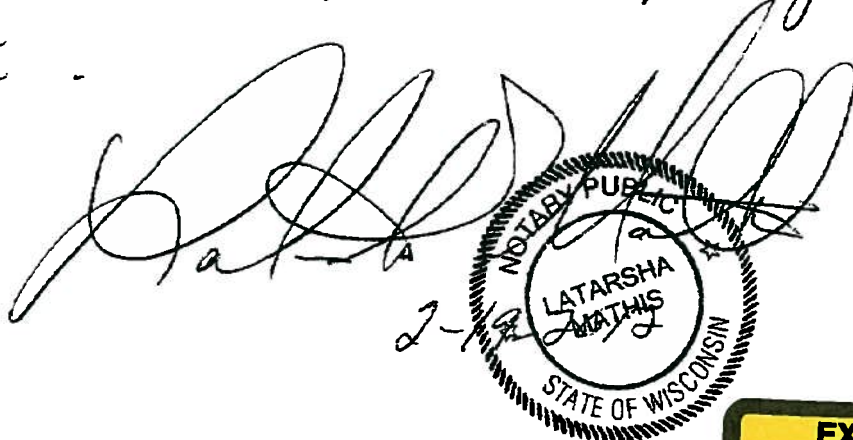
On this 17<sup>th</sup> day of Dec. Michael Hoffenberg  
 stood before  a Notary for the  
 State.  
 12-19-2017

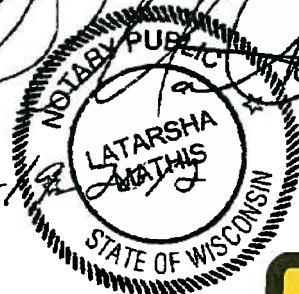


I, Josh Hurley, on May 30<sup>th</sup> 2008 was a guest of Bootleggers Milwaukee. I was standing in front of Bootleggers with Ryan Wentz and Jim O'Meara when a gentleman approached us who was visibly intoxicated and began yelling at Ryan and Jim. He was screaming how he did not want the business to be on this street. Ryan and Jim tried to logically speak with this gentleman and he continued to go on about how he did not want the business here. After this went on for a few minutes the gentleman stormed off down the street. Ryan and Jim told me that the gentleman's name was Andrew Wagner and that he lived in one of the apartments next door at the Spice House.

  
Josh Hurley

ON THIS 17<sup>TH</sup> DAY OF DECEMBER I, Josh Hurley  
stood before Latasha Mathis a Notary  
for the state.

  
2-17-08

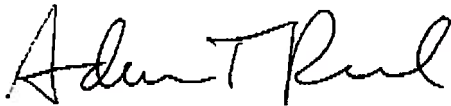


I, Adam T. Reed, while working as Floor Mgr for Bootleggers Milwaukee, immediately responded to a situation on the patio around 1:45 AM on . I was told that on 3<sup>rd</sup> floor patio of the adjacent apartment next to our building, there were several people shouting profanities and throwing beer bottles at our wait staff in their effort to close down the patio of Bootleggers. When I first got on scene, there were several beer cans and beer bottles that had shattered in the area. I looked over the rooftop to the apt complex, and saw 8-10 people including Josh (owner/operator of German Beer hall), drinking and socializing on the patio. I did not receive any type of look or reaction when I gazed at them.

At this time I began walking towards the enclosed part of our patio to talk with the bartenders about the situation, when a bottle came up and over the railing onto our patio, landed and smashed about 25 ft behind me. At this time I informed the staff on the patio to stay away from the back side of the building, away from their patio, and come downstairs as soon as possible. I then proceeded to tell our general manager at the time, Jim O'Meara, who was now on scene, what had just happened.

This was not the first or last of events that involved the people that lived in the 3<sup>rd</sup> floor apt or Josh from German Beer Hall. On several instances in the first 3-4 months of operation, Josh had verbally abused the staff of Bootleggers and our patrons. This was usually done later in the evening when Josh would become intoxicated, and harass our staff at the front door, including myself and Jim. Also, they would harass and throw things at staff and patrons after they exited our bar. This either happened out in front of the bar, or in the alley way in between our buildings.

Sincerely,

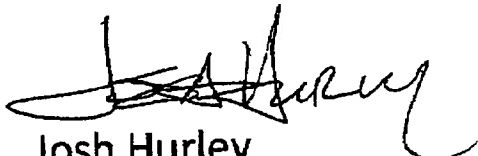


Adam T. Reed

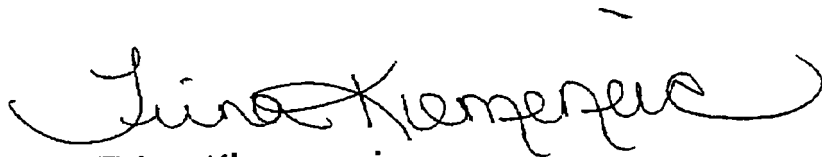
Subscribed and sworn to before me  
 this 17th day of December  
 20 09  
Mary Johnson  
 My Commission Expires 10/03/2010



I, Josh Hurley, Michael Hoffenberg, and Trina Klemeneic (We), can verify that Erin MacDonald is the girlfriend of Josh, the manager of the Old German Beer Hall (OGBH). We have all witnessed Erin on multiple occasions walking into Josh of the OGBH's apartment located on the second floor of the Spice House building and also holding hands and kissing. This is also common knowledge within the street.

  
Josh Hurley

  
Michael Hoffenberg

  
Trina Klemeneic



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# SUSPENSION CHART

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I. **Establishment:** Lady Bug Club/618 Live on Water

- A. **Length of Suspension:** 60 days (Licenses Committee recommended 20 days, Council upped to 60)
- B. **Number of Adverse Findings of Fact (and years spanning):** 20-plus (9/28/08 – 10/18/09)
- C. **2008-2009 Findings of Fact:** Reported incidents include: multiple battery; police units required to control crowd/conduct traffic; fights; disorderly conduct; gunshot wound; complaints from neighbors re: noise from cars; public urination; police captain testimony that the license should not be renewed, and that the number of incidents of aggravated assault and battery is disproportionately higher in this area than that in area between Old World Third Street and 1100 block of Water Street.

II. **Establishment:** Jersey's Sports Pub & Grill, 4014 South Howell Avenue

- A. **Length of Suspension:** 45 Days, 12/16/09 to 1/29/10
- B. **Number of Adverse Findings of Fact (and years spanning):** 12 (5/18/07 – 10/31/09)
- C. **2008-2009 Findings of Fact:** Reported incidents include: Battery; Noise and profanity nuisance from volleyball court (multiple); vomiting and urinating in neighbor's yard; marijuana use; disorderly conduct and domestic violence charges against applicant

III. **Establishment:** Questions Bar, 3041 W. North Avenue

- A. **Length of Suspension:** 25 Days, 2/10/09 to 3/6/09
- B. **Number of Adverse Findings of Fact (and years spanning):** 70-plus (7/5/97 – 1/14/09)
- C. **2008-2009 Findings of Fact:** Reported incidents include: loitering; Shots Fired (multiple); Armed Robbery (multiple); Theft; traffic congestion; Battery (multiple); Disorderly Conduct (Fights); Resisting Arrest; Drug Possession





- IV. **Establishment:** Ray's Rhythm & Blues Lounge, 2712 N. Dr. Martin Luther King Dr.
- A. **Length of Suspension:** 10 Days, 12/13/09 to 12/22/09
  - B. **Number of Adverse Findings of Fact (and years spanning):** 15 (4/11/06 – 5/16/09)
  - C. **2008-2009 Findings of Fact:** Incidents considered for renewal year include: fight; shooting on sidewalk outside bar by patron; disorderly conduct (striking another person); disorderly conduct (arguing and shouting at police)
- V. **Establishment:** Club 2-C, 3478 N. 2<sup>nd</sup> Street
- A. **Length of Suspension:** 10 Days
  - B. **Number of Adverse Findings of Fact (and years spanning):** 12 (12/11/03 – 7/7/09)
  - C. **2008-2009 Findings of Fact:** patron reported being punched; patron shot outside tavern; patron shot inside tavern; DNS placarded building
- VI. **Establishment:** Primos Place, 1631 W. Grant Street
- A. **Length of Suspensions:** 10 Days
  - B. **Number of Adverse Findings of Fact (and years spanning):** 3 (3/6/08 – 11/18/09)
  - C. **2008-2009 Findings of Fact:** Noise nuisance; criminal damage to property; shooting and assault
- VII. **Establishment:** Narrow Lane, 5526 W. North Avenue
- A. **Length of Suspension:** 15 Days, 2/1/09 – 2/15/09
  - B. **Number of Adverse Findings of Fact (and years spanning):** 1 (8/2/08)
  - C. **2008-2009 Findings of Fact:** shooting incident

- VIII. **Establishment:** Planet Marky, 3585 S. Howell
- A. **Length of Suspension:** 15 Days, 1/20/09 – 2/3/09
  - B. **Number of Adverse Findings of Fact (and years spanning):** 17 (7/15/98 – 11/8/08)
  - C. **2008-2009 Findings of Fact:** Battery; Fight in front of tavern; Fight; Verbal and physical altercation escalating to robbery; Failure to Change Entertainment (rap music played)
- IX. **Establishment:** El Gallo De Oro, 1500 W. Mitchell Street
- A. **Length of Suspension:** 60 Days, 2/6/09 – 4/6/09
  - B. **Number of Adverse Findings of Fact (and years spanning):** 12 (10/15/89 – 4/28/08)
  - C. **2008-2009 Findings of Fact:** undercover officers purchased cocaine from security guard; fight;
- X. **Establishment:** Buckhead Saloon, 1044 N. Old World Third Street
- A. **Length of Suspension:** Council passed 10 days; Buckhead won a TRO and the suspension was ultimately rescinded
  - B. **Number of Adverse Findings of Fact (and years spanning):** 9 (6/7/08 – 8/2/08)
  - C. **2008-2009 Findings of Fact:** Fight; Disorderly Conduct; Patron broke door glass (offered to pay for it); Patron attempted to punch security and fought with police officers; Fake IDs; Edelweiss incident
- XI. **Establishment:** Pizza Shuttle, East Side of Milwaukee
- A. **Length of Suspension:** None, warning letter
  - B. **Number of Adverse Findings of Fact (and years spanning):** 26
  - C. **2008-2009 Findings of Fact:** Fights, firearms, crowd control, marijuana