

COPY

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
In the Matter of the Application of

SPADES LOUNGE NYC LLC,

PETITION

Petitioner,

Index No.

260169-19

For a Review Pursuant to Article 78 of the CPLR

-against-

NEW YORK STATE LIQUOR AUTHORITY,

Respondent,
-----X

TO THE SUPREME COURT OF THE STATE OF NEW YORK FOR BRONX COUNTY:

The Petition of JOHN ANGRISANI, ESQ., attorney for Petitioner SPADES LOUNGE NYC LLC, complaining of Respondent, respectfully alleges:

MAR 11 PM 2:57
COUNTY CLERK
BRONX COUNTY

RECEIVED

1. Petitioner SPADES LOUNGE NYC LLC is the owner of a Restaurant located at 3392 3398 Boston Road in the County of Bronx, New York.
2. Respondent NEW YORK STATE LIQUOR AUTHORITY issued a license pursuant to New York State Law to serve liquor, beer and wine, on-premises, to patrons, issued on May 2, 2018.
3. This petition challenges a determination of Respondent, ordered and certified on November 13, 2018, **permanently revoking** the liquor license issued to Petitioner.
4. The within proceeding is brought pursuant to C.P.L.R. Article 78 to challenge final determination revoking said license, by the Respondent NYS LIQUOR AUTHORITY dated November 13, 2018. See attached Exhibit "A", Revocation Order.

FACTS

5. Petitioner SPADES LOUNGE NYC LLC is the owner of a restaurant, hereinafter SPADES LOUNGE, located at 3392-3398 Boston Road, Bronx, NY.
6. SPADES LOUNGE opened on or about May 1, 2018.
7. SPADES LOUNGE was issued a liquor license from the NYS LIQUOR AUTHORITY on May 2, 2018.
8. A revocation order was issued by the NYS LIQUOR AUTHORITY on November 13, 2018, permanently revoking said liquor license.
9. The revocation order was based upon summonses that were issued by the 47th Precinct of the NYC Police Department against the Petitioner on July 7, 2018 and July 8, 2018 (copies of which are annexed as Exhibit "B"), the Charges brought by Respondent NYS LIQUOR AUTHORITY against Petitioner based upon said summonses (copy of the Notice of Pleading dated July 29, 2018, annexed hereto as Exhibit "C"), and the decision rendered by Administrative Law Judge who decided those Charges (copy of Decision of ALJ Marilyn Piken dated September 14, 2018 annexed hereto as Exhibit "D").
10. On July 7, 2018, the 47th Precinct of the NYC Police Department received a 911 call of "shots fired" in the vicinity of the business of the Petitioner. As a result of that 911 call, the NYPD conducted a "business inspection" of the premises of the Petitioner and issued 9 criminal court summonses to Bryon Barnett, an employee of the premises.
11. The said July 7, 2018 summonses were issued for violations of unreasonable noise, curtains obstructing windows, failure to provide books or records for inspection, overcapacity of patrons, failure to post a CPR kit sign, failure to post street number signs,

failure to post a pregnancy warning sign, failure to post a certificate of occupancy and for disorderly premise.

12. All those July 7, 2018 tickets were subsequently dismissed in criminal court on January 28, 2019 except for a disorderly premise violation which was reduced to a violation of Public Health Law §1399 for failure to post signs and to which Bryon Barnett pled guilty with a \$100 fine.
13. On July 8, 2018, an assault and stabbing occurred when a disorderly patron entered the premises of the Petitioner and starting a fight with the security guards employed by a private contractor of the Petitioner. The patron was found stabbed in the leg.
14. As a result the disorderly patron was removed to a hospital and four security guards issued summonses and were arrested.
15. Mr. Damion Gregory, the sole member of the Petitioner, and the licensee was given 9 criminal court summonses.
16. The said July 8, 2018 summonses were issued for violations of no flame retarding affidavit available for curtains, police focal point, employing unlicensed security, unmounted fire extinguisher, liquor license not conspicuously displayed, no switch box cover, failure to maintain proper security license, no certificate of occupancy sign and for disorderly premise.
17. All those July 8, 2018 tickets were subsequently dismissed in criminal court on February 28, 2019.
18. Both the July 7, 2018, the July 8, 2018 tickets and a subsequently inspection by the Respondent on July 20, 2018 (alleging that the Petitioner used promoters in violation of its proposed method of operation, that the premises of Petitioner had become a focal

point for police attention and that the licensee failed to exercise adequate supervision and control of the premises) led to a summary suspension of the license on July 25, 2018 and a Notice of Pleading against the Petitioner alleging violations of 17 charges of the Alcohol Beverage Control Law.

19. A hearing was conducted from August 15, 2018 and continued on August 21, 2018. The decision from said hearing dismissed 8 charges and sustained 9 charges.
20. The sustained charges were for failure to display street address sign, failure to provide books and records for inspection, no switch box cover on a light switch, no flame proofing affidavit for curtains within the premises, no certificate of occupancy sign displayed on the premise, did not conform with regulations regarding security guards, used a promoter in violation of his proposed method of operation, that the premises became a focal point for police attention, and that the licensee failed to exercise adequate supervision and control of the premises.
21. The Petitioner remedied all the charged which were sustained by the ALJ in the decision of September 14, 2018 on or before the said hearing.
22. At a hearing before the Board of the NYS LIQUOR AUTHORITY on November 6, 2018, Petitioner's licensee, DAMION GREGORY, testified that he had remedied all the equipment violations, that he had employed new security guards, and that he would not employ promoters, or allow the premises to become a focal point or fail to exercise supervision or control of the premises of the Petitioner.
23. Petitioner's licensee DAMION GREGORY also provided proof to the Board of the NYS LIQUOR AUTHORITY that he had employed a licensed and insured Security Company.

24. Notwithstanding any of the foregoing, and after considering a possible fine, the Respondent NYS LIQUOR AUTHORITY decided to permanently revoke the license of the Petitioner.

ARGUMENT

25. Other licensees, similarly situated, or who have been charged with violations of the ABC law, in excess of the number and severity of charges against the Respondent, and in addition, whose charges have been sustained such that the sustained charges were more numerous and more serious than those sustained against the Petitioner, have been afforded the opportunity to maintain their license by paying a fine.

26. Respondent's determination was arbitrary, capricious, and an abuse of discretion. Other licensees with more serious and more egregious violations of the ABC law than Petitioner herein have been allowed to retain their licenses with the payment of a fine, or suffering a short suspension period.

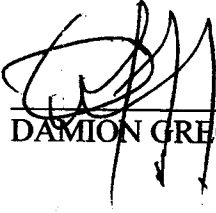
27. Other licensees similarly situated have not had their licenses permanently revoked especially in light of the fact that of the 9 violations sustained, 7 were so-called "equipment violations" that were remedied almost immediately. Licensees without any prior adverse history, like Petitioner, who have been charged with only two serious violations, failure to exercise supervision and control, and allowing the premise to become a focal point, like Petitioner, have, upon information and belief, been sometimes fined as little as \$10,000.00.

28. No previous application has been made for the relief requested herein.

INDIVIDUAL VERIFICATION

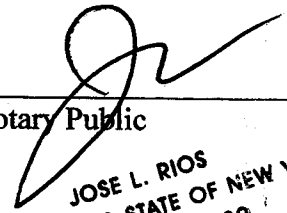
State of New York)
)
Bronx County) ss.:

DAMION GREGORY, being duly sworn, deposes and says that he is the Sole Member of the Petitioner in the within action; that he has read the foregoing Petition & Notice of Petition and knows the contents thereof to be true to deponent's own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters deponent believes them to be true.



DAMION GREGORY

Sworn to before me this
8 day of March 2019

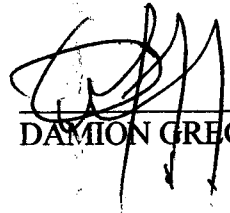


Notary Public
JOSE L. RIOS
NOTARY PUBLIC-STATE OF NEW YORK
No. 02RI6098189
Qualified In Bronx County
My Commission Expires September 02, 2019

INDIVIDUAL VERIFICATION

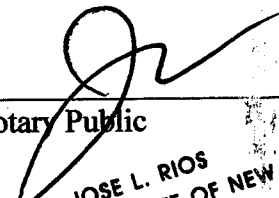
State of New York)
)
Bronx County) ss.:

DAMION GREGORY, being duly sworn, deposes and says that he is the Sole Member of the Petitioner in the within action; that he has read the foregoing Petition & Notice of Petition and knows the contents thereof to be true to deponent's own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters deponent believes them to be true.



DAMION GREGORY

Sworn to before me this
8 day of March 2019



Notary Public
JOSE L. RIOS
NOTARY PUBLIC-STATE OF NEW YORK
No. 02RI6098189
Qualified in Bronx County
My Commission Expires September 02, 2019

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
In the Matter of the Application of
SPADES LOUNGE NYC LLC,

Petitioner,

Index # _____
AFFIDAVIT

For a Review Pursuant to Article 78 of the CPLR
-against-
NEW YORK STATE LIQUOR AUTHORITY,
Respondent,

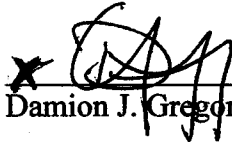
-----X
STATE OF NEW YORK)
COUNTY OF BRONX) ss.:

Damion J. Gregory, being duly sworn, deposes and says under penalty of perjury:


1. I am the licensee and managing member of the petitioner herein, and I make this affidavit, in support of the petition to vacate and annul the determination of the State Liquor Authority and the motion for a stay and/or to restrain the State Liquor Authority from enforcement of the Revocation Order.
2. I am the sole member and manager of SPADES LOUNGE NYC LLC, petitioner herein. The petitioner owns a restaurant located at 3392-3398 Boston Road, Bronx, NY.
3. I have invested almost \$200,000.00 in this business in addition to 2 years of my life.
4. The revocation of my liquor license has caused me to lose a substantial amount of business and I am in danger of going out of business.
5. Prior to the revocation of my license, I employed 31 people, all from the Bronx, NY.
6. Most of my employees have been laid off as I cannot afford to pay them due to the loss of business due to the revocation of my liquor license.
7. If I lose this business, I would be ruined.
8. The NYS Liquor Authority revoked my license due to mostly equipment violations and an assault that occurred on July 8, 2018.

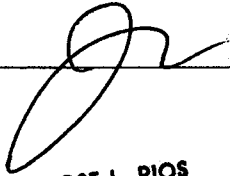
9. I remedied all the equipment violations.
10. The assault of July 8, 2018 was exacerbated due to the fact that the security I had employed misled me into believing that all the security guards were actually reputable people.
11. In fact, I had no reason to believe that the security guards were not reputable. The owner came with me to meet the community board, and came with me to meet the community affairs officer of the 47th Precinct.
12. I have since hired new security and can inspect their licenses every day.
13. All of the tickets issued to me and my employees for the two days that were subject to the revocation, July 7 and July 8, 2018, have been dismissed or resolved.
14. I believe that the punishment of Revocation of my license is completely draconian. I am completely devastated. I feel that the punishment is unfair.
15. The liquor license issued to us is fundamental to the operation of the business. Without it petitioner cannot survive.
16. I have tried to operate my premise in a professional manner, always trying to improve and have co-operated with the police at all times. I do not believe that I have operated in any way impacting on the public health, safety or welfare. I try to maintain an orderly premise.
17. In the event that the premise is forced to close under the Revocation order, I will never be able to recoup my investment and will suffer severe financial hardship.
18. I would hope that the Court will understand that I will be ruined if the Revocation is allowed to remain in effect. This will destroy my business and my livelihood will be taken away if the cancellation is allowed to stand.

WHEREFORE, your deponent respectfully requests that the Court grant the relief sought in the Petition.



Damion J. Gregory

Sworn to before me this 8 day
of ~~February~~, 2019 March 2019 

Notary 

JOSE L. RIOS
NOTARY PUBLIC-STATE OF NEW YORK
No. 02R16098189
Qualified in Bronx County
My Commission Expires September 02, 2019

EXHIBIT "A"

NEW YORK STATE LIQUOR AUTHORITY

REVOCATION ORDER EFFECTIVE IMMEDIATELY

1308805, BRONX OP 1308805

SPADES LOUNGE NYC LLC

3392 3398 BOSTON RD
BRONX, NY 10469

WITH \$1,000 BOND CLAIM

1796-2018/Case No. 127571

Proceedings having been duly instituted pursuant to the provisions of the Alcoholic Beverage Control Law, (Chapter 478 of the Laws of 1934, as amended) to cancel or revoke the above license issued to the licensee for premises located at the address stated above and the licensee having duly pled "no contest" to the charges contained in the Notice of Pleading or a hearing having been duly held by the State Liquor Authority in connection with said proceedings, and

The matter having been duly considered by the State Liquor Authority at a meeting held on 11/06/2018, and the Authority having found:

1. Dismissed.
2. Dismissed.
3. That on 07/07/18, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes, and/or fire, health, safety and governmental regulations; street address not displayed, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
4. That on 07/07/18, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes, and/or fire, health, safety and governmental regulations; failure to maintain books and records, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
5. Dismissed.
6. Dismissed.
7. That on 07/08/18, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes, and/or fire, health, safety and governmental regulations; no switch box covers, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
8. That on 07/08/18, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes, and/or fire, health, safety and governmental regulations; no flame proofing affidavit, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
9. That on 07/08/18, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes, and/or fire, health, safety and governmental regulations; no certificate of occupancy sign, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
10. Dismissed.
11. That on 07/08/18, the licensee violated rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] in that the licensee did not conform with governmental regulations regarding employment of security guards; all cause to warrant revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the Authority [9 NYCRR 53.1(f)].
12. Dismissed.
13. Dismissed.
14. Dismissed.
15. That on or before 07/20/18, the licensee failed to conform with all representations set forth in the application, or approved amendments thereto, for the on-premises license under which such license was applied for and issued; permits dancing, all cause for revocation, cancellation or suspension of the license in accordance with Rule 54.8 of the Rules of the State Liquor Authority [9 NYCRR 48.8].
16. That on and before 07/20/18, the occurrence of noise, disturbance, misconduct or disorder in the licensed premises, in front of or adjacent to the licensed premises, or in the parking lot of the licensed premises has resulted in the licensed premises becoming a focal point for police attention; all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(q) of the Rules of the State Liquor Authority [9 NYCRR 53.1(q)].
17. That on and before 07/20/18, the licensee, through the actions of its principal, and its agents and employees, has violated rule 54.2 of the Rules of the State Liquor Authority [9 NYCRR 48.2] in that the licensee has failed to exercise adequate supervision over the conduct of the licensed business; all cause for revocation, cancellation or suspension of the license in

accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].

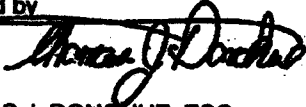
IT IS HEREBY ORDERED that the license aforesaid issued to said licensee for the above described premises be, and the same hereby is **REVOKED**, effective IMMEDIATELY ; and

IT IS FURTHER ORDERED that said licensee surrender said license forthwith to the State Liquor Authority or its duly authorized representative, on the above effective date.

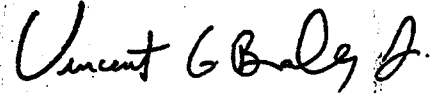
Dated: 11/13/2018

STATE LIQUOR AUTHORITY

Certified by



THOMAS J. DONOHUE, ESQ.
Secretary to the Authority



VINCENT G. BRADLEY
CHAIRMAN

To: 3392 3398 BOSTON RD, BRONX, NY 10469

Licensee's name and residence address

GREGORY, DAMION J, 227 S 5TH AVE, MOUNT VERNON, NY 10550

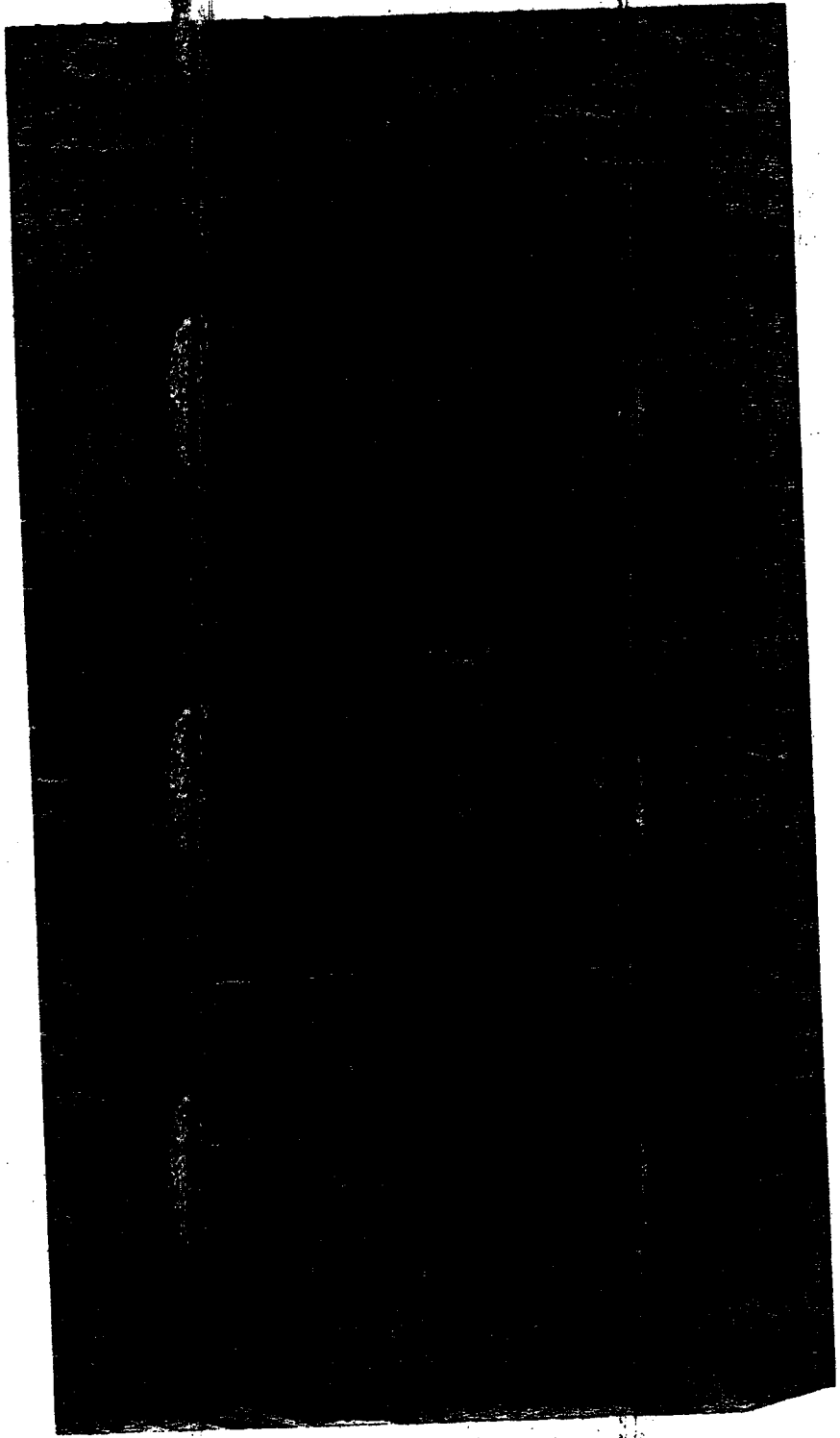
Licensee's Landlord

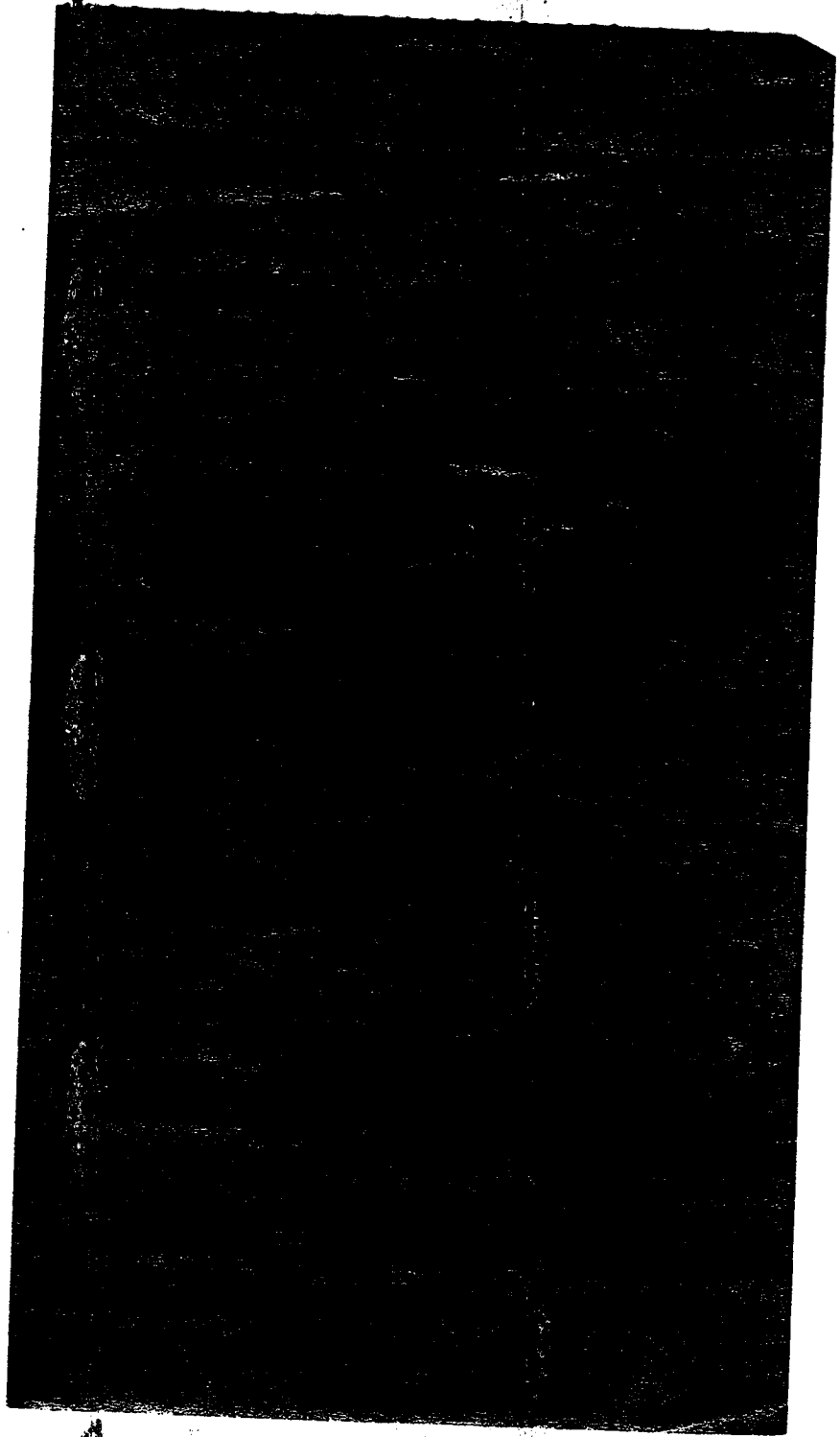
CAPINO REAL ESTATE OF NEW YORK, PO BOX 126, BRONX, NY 10471

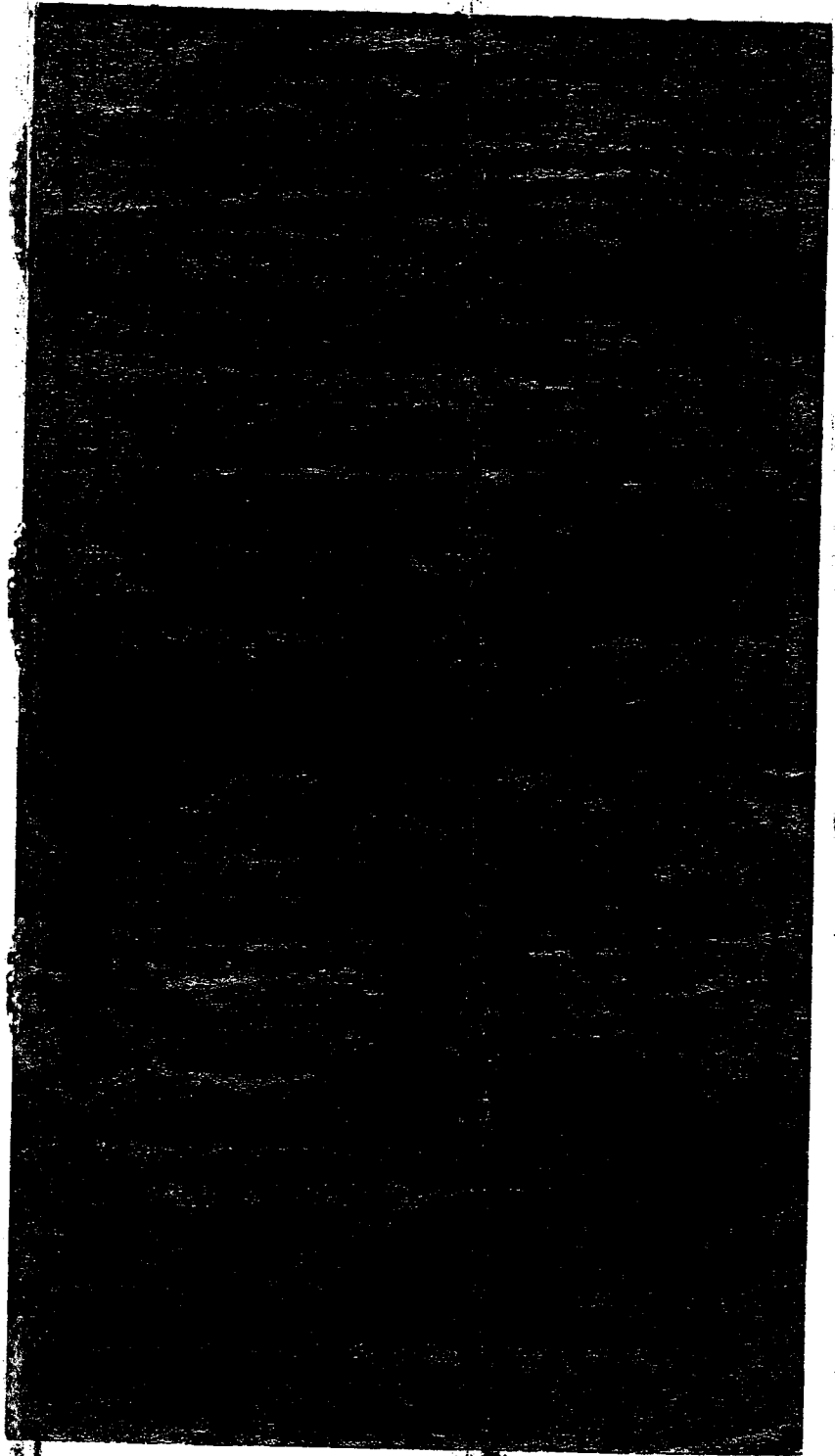
Please take notice that under the provisions of the Alcoholic Beverage Control Law, no license may be issued to said licensee for a period of two years from the date of such revocation.

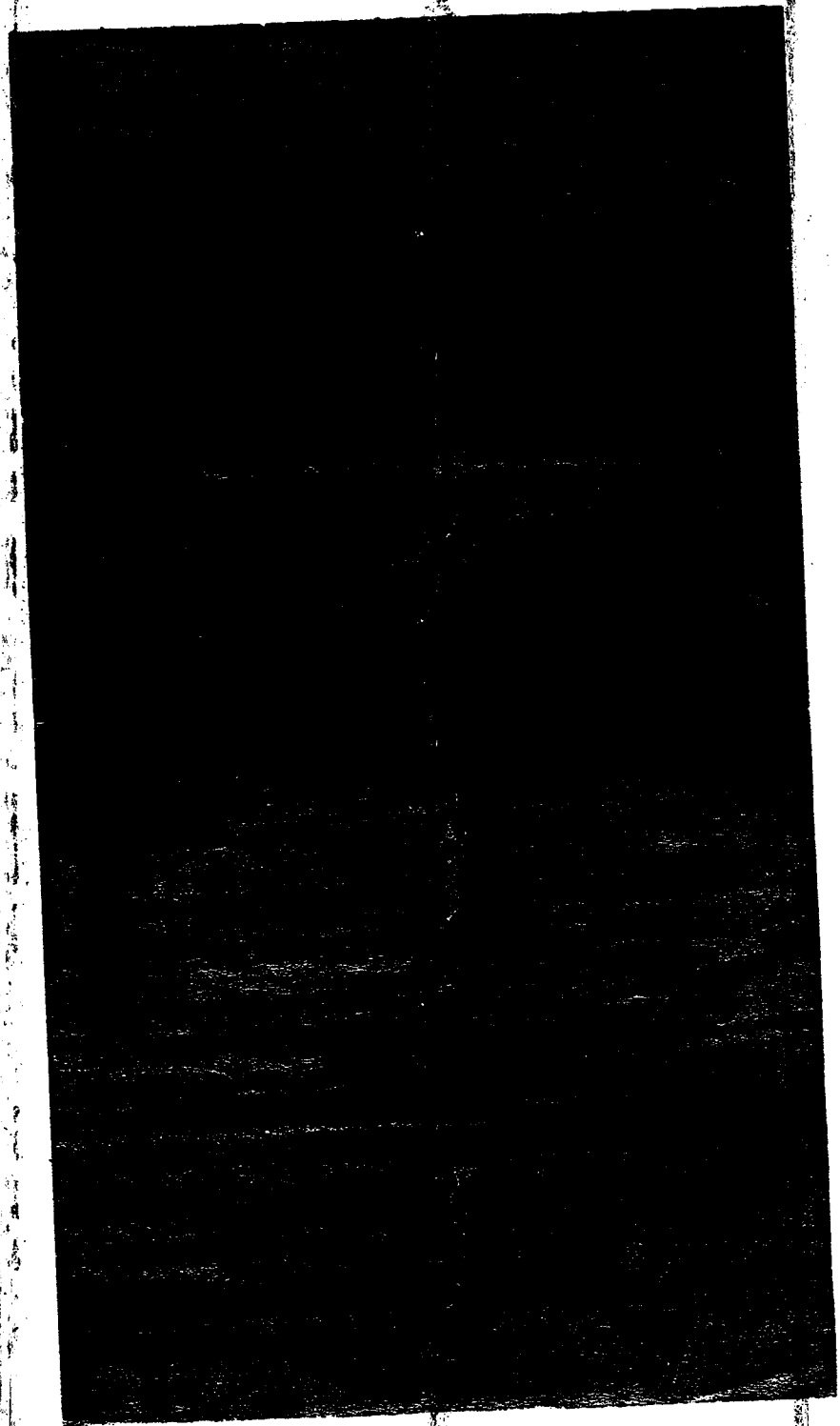
Please take notice that any person who shall sell any alcoholic beverages, without a license by the Liquor Authority or after his license has been revoked, cancelled or surrendered, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than two hundred dollars nor more than twelve hundred dollars or by imprisonment in a county jail or penitentiary for a term of not less than thirty days nor more than one year or both.

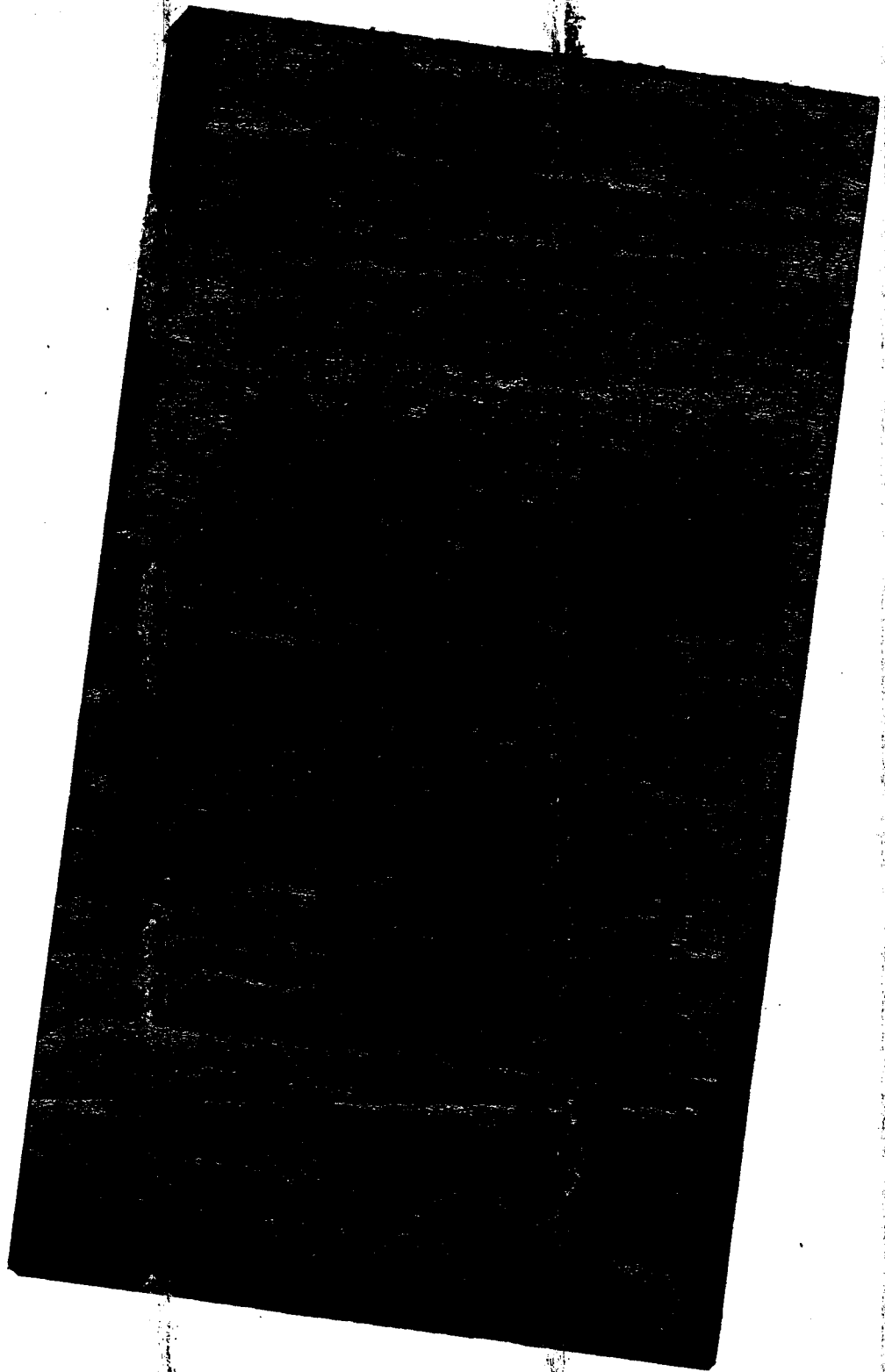
EXHIBIT "B"

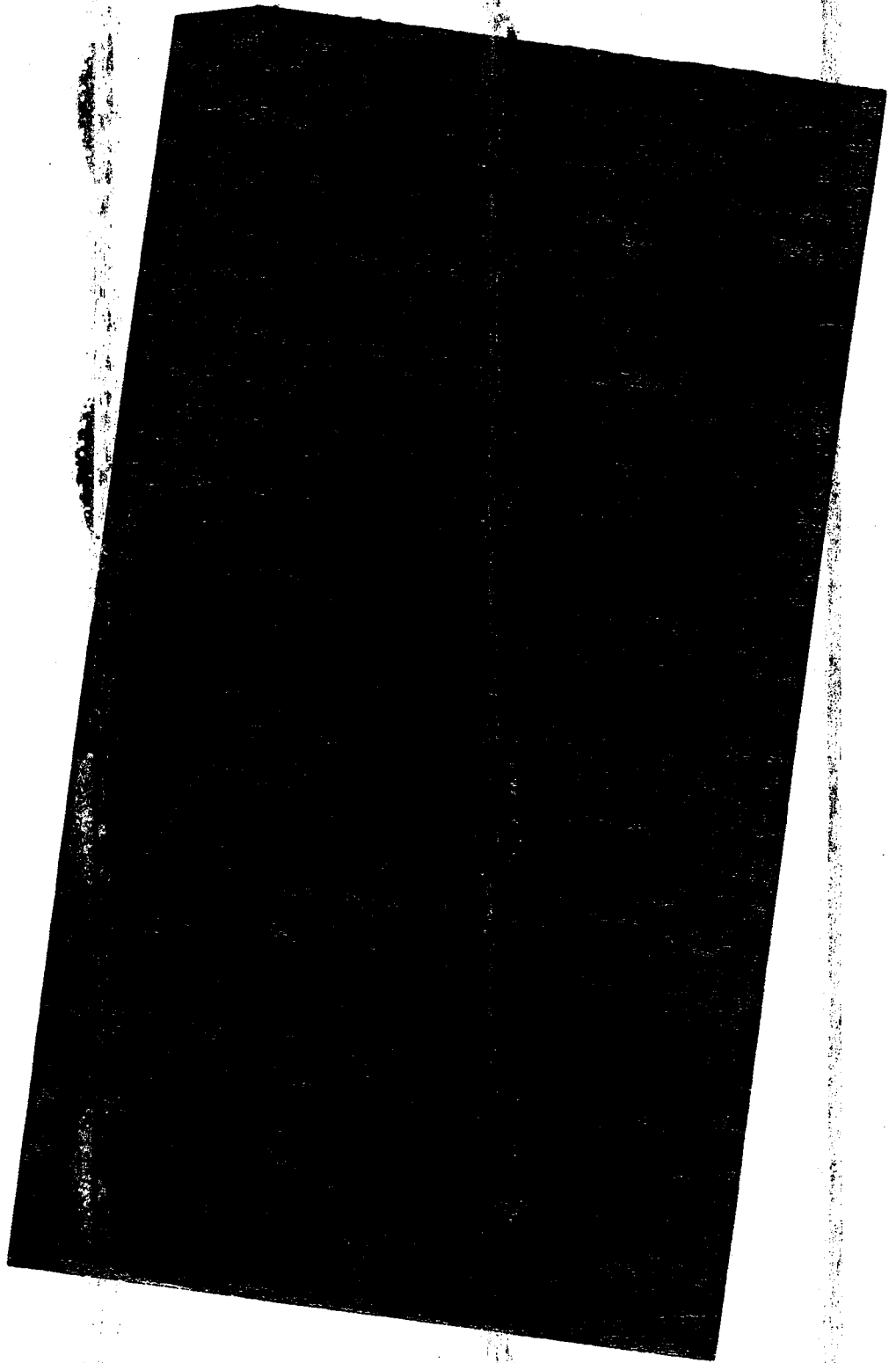


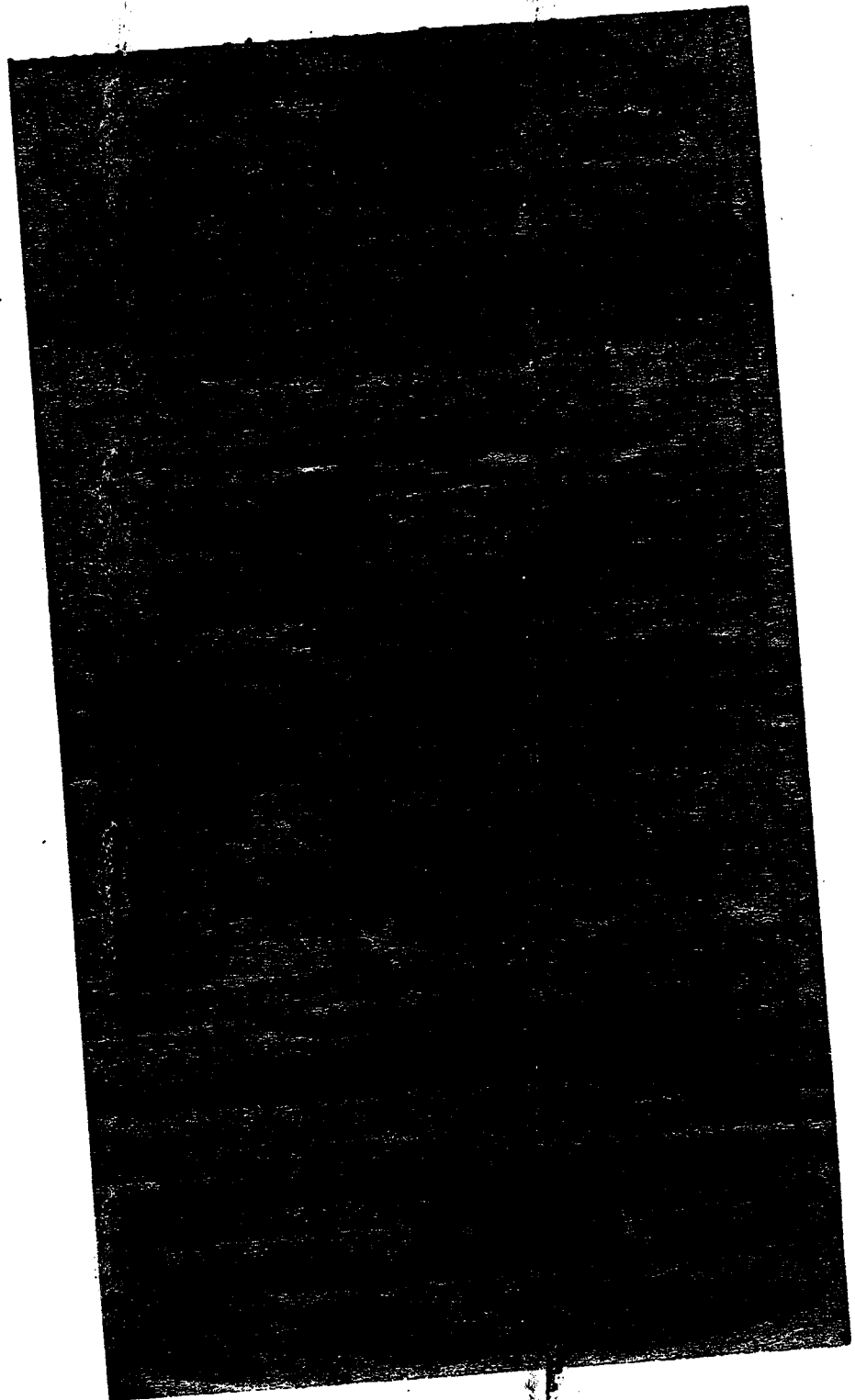


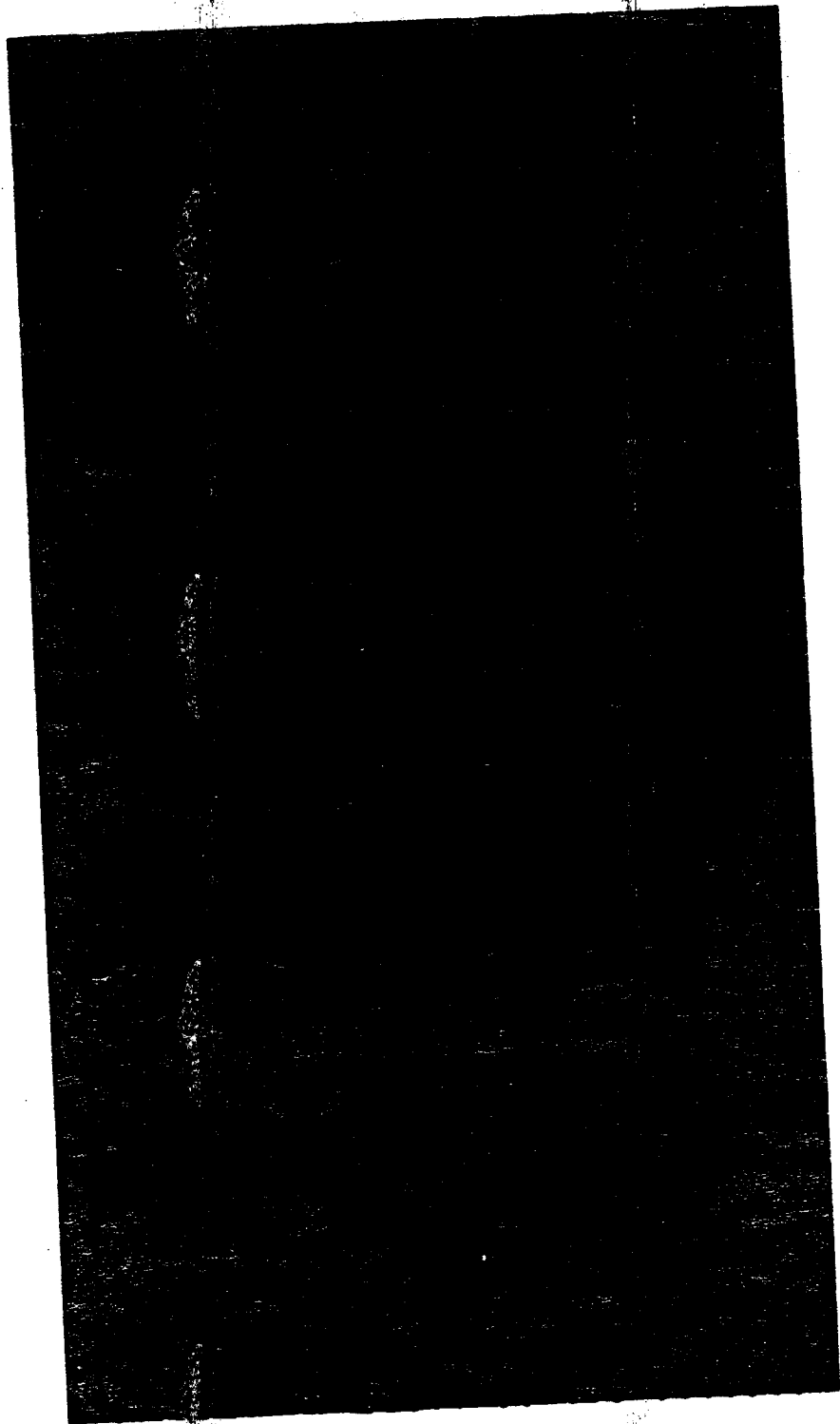


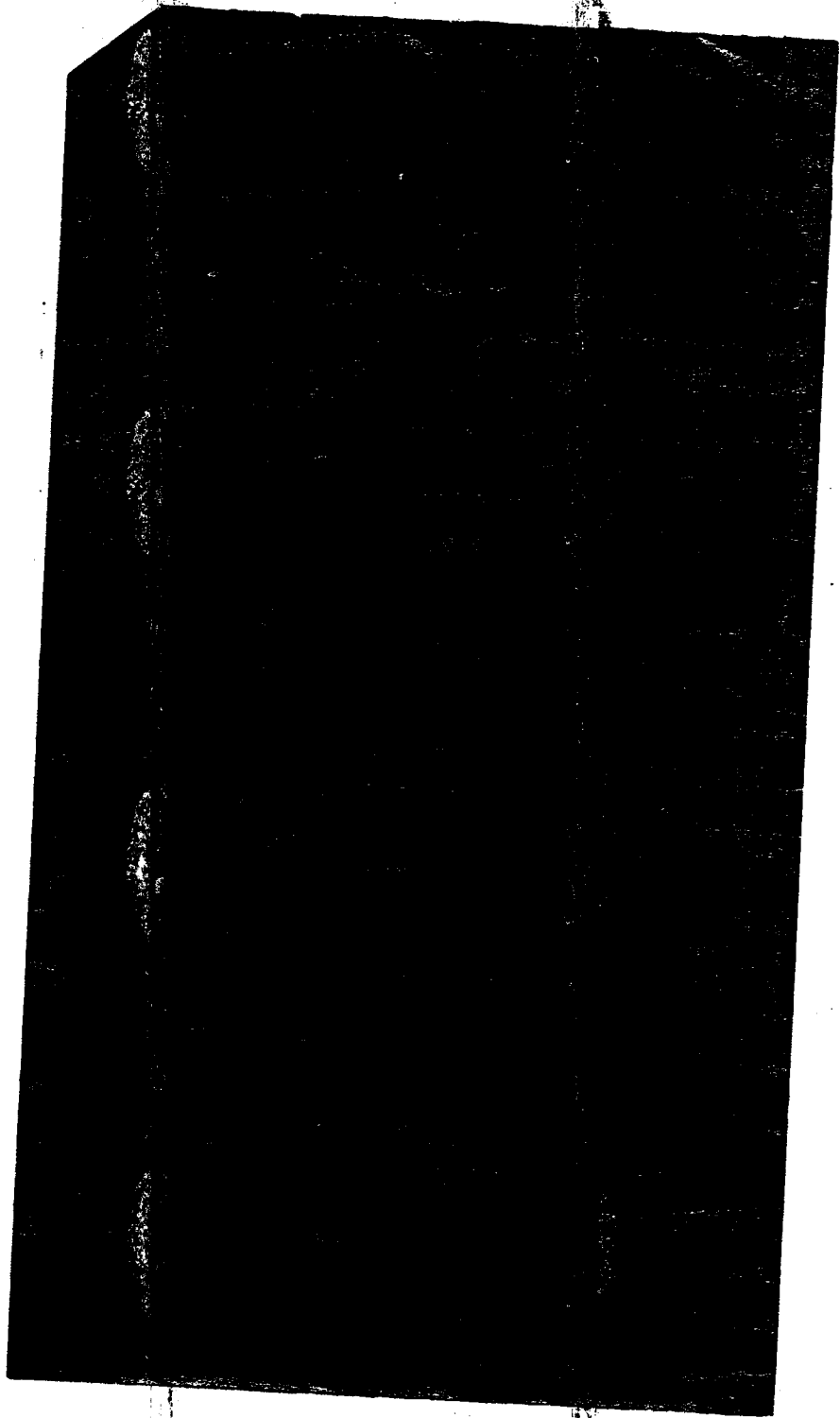












Complaint/Information

The People of The State of New York vs.

Name (Last, First, MI) **Barnett, Brian** Date of Birth (mm/dd/yy) **02/02**

Street Address **540 S. 9th Avenue** Apt. No.

City **Mt. Vernon** State **NY** Zip Code

Cell Phone Number (Write N/A or Refused if not provided) **606-286-2850** Home Phone Number (Write N/A or Refused if not provided)

Court Appearance Date (mm/dd/yy): **9/21/18** at: **9:30 a.m.**
(Ensure correct return date is entered)

The court appearance location: Other (specify) _____
 Bronx Criminal Court Kings & New York Criminal Court Midtown Community Court Redhook Community Justice Center Queens Criminal Court Richmond Criminal Court

ID/License Number _____ State _____ Type/Class _____ Expires (mm/dd/yy) _____

Race White Black Hisp. White Hisp. Black Am. Ind./Alaskan Native Asian/Pacific Is.
Sex **M** Ht **60** Wt **220** Eyes **BL** Hair **BL** Plate/Reg _____

Reg State _____ Expires (mm/dd/yy) _____ Plate Type _____ Veh Type _____ Make _____ Year _____ Color _____

The Person Described Above is Charged as Follows:

Title/Offense: **Unreasonable Noise from Premise**

Time of Day (hh:mm) **0330** Date of Offense (mm/dd/yy) **7/7/18** County **RO**

Place of Occurrence **3512 Boston RD** Precinct **47**

In Violation of Section **24-220(1)** Subsection VTL Admin. Code Penal Law Park Rules Other

Factual Allegations (describe how the offense was committed, OR complete reverse):
At 110 deft is the manager of above licensed premise which had unreasonable noise coming from premise as the noise was clearly audible and unreasonable loud.

NYPD CODE 1 2 3 4 ICAD # _____

Defendant stated in my presence (In substance):

I personally observed the commission of the offense charged herein. False statements made herein are punishable as a Class A Misdemeanor pursuant to section 210.45 of the Penal Law. Affirmed under penalty of law.

Complainant's Full Name Printed **Mera** Rank/Full Signature of Complainant **[Signature]** Date Affirmed (mm/dd/yy) **7/7/18**

Tax Registry # **657816** Agency **NYPD** Command Code **2047**

ORIGINAL



4443867997

Complaint/Information

The People of The State of New York vs.

Name (Last, First, MI) **Barnett, Orion** Date of Birth (mm/dd/yy) **06/02**

Street Address **540 S. 9th Avenue** Apt. No.

City **Mt. Vernon** State **NY** Zip Code

Cell Phone Number (Write N/A or Refused if not provided) **606-296-2850** Home Phone Number (Write N/A or Refused if not provided)

Court Appearance Date (mm/dd/yy): **9/21/18** at: **9:30 a.m.**
(Ensure correct return date is entered)

The court appearance location: Other (specify) _____
 Bronx Criminal Court Kings & New York Criminal Court Midtown Community Court Redhook Community Justice Center Queens Criminal Court Richmond Criminal Court

ID/License Number _____ State _____ Type/Class _____ Expires (mm/dd/yy) _____

Race White Black Hisp. White Hisp. Black Am. Ind./Alaskan Native Asian/Pacific Is. Sex **M** Ht **60** Wt **220** Eyes **BL** Hair **BL** Plate/Reg _____

Reg State _____ Expires (mm/dd/yy) _____ Plate Type _____ Veh Type _____ Make _____ Year _____ Color _____

The Person Described Above is Charged as Follows:

Title of Offense: **Unreasonable Noise from Premise**

Time of Day (hh:mm) **0530** Date of Offense (mm/dd/yy) **7/18** County **BD**

Place of Occurrence **3512 Boston RD** Precinct **47**

In Violation of Section **24-220(A)** VTL Admin. Code Penal Law Park Rules Other

Actual Allegations (describe how the offense was committed, OR complete reverse):
At 105 deft is the manager of above transfer premise which had unreasonable noise coming from premise as the noise was clearly audible and unreasonable loud.

NYPD CODE 1 2 3 4 CAD # _____

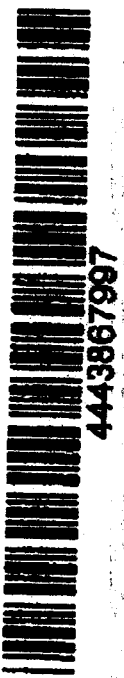
Defendant stated in my presence (in substance):

I personally observed the commission of the offense charged herein. False statements made herein are punishable as a Class A Misdemeanor pursuant to section 210.45 of the Penal Law. Affirmed under penalty of law.

Complainant's Full Name Printed **Mera** Rank/Full Signature of Complainant **[Signature]** Date Affirmed (mm/dd/yy) **7/7/18**

Tax Registry # **05796** Agency **NYPD** Command Code **0047**

ORIGINAL



WAS NOT HERE

CIC-336 (06/75) Complaint/Information
The People of The State of New York vs.

Edward Brian 12/18/82
575 S 4th Avenue
St. Union NY
DOB 12-18-2001

9/21/82 at **9:30 a.m.**

The court appearance location: County

M.B. Z...

The Person Described Above is Charged as Follows:

Class B Vehicle License
2570 244718
2572 Boston RD
1570 1570 1570 1570
1570 1570 1570 1570

If no other charges are charged of one vessel owned while a search grid had used a radar which estimated over a 130 mph speed at the location.

NYSPCOA 1 2 3 4 5

Mera 10/17/82
15706 NYSP ORIGINAL **COPT**

CIC-336 (06/75) Complaint/Information
The People of The State of New York vs.

Edward Brian 12/18/82
575 S 4th Avenue
St. Union NY
DOB 12-18-2001

9/21/82 at **9:30 a.m.**

The court appearance location: County

M.B. Z...

The Person Described Above is Charged as Follows:

Class B Vehicle License
2570 244718
2572 Boston RD
1570 1570 1570 1570
1570 1570 1570 1570

If no other charges are charged of one vessel owned while a search grid had used a radar which estimated over a 130 mph speed at the location.

NYSPCOA 1 2 3 4 5

Mera 10/17/82
15706 NYSP ORIGINAL **COPT**

AGENCY POLICE COPY

Complaint/Information
The People of The State of New York vs.

Name (Last, First, MI) **Barnett, Brian** Date of Birth (mm/dd/yy) **03/08/82**

Street Address **540 S. 9th Avenue** Apt. No.

City **NH. Vernon NY** State **NY** Zip Code

Cell Phone Number (Write N/A or Refused if not provided) **(606) 286-2250** Home Phone Number (Write N/A or Refused if not provided)

Court Appearance Date (mm/dd/yy): **9/21/18** at: **9:30 a.m.**
(Ensure correct return date is entered)

The court appearance location: Other (specify) _____
 Bronx Criminal Court Kings & New York Criminal Court Midtown Community Court Redhook Community Justice Center Queens Criminal Court Richmond Criminal Court

ID/License Number _____ State _____ Type/Class _____ Expires (mm/dd/yy) _____

Race White Black Hisp. White Hisp. Black Am. Ind./Alaskan Native Asian/Pacific Is.
Sex **M** Ht **6** Wt **220** Eyes **BR** Hair **BLK** Plate/Reg

Reg State _____ Expires (mm/dd/yy) _____ Plate Type _____ Veh Type _____ Make _____ Year _____ Color _____

The Person Described Above is Charged as Follows:

Title of Offense: **No book of daily activities**

Time of Occurrence (hh:mm) **0530** Date of Occurrence (mm/dd/yy) **7/7/18** County **BP**

Place of Occurrence **259 2 Boston Rd** Precinct **47**

In Violation of Section **160.50** Subsection **2** VTL Admin Code Penal Law Park Rules Other **ABC**

Factual Allegations (describe how the offense was committed OR complete reverse):
At 10 above deft is the manager of above location, he is licensed person which failed to provide records/books of daily activities.

NYPD CODE: 1 2 3 4 ICAD #

Defendant stated in my presence (in substance):

I personally observed the commission of the offense charged herein. False statements made herein are punishable as a Class A Misdemeanor pursuant to section 210.45 of the Penal Law. Affirmed under penalty of law.

Complainant's Full Name Printed **Mere** Date Affirmed **7/7/18**

Tax Registry # **957816** Agency **NYPD** Command Code **0247**

ORIGINAL

AC
229 RFL
Viol. not a crime



CH-206 (REV 7) Complaint/Information
The People of The State of New York vs.

Ernest, Brian **9/22/18**

540 South 9th Avenue

NY **NY**

060246-7180

Court Appearance Date (month/day/year) **9/21/18** **10:30 A.M.**

The court appearance location: at home

Court House District Court County Court State Court Trial Court Appellate Court

NY **060246-7180**

The Person Described Above is Charged as follows:

1st to 1st Degree Woman Sign

060246-7180 **NY**

3372 Section 10 **NY**

ES-B **ABC**

1st to 1st Degree woman of drive license license which failed to post license - woman sign.

NYSP CODE 1 2 3 4 5

Indicates when to pay attention to this section

I hereby consent to the release of this information to the public. This consent is given on behalf of the complainant and the defendant.

Complainant **None** **9/21/18**

060246 TND ORIGINAL 0019

CH-206 (REV 7) Complaint/Information
The People of The State of New York vs.

Ernest, Brian **9/22/18**

540 South 9th Avenue

NY **NY**

060246-7180

Court Appearance Date (month/day/year) **9/21/18** **10:30 A.M.**

The court appearance location: at home

Court House District Court County Court State Court Trial Court Appellate Court

NY **060246-7180**

The Person Described Above is Charged as follows:

1st to 1st Degree Woman Sign

060246-7180 **NY**

3372 Section 10 **NY**

ES-B **ABC**

1st to 1st Degree woman of drive license license which failed to post license - woman sign.

NYSP CODE 1 2 3 4 5

Indicates when to pay attention to this section

I hereby consent to the release of this information to the public. This consent is given on behalf of the complainant and the defendant.

Complainant **None** **9/21/18**

060246 TND ORIGINAL 0019

AGENCY/POLICE COPY 1

AGENCY/POLICE COPY 1

Complaint/Information

The People of The State of New York vs.

Name (Last, First, MI) **Barnett, Brian** Date of Birth (mm/dd/yy) **8/30/82**

Street Address **610 S. 9th Avenue** Apt. No.

City **N. Vernon** State **NY** Zip Code

Cell Phone Number (Write N/A or Refused if not provided) **016 266-2000** Home Phone Number (Write N/A or Refused if not provided)

Court Appearance Date (mm/dd/yy): **9/21/13** at: **9:30 a.m.**
(Ensure correct return date is entered)

The court appearance location: Other (specify) _____
 Bronx Criminal Court Kings & New York Criminal Court Midtown Community Court Redhook Community Justice Center Queens Criminal Court Richmond Criminal Court

ID/License Number State Type/Class Expires (mm/dd/yy)

Race White Black Hisp. White Hisp. Black Am. Ind./Alaskan Native Asian/Pacific Is. Sex **M** Ht **65** Wt **220** Eyes **BL** Hair **BL** Plate/Reg _____

Reg State Expires (mm/dd/yy) Plate Type Vch Type Make Year Color

The Person Described Above is Charged as Follows:

Title of Offense: **Obstructed View into bar**

Time of Offense (mm/dd/yy) **0520 7/7/13** Date of Offense (mm/dd/yy) **7/7/13** County **BX**

Place of Offense **3352 Boston RD** Precinct **47**

In Violation of Section **16-9(A)** VTL Admin Code Penal Law Park Rules Other **ABC**

Actual Allegations (describe how the offense was committed, OR complete reverse):
At 110 art is the manager of above licensed premise which had all windows at location obstructed with hats and curtains.

NYPD CODE 1 2 3 4 CAD #

Defendant stated in my presence (in substance):

I personally observed the commission of the offense charged herein. False statements made herein are punishable as a Class A Misdemeanor pursuant to section 210.45 of the Penal Law. Affirmed under penalty of law.

Complainant's Full Name Printed **Nere** Rank/Full Signature of Complainant **[Signature]** Date Affirmed (mm/dd/yy) **7/1/13**

Tax Registry # **957016** Agency **NYPD** Command Code **0007**

ORIGINAL



4443868075

THEIR WAS NO SEARCH WARRANT - SEARCH WAS ILLEGAL
 - STATED THEY WAS LOOKING FOR GUNS - ENERGY DRINK - DRUGS AND
 WEAPONS. - NO EVIDENCE WAS FOUND.

CR-616 (Rev. 11/17) Complaint Information
 The People of The State of New York vs.

Earnest, Brian [Signature]
 3055 6th Avenue
 Mt. Vernon NY
 10578-2250

Count Appearance Date and Time: 9/21/18 at 9:30 a.m.
 The count appearance location: []

Disorderly Offense
 3055 6th Avenue
 Mt. Vernon NY
 10578-2250

The Person Described Above is Charged as Follows:
Disorderly Offense
 3055 6th Avenue
 Mt. Vernon NY
 10578-2250

At 10:00 AM the manager of the location allowed her to remain unescorted which resulted in patrons being involved in terms of location, mistreatment and attracting police attention.

Complaint by: [Signature] Date: 9/21/18
 Filed by: [Signature] Date: 9/21/18

I WAS TOLD

By the time

Cops arrived
 no 89 of the
 ATRON LEFT
 BEADS IT WAS
 LOSING TIME!

I WAS NOT THERE! WASNT EVEN AWARE
 OF A TICKET until my lawyer point IT
 out. THE MESSY INCIDENT HAPPEN AT 3:00 AM

Complaint/Information
The People of The State of New York vs.

Name (Last, First, Middle) Barnett, Dion Date of Birth (mm/dd/yy) 05/28/82

Address 545 S. 9th Avenue Apt. No.

City Ut. Vernon State NY Zip Code

Cell Phone Number (with 917 or 845 area code) 606-286-2850 Home Phone Number (with 917 or 845 area code if not provided)

Court Appearance Date (mm/dd/yy): 9/21/18 at: 9:30 a.m.
(Ensure correct return date is entered)

The court appearance location: Other (specify)
 Bronx Criminal Court Kings & New York Criminal Court Madison Community Court Rockland Community Justice Center Queens Criminal Court Richmond Criminal Court

ID/License Number State Type/Class Expires (mm/dd/yy)

Race White Black Hisp. White Hisp. Black Am. Ind./Median Native Asian/Pacific
Sex M Ht. 60 Wt. 200 Eyes BL Hair BL Plate/Reg

Reg. State Expires (mm/dd/yy) Plate Type Veh. Type Make Year Color

The Person Described Above is Charged as Follows:

Charge Unauthorized Use of Premise

Time of Day (Approx) 0530 Date of Offense (mm/dd/yy) 7/7/18 County Q

Place of Offense 3512 Boston RD Precinct 47

In Violation of Section 24-220(1) VTL Admin. Code Penal Law Park Rules Other

Actual Allegation (check the law the offense was committed, OR complete reverse):
At 110 del. is the manager of above licensed premise which had unreasonable noise coming from premise as the noise was clearly audible and unreasonable loud.

NYPD CODE 1 2 3 4 ICAD #

Defendant stated in my presence (in substance):

I personally observed the commission of the offense charged herein. False statements made herein are punishable as a Class A Misdemeanor pursuant to section 219.45 of the Penal Law, affirmed under penalty of law.

Complainant's Full Name Printed Mera Rank/Full Signature of Complainant [Signature] Date Affirmed 7/7/18

Tax Registry Agency 957916 NYPD Command Code 2047



4443867997

WAS NOT HERE

Completed On: <u>9/21/80</u> The People's Court New York					
Name	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
The Police Number Above is Changed as Follows:					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					

Completed On: <u>9/21/80</u> The People's Court New York					
Name	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
The Police Number Above is Changed as Follows:					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					
<u>[Redacted]</u>					

Complaint/Information
The People of The State of New York vs.

Name (Last, First, Middle) **Barnett, Brian** Date of Birth (MM/DD/YY) **01/28/82**

Address **540 S. 9th Avenue** Apt. No.

City **NH. Vernon** State **NY** Zip Code

Cell Phone Number (with area code or toll-free number) **606 266-2750** Home Phone Number (with area code or toll-free number if not provided)

Court Appearance Date (mm/dd/yy): **01/21/18** at: **9:30 a.m.**
(Ensure correct return date is entered)

The court appearance location: Other (specify)
 Bronx Criminal Court Kings & New York Criminal Court Midtown Community Court Red Hook Community Justice Center Queens Criminal Court Richmond Criminal Court

ID/License Number State Type/Class Expires (mm/dd/yy)

Race White Black Hispanic White Hispanic Black Am. Ind./Alaskan Native Asian/Pac. Islander Sex **M** Ht **6'02"** Wt **220** Eyes **BL** Hair **BL** Plate/Reg

Reg State Expires (mm/dd/yy) Plate Type Veh Type Make Year Color

The Person Described Above is Charged as Follows:

Not back of daily activities

Time of Offense (mm/dd/yyyy) **0330** Date of Arrest (mm/dd/yyyy) **7/7/18** County **BP**

Place of Offense **342 Boston Rd** Precinct **47**

In Violation of Section **160.50** Subsection **1** VTL Admin Code Penal Law Park Rules Other **ABC**

Factual Allegations (describe how the offense was committed OR complete reverse):
At 10 above def is the manager of above location/bac licensed premise which failed to provide records/books of daily activities.

NYPD CODE: 1 2 3 4 CAD #

Defendant stated in my presence (for substance):

I personally observed the commission of the offense charged herein. False statements made herein are punishable as a Class A Misdemeanor pursuant to section 210.45 of the Penal Law. Affirmed under penalty of law.

Complainant's Full Name Printed **Mere** Full Signature of Complainant **[Signature]** Date Affirmed **7/7/18**

Tax Registry # **957816** Agency **NYPD** Command Code **0277**

ORIGINAL

AC
229 PPL
Viol.
not
a
Crime



Complaint Number 150		Date 9/21/18
Name [Illegible]		Address [Illegible]
City [Illegible]		State NY
Zip [Illegible]		Phone [Illegible]
Description of Incident [Illegible]		Agency [Illegible]
Officer [Illegible]		Supervisor [Illegible]
Status [Illegible]		Priority [Illegible]
Remarks [Illegible]		Signature [Illegible]

Complaint Number 150		Date 9/21/18
Name [Illegible]		Address [Illegible]
City [Illegible]		State NY
Zip [Illegible]		Phone [Illegible]
Description of Incident [Illegible]		Agency [Illegible]
Officer [Illegible]		Supervisor [Illegible]
Status [Illegible]		Priority [Illegible]
Remarks [Illegible]		Signature [Illegible]

Complaint/Information

The People of The State of New York vs.

Name (Last, First, MI) **Barnett, Brian** Date of Birth (mm/dd/yyyy) **8/3/82**

Street Address **590 S. 9th Avenue** Apt. No.

City **N. Verona** State **NJ** Zip Code

Home Phone Number (Area Code or Right) (if not provided) **016 286-2200**

Court Appearance Date (mm/dd/yyyy): **9/21/18** at: **9:30 a.m.**
(Ensure correct return date is entered)

The court appearance location: Other (specify) _____
 Essex Criminal Court King & New York Criminal Court Madison Community Court Hudson Community Justice Center Queens Criminal Court Richmond Criminal Court

ID/License Number _____ State _____ Type/Class _____ Expires (mm/dd/yyyy) _____

Race: White Black Hisp. White Hisp. Black Am. Ind./Alaskan Native Asian/Pacific Is.
Sex **M** Ht **66** Wt **200** Eyes **BL** Hair **BL** Plate/Reg _____

Reg State _____ Expires (mm/dd/yyyy) _____ Plate Type _____ Veh Type _____ Make _____ Year _____ Color _____

The Person Described Above is Charged as Follows:

Offense: **Obstruct View into bar**

Time of Day (Approx) **0300** Date of Offense (mm/dd/yyyy) **9/18/18** Precinct **47**

Place of Offense **3592 Boston RD** Precinct **47**

In Violation of Section **16-97(A)** VTL Admin Code Penal Law Park Rules Other **ABC**

Special Advertisements (check the box if the offense was committed. OR complete reversal):
AT 1100 AM is the manager of above licensed premise which had all windows & location obstructed with hats and curtains.

NYPD CODE 1 2 3 4 CAD # _____

Defendant stated in my presence (in substance):

I personally observed the commission of the offense charged herein. False statements made herein are punishable as a Class A Misdemeanor pursuant to section 120.45 of the Penal Law. Affirmed under penalty of law.

Complainant's Full Name Printed **None** Date of Full Signature of Complainant **9/18/18** Date Affirmed **9/18/18**

Tax Registry # **957816** Agency **NYPD** Command Code **0007**

ORIGINAL



EXHIBIT "C"

STATE OF NEW YORK
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

80 South Swan Street, Suite 900
Albany, NY 12210-8002

317 Lenox Avenue
New York, NY 10027

535 Washington Street, Suite 303
Buffalo, NY 14203

- 7/7
1. That on 07/07/18, the licensee suffered or permitted the licensed premises to become disorderly in violation of subdivision 6 of section 106 of the Alcoholic Beverage Control Law.
 2. That on 07/07/18, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes, and/or fire, health, safety and governmental regulations; no certificate of occupancy, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
 3. That on 07/07/18, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes, and/or fire, health, safety and governmental regulations; street address not displayed, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
 4. That on 07/07/18, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes, and/or fire, health, safety and governmental regulations; failure to maintain books and records, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
 5. That on 07/07/18, in violation of subdivision 9(a) of section 106 of the Alcoholic Beverage Control Law, the licensee had glass in any window or door on the licensed premises which was not clear and was opaque, colored, stained or frosted.
 6. That on 07/08/18, the licensee suffered or permitted the licensed premises to become disorderly in violation of subdivision 6 of section 106 of the Alcoholic Beverage Control Law.
 7. That on 07/08/18, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes, and/or fire, health, safety and governmental regulations; no switch box covers, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
 8. That on 07/08/18, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes, and/or fire, health, safety and governmental regulations; no flame proofing affidavit, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
 9. That on 07/08/18, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes, and/or fire, health, safety and governmental regulations; no certificate of occupancy sign, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
 10. That on 07/08/18, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes, and/or fire, health, safety and governmental regulations; an unmounted fire extinguisher, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
 11. That on 07/08/18, the licensee violated rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] in that the licensee did not conform with governmental regulations regarding employment of security guards; all cause to warrant revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the Authority [9 NYCRR 53.1(f)].
 12. That on 07/08/18, the licensee violated rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] in that the licensee did not conform with governmental regulations regarding employment of security guards; all cause to warrant revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the Authority [9 NYCRR 53.1(f)].
 13. That on 07/08/18, the licensee violated rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] in that the licensee did not conform with governmental regulations regarding employment of security guards; all cause to warrant revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the Authority [9 NYCRR 53.1(f)].
 14. That on 07/08/18, the licensee violated rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] in that the licensee did not conform with governmental regulations regarding employment of security guards; all cause to warrant revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the Authority [9 NYCRR 53.1(f)].
 15. That on or before 07/20/18, the licensee failed to conform with all representations set forth in the application, or approved amendments thereto, for the on-premises license under which such license was applied for and issued; permits dancing, all cause for revocation, cancellation or suspension of the license in accordance with Rule 54.8 of the Rules of the State Liquor Authority [9 NYCRR 48.8].
 16. That on and before 07/20/18, the occurrence of noise, disturbance, misconduct or disorder in the licensed premises, in front of or adjacent to the licensed premises, or in the parking lot of the licensed premises has resulted in the licensed premises becoming a focal point for police attention; all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(q) of the Rules of the State Liquor Authority [9 NYCRR 53.1(q)].
 17. That on and before 07/20/18, the licensee, through the actions of its principal, and its agents and employees, has violated rule 54.2 of the Rules of the State Liquor Authority [9 NYCRR 48.2] in that the licensee has failed to exercise adequate supervision over the conduct of the licensed business; all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
- 7/8

EXHIBIT "D"

NEW YORK STATE LIQUOR AUTHORITY
Hearing Bureau
317 Lenox Avenue
New York, New York 10027

IN THE MATTER OF PROCEEDINGS TO CANCEL OR REVOKE

Serial Number: 1308305, BRONX OP 1308805
Docket Number(s): 1796-2018
Case Number(s): 127571

Licensee: Gregory, Damion J
227 S 5th Ave
Mount Vernon, NY 10550

Licensed Premises: Spades Lounge NYC LLC
3392 3398 Boston Rd
Bronx, NY 10469

*Health Care
Administrator
Murray Home*

BEFORE: Marilyn D. Piken, Administrative Law Judge
Hearing Date(s): August 15, 2018 and August 21, 2018
Hearing Location: Hearing Bureau, 317 Lenox Avenue, New York, NY 10027
Notice of Pleading(s): July 20, 2018

Attorney for Authority: Margarita Marsico, Esq.

Attorney for Licensee: John Angrisani, Esq.
Rios Law Firm PC
2560 Matthews Avenue, 1st Floor
Bronx, NY 10467
(347) 346-8700

Witness(es) for Authority: Police Officer Mena (Shield # 8906)
Police Officer Almanzar (Shield # 8609)
Lt. Tablante
SLA Sr. Investigator Pardo

Witness(es) for Licensee: Byron Barnett
Self

Licensee Present: Yes

Other Persons Present: Logen Grossman SLA – August 15, 2018, afternoon session
only

Serial Number: 1308805, Bronx P 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

Authority's Exhibits:

Case No. 127571

- SLA Ex. 1: Notice of Pleading
- SLA Ex. 1A: Second Amended Notice of Pleading
- SLA Ex. 2: Police Cover letter with summonses re: July 7, 2018
- SLA Ex. 3: Invoices/voucher
- SLA Ex. 4: Police Referral report with attachments re: July 8, 2018 incident
- SLA Ex. 5: Signed statement from Jonathan Finner – criminal defendant in July 8, 2018 incident
- SLA Ex. 6: 911 calls – July 8, 2018
- SLA Ex. 7: Criminal court complaint – July 8, 2018
- SLA Ex. 8: Police Cover letter with summonses re: July 8, 2018
- SLA Ex. 9: Map - DOITT
- SLA Ex. 10: Social Media¹
- SLA Ex. 11A: Dept. of State printout - TMZ Security
- SLA Ex. 11B: Dept. of State printout – Professional Corporate Security
- SLA Ex. 12: Social Media
- SLA Ex. 13: Method of Operation and Establishment Questionnaire
- SLA Ex. 14: 100' radius report
- SLA Ex. 15: Establishment Questionnaire
- SLA Ex. 16: Dept. of State licensing search – Akmir Gray
- SLA Ex. 17: Dept. of State licensing search – Jonathan Finner
- SLA Ex. 18: Dept. of State licensing search – Stanley Bell
- SLA Ex. 19: Closing Statement

Licensee's Exhibits:

- Lic Ex. A: Photo marked for identification only – not in evidence
- Lic Ex. B: Photo July 8, 2018
- Lic Ex. C: Photo
- Lic Ex. D: Photo
- Lic Ex. E: Liability Insurance Certificate
- Lic Ex. F: Closing Statement

Court Exhibits:

- Ct Ex. i: Certificate of Occupancy
- Ct Ex. ii: E-mails

Hearing Recorded:

Digitally

¹ SLA Ex. 10 was admitted into evidence over objection. The conclusory language on the bottom of Page 4 was redacted and is not being considered as part of this decision.

Serial Number: 1308805, Bronx C 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

CHARGE(S)

Docket No. 1796-2018/Case No. 127571

1. That on 07/07/18, the licensee suffered or permitted the licensed premises to become disorderly in violation of subdivision 6 of section 106 of the Alcoholic Beverage Control Law.
2. That on 07/07/2018, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes, and/or fire, health, safety and governmental regulations; no certificate of occupancy, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
3. That on 07/07/2018, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes, and/or fire, health, safety and governmental regulations; street address not displayed, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
4. That on 07/07/2018, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes, and/or fire, health, safety and governmental regulations; failure to maintain books and records, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
5. That on 07/07/2018, in violation of subdivision 9(a) of section 107 of the Alcoholic Beverage Control Law, the licensee had glass in any window or door on the licensed premises which was not clear and was opaque, colored, stained or frosted.
6. That on 07/08/18, the licensee suffered or permitted the licensed premises to become disorderly in violation of subdivision 6 of section 106 of the Alcoholic Beverage Control Law.
7. That on 07/08/2018, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes and/or fire regulations; no switch box covers, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].
8. That on 07/08/2018, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes

Serial Number: 1308805; Bronx OP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

and/or fire regulations; no flame proofing affidavit, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].

9. That on 07/08/2018, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes and/or fire regulations; no certificate of occupancy sign, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].

10. That on 07/08/2018, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes and/or fire regulations; an unmounted fire extinguisher, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].

11. That on 07/08/2018, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes and/or fire regulations; regarding employment of security guards, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].

12. That on 07/08/2018, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes and/or fire regulations; regarding employment of security guards, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].

13. That on 07/08/2018, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes and/or fire regulations; regarding employment of security guards, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].

14. That on 07/08/2018, the licensee violated rule 54.3 of the Rules of the State Liquor Authority [9 NYCRR 48.3], in that it did not conform with all applicable building codes and/or fire regulations; regarding employment of security guards, all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].

15. That on or before 07/20/2018, the licensee failed to conform with all representations set forth in the application, or approved amendments thereto, for the on-premises license

Serial Number: 1308805, Bronx OP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

under which such license was applied for and issued; has managers, has promoters, and does not have working security cameras, all cause for revocation, cancellation or suspension of the license in accordance with Rule 54.8 of the Rules of the State Liquor Authority [9 NYCRR 48.8].²

16. That on and before 07/20/2018, the occurrence of noise, disturbance, misconduct or disorder in the licensed premises, in front of or adjacent to the licensed premises, or in the parking lot of the licensed premises has resulted in the licensed premises becoming a focal point for police attention; all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(q) of the Rules of the State Liquor Authority [9 NYCRR 53.1(q)].

17. That on and before 07/20/2018, the licensee, through the actions of its principal, and its agents and employees, has violated rule 54.2 of the Rules of the State Liquor Authority [9 NYCRR 48.2] in that the licensee has failed to exercise adequate supervision over the conduct of the licensed business; all cause for revocation, cancellation or suspension of the license in accordance with rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(f)].

STANDARD OF REVIEW

Under the law of the State of New York, in an administrative proceeding as we have here, I am required by law to find whether there is 'substantial evidence' to sustain each and every charge brought against the Licensee by the Authority.

"Substantial evidence is 'less than a preponderance of evidence' and requires only that there be enough 'relevant proof as a reasonable mind may accept as adequate to support a conclusion or ultimate fact.'" *In re 25-24 Café Concerto Ltd. v. New York State Liquor Authority*, 65 A.D.3d 260, 265 (1st Dept. 2009) citing *300 Gramatan Ave. Assoc. v. State Div. of Human Rights*, 45 N.Y.2d 176, 180-81 (1978). See *S&R Lake Lounge, Inc. v. State Liquor Authority*, 87 N.Y.2d 206 (1995). "The question... is whether a conclusion or ultimate fact may be extracted reasonably—probatively and logically." *City of Utica Board of Water Supply v. New York State Health Department*, 96 A.D.2d 710, 465 N.Y.S.2d 365, 366 (4th Dept. 1983) (citations omitted).

Hearsay evidence can be the basis of an administrative determination and, if sufficiently probative, it alone may constitute substantial evidence. *Café La China Corp. v. State Liquor Authority*, 43 A.D.3d 280 (1st Dept. 2007) (citations omitted). Uncontroverted hearsay can form the entire basis for an administrative determination *Gray v. Adduci*, 73 N.Y.2d 741 (1988) (citations omitted).

² The Notice of Pleading was amended on the record on August 21, 2018 by deleting the words "permits dancing and replacing them with" has managers, has promoters, and does not have working security cameras".

Serial Number: 1308805, Bronx OP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

Finally, to the extent that the resolution of these Charges hinges on the credibility of the witnesses, "... [the fact finder], in making a credibility determination, may look to 'witness demeanor, consistency of a witness' testimony, supporting or corroborating evidence, witness motivation, . . . and the degree to which a witness' testimony comports with common sense and human experience.'" *Dep't of Correction v. Skeet*, OATH Index No. 254/04 (June 3, 2004), *aff'd*, NYC Civ. Serv. Comm'n Item No. CD05-66-SA (September 14, 2005) (quoting *Dep't of Sanitation v. Menzies*, OATH Index No. 678/98 at 2-3 (February 4, 1998), *aff'd*, NYC Civ. Serv. Comm'n Item No. CD98-101-A (September 9, 1998)).

PROCEDURAL HISTORY

On July 25, 2018, the Members of the New York State Liquor Authority entered an emergency summary order of suspension against the licensed premises ~~Legends Cafe~~ LLC. Pursuant to SAPA § 401(3), proceedings for cancellation or revocation were "promptly instituted".

*Spencer
Lange*

This hearing commenced on August 15, 2018 before Administrative Law Judge Marilyn D. Piken with the testimony of two (2) police officers and one (1) witness for the licensee. John Angrisani, Esq., the licensee's attorney, made a continuing objection to hearsay. At the conclusion of the testimony, the Authority requested an adjournment to produce additional police officers. The hearing was adjourned until Tuesday, August 21, 2018 for the testimony of additional police officers.

On Tuesday August 21, 2018, one (1) additional police officer and an SLA investigator testified for the Authority. Although Ms. Marsico checked the availability of the officers on August 15th before the case was adjourned, two (2) of the police officers had regular days off and were unavailable to testify. No further adjournment was granted for the appearance of those officers. Due to his father having open heart surgery in Philadelphia, Lt. Kaiser was unavailable to testify. Toward the end of the hearing, after reviewing the charges and amending Charge 15, Ms. Marsico withdrew her request for an adjournment for the testimony of Lt. Kaiser.

Mr. Angrisani requested two (2) days to submit a written closing statement. The licensee's closing statement was due by the close of business on August 24, 2018 and was received at 8:44 P.M. on August 24, 2018. Ms. Marsico was given until the close of business on September 4, 2018 to file a closing statement. Ms. Marsico's closing statement (SLA Ex. 19) was received via e-mail on September 4, 2018 at 4:45 P.M.

On Monday, August 27th, Mr. Angrisani was advised via e-mail (Ct Ex. ii) that his closing statement did not address Charge 15, as amended. Mr. Angrisani request that the word "dancing" in his closing statement be amended to "using managers, promoters and not having working security cameras" was granted.

Serial Number: 1308805, Bronx OP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

Considering the expedited nature of this proceeding pursuant to SAPA § 401(3), the decision contained herein was filed on September 14, 2018, ten (10) days after the record was closed.

FINDINGS OF FACT

BASED UPON the testimony and record in this case, I, as the Administrative Law Judge, hereby make the following findings of fact, law, and opinion:

Docket No. 1796-2018/Case No. 127571

Spades Lounge NYC LLC (hereinafter Spades) is a restaurant lounge that opened in May 2018. Its grand opening was on Father's Day, Sunday, June 17th. Prior to the grand opening, the licensee met with the police on several occasions to discuss the operation. Lt. Kaiser came to the premises, looked around, and stated that security was on point. He advised the licensee that the liquor license and the tax certificate, which were on display, had to be in frames. The items were framed immediately.

Police Officer Mena works as a patrol officer in the 47th precinct from 11:15 P.M. to 7:50 A.M. He became familiar with the licensed premises in June 2018, when there was a lot of vehicular activity. There was a problem with cars blocking a bus stop and with cars double parking. Before the licensed premises opened, there might be one (1) car parked in the bus stop. After the licensed premises opened, there would be four (4) or five (5) cars crammed into the bus stop. There was also a lot more foot traffic in the area. The licensed premises consists of four (4) store fronts and includes a restaurant area and a lounge.

There usually were two (2) patrol cars doing midnight tours in sector David, where the licensed premises is located. Officer Mena was assigned to work directed patrols at the licensed premises from 12:00 A.M. to 3:30 A.M. When he was not working, the other patrol car was assigned to do directed patrols at the licensed premises. This assignment left only one (1) patrol car to respond to calls in the sector. Occasionally on weekends, both cars would do directed patrols at the licensed premises. There were always security guards in front of Spades. Security handled the door, they did not handle the crowds or traffic.

Officer Mena would try to get the illegally parked vehicles that were blocking the bus stop or blocking a lane of traffic on Boston Road to move. He would speak to the bouncers in front of Spades, a bouncer would enter the premises, and he would hear the deejay making an announcement that patrons should move their vehicles. Sometimes he would have to leave the area and when he returned, there would be more congestion and the right traffic lane would be blocked.

On July 7, 2018, his vehicle was the only patrol car on the midnight tour, therefore, there was no patrol car assigned to a directed patrol in front of the licensed premises. At about

Serial Number: 1308805, Bronx OP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

3:30 A.M. Officer Mena responded to a radio transmission regarding shots fired at 213th Street and Boston Road, approximately three (3) blocks from the licensed premises. When he arrived at 213th Street, the area was already secured as a crime scene. He saw shell casings on the ground. At that time, Lt. Kaiser ordered a business inspection of Spades.

When he was approximately 80 – 100' from the door or approximately 50' from the glass windows, Officer Mena heard music coming from Spades and could feel the bass. He issued a summons for unreasonable noise (SLA Ex. 2 Summons # 4443867997). He never received a noise complaint from any members of the community. Officer Mena could not see inside the windows because they were obstructed by curtains.³ He issued a summons for an obstructed view (SLA Ex. 2 Summons # 4443868075). 2

When the police entered the licensed premises, they advised that they were looking for guns, drugs, contraband, and underage drinking. None of the items that the police were looking for were found at the premises. The Lieutenant told Police Officer Mena to write tickets. No tickets were issued to security or to the bartenders.

The deejay made an announcement instructing people to leave. The patrons seemed upset. He estimates that there were one hundred (100) to one hundred twenty-five (125) people leaving. The people who were leaving went into the middle of the street and obstructed traffic. There was a report of fighting. Lt. Kaiser called for additional cars and approximately five (5) cars responded.

Lt. Kaiser spoke to Bryon Barnett, who was unable to provide books and records pertaining to alcohol purchases and sales. Officer Mena issued a summons to Mr. Barnett for failure to provide records of daily activities (SLA Ex. 2. Summons # 4443868000). 3

Officer Mena believes that the premises was overcrowded. He did not do a head count and did not know the legal occupancy of Spades⁴. People were standing shoulder to shoulder and at times the police had to push through the crowd. As per the summons (SLA Ex. 2 Summons # 4443867970), a security guard had a counter which estimated that there were more than 130 people inside the premises. 4

Officer Mena also issued summonses to Mr. Barnett for failure to post a CPR kit sign (SLA Ex. 2 4443868061), failure to post street numbers outside of business (SLA Ex. 2 Summons # 4442572720)⁵, failure to post a pregnancy warning sign (SLA Ex. 2 Summons # 4442572751), failure to post a certificate of occupancy (SLA Ex. 2 Summons # 4442572717), and for having a disorderly premise (SLA Ex. 2 Summons # 5 6 7 8 9

³ Officer Mena was wrong when he testified that the windows were tinted.

⁴ The Establishment Questionnaire (SLA Ex. 13, response 3g) indicates that the maximum occupancy is two hundred and sixteen (216) people.

⁵ The licensed premises consists of four store fronts. There was a number posted on the restaurant; there was no number posted on the nightclub.

Serial Number: 1308805, Bronx 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

4443868013). He also issued summonses to two individuals who were fighting at the corner of Boston Road and Wilson Avenue.

Officer Mena had seen Mr. Barnett at the premises before July 7th. On July 7th, Mr. Barnett told him that Spades did not have the certificate of occupancy and that he did not know what the lawful occupancy was. He also stated that they did not have a pregnancy warning sign. Officer Mena was at Spades for more than two (2) hours.

Due to a family emergency,⁶ Mr. Gregory, the licensee, had to leave the licensed premises at 2:00 A.M. on July 7th. He has a full time from 8:30 A.M. to 4:30 P.M., but has flexibility at his job. He can leave work at any time and can work from different locations. If there is a problem at the premises, the staff is advised to call 911 and to call him.

On July 8th, Officer Mena was wearing a body cam.⁷ He his partner, Officer Garcia, were on directed patrol at Spades. They arrived outside the premises at approximately 12:00 A.M. At about 3:30 A.M., there was a commotion at the front door. The lights were turned on and he heard people yelling. He went into the premises and saw a man bleeding on the floor.

A man had been stabbed in his left thigh and was bleeding heavily. Officer Mena called an ambulance and proceeded to assist an off-duty fire fighter who was attending to the victim. The police sealed off the night club and interviewed witnesses. The witnesses stated that the bouncers stabbed the victim. Officer Mena found one suspect hiding in the back of the kitchen restaurant. Before Officer Mena knew that the individual in the kitchen was a suspect, he spoke to the individual and was advised that there was a dispute over a \$20 entry fee and that the individual was afraid to go outside because he thought he would be attacked. Both security guards were identified by witnesses and the suspect who was hiding in the kitchen, was also identified by the victim.

On July 8, 2018, Officer Almanzar was on routine patrol when he received a radio transmission about a male who was possibly shot. When he arrived at Spades, he saw a man on the floor in a pool of blood. His job was to control the crowd.

Officer Almanzar's supervising sergeant asked Mr. Gregory to point out the security guards. Sgt. Esteban asked the security guards for their credentials. Officer Almanzar issued Summons # 4443866617 to Donald D. Parker⁸ and Summons # 4443866103 to Stanley Bell (SLA Ex. 8) for being unlicensed security guards. Lawrence Hill⁹ and

⁶ Mr. Barnett testified that Mr. Gregory had to leave due to a medical emergency with his young asthmatic daughter. Mr. Gregory testified that he is a single father of four (4) children and is in debt due to the costs of starting up a new business.

⁷ The video was viewed on Officer Mena's cell phone. It showed the aftermath of the stabbing. Because it could not be readily copied and had little or no probative value, it was not marked into evidence.

⁸ It was stipulated at the hearing that Mr. Parker is a convicted felon.

⁹ It was stipulated at the hearing that Mr. Hill is a convicted felon.

Serial Number: 1308805, Bronx P 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

Jonathan Finner were also unlicensed security guards. Other police officers also issued summonses.

Mr. Barnett and Mr. Gregory are old friends. Mr. Barnett has business experience and has been helping Mr. Gregory. Mr. Barnett accompanied Mr. Gregory to the licensed premises and to the neighborhood several times before the lease was signed. On each occasion, he noticed a police car parked at the nearby intersection. Both he and Mr. Gregory were happy about the police presence. Mr. Barnett does not manage the premises.

There is a 24-hour restaurant at the premises. There are approximately twenty-two (22) employees, including bartenders, waitresses, and bus boys. Mr. Gregory hired Professional Corporate Security Services, Inc as a security company and was accompanied by Abdul Islam, a brother of the owner, to the community Board. Professional Corporate Security provided him with a Certificate of Liability Insurance (Lic Ex. Ex). Byron Barnett testified that security guards were provided by TMZ¹⁰, and that he spoke with Noel Bernard, the owner of TMZ.

After the stabbing, Mr. Gregory claims to have spoken to Abdul whom he believes is an owner of Professional Corporate. Abdul advised him that Akmir Gray¹¹, one of the alleged security guards involved in the assault, was not employed by Professional Corporate. Because the arrangement with Professional Corporate was per diem, the licensee did not have a signed contract. Mr. Gregory looked at response 9b to the Method of Operation (SLA Ex. 13) and testified that he did not understand the requirement that he provide a proprietary security guard unique identification number.

The premises was not disorderly. When the lights were turned on and customers were asked to leave, some of the patrons became upset.

There is a street number on the restaurant (Lic Ex. C). Lic. Ex. D shows a mounted fire extinguisher, a pregnancy warning sign, and a CPR kit. Although they are only required to have one (1) fire extinguisher, they have two (2) mounted fire extinguishers at the bar. There was a non-working fire extinguisher that was not mounted.

Lt. Tablante is the midnight platoon commander. There were two (2) problem areas in Sector David of the precinct. In the area from 216th Streets between Bronxwood and Laconia, there were robberies, thefts from cars, and stolen cars. In the area from Boston Road to Hicks Street and from Wilson Avenue to Corsa Avenue¹², there were reports of shots fired and narcotics sales. Beginning in April 2018, patrols cars were assigned to perform directed patrols and/or community visits to these areas. In June 2018, after Spades was identified as a potential problem, the vehicles focused on Spades instead of patrolling the other two areas. The main focus of the midnight patrols in Sector David

¹⁰ TMZ is not a licensed security guard company.

¹¹ It was stipulated at the hearing that Mr. Gray has a manslaughter conviction.

¹² This area is marked #1 on the New York City Maps (SLA Ex. 9).

Serial Number: 1308805, Bronx OP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

became Spades, which took away from the resources used for the other problem areas and reduced the ability to respond to 311 or 911 calls. Every Friday and Saturday night, one or two cars, which means two or four officers, were assigned to Spades. The fewest personnel are assigned to the midnight tour. Usually there are twelve (12) cars; six (6) sector cars, three (3) response cars, and three (3) cars with plain closed officers.

OPINION

Charge 1:

There is not substantial evidence to sustain the charge that on July 7, 2018, the Licensee suffered or permitted the licensed premises to become disorderly by suffering or permitting altercations and/or assaults to occur on the licensed premises. Section 106 subsection 6 of the Alcoholic Beverage Control Law states in pertinent part that "(n) person licensed to sell alcoholic beverages shall suffer or permit... such premises to become disorderly."

Case law holds that in order to sustain the charges, it is critical for the Authority to establish actual knowledge or a foreseeable pattern of conduct. See P.B.L. Entertainment, 149 A.D.2d at 513, 539 N.Y.S.2d 147, 244 N.Y.S.2d 990 (quoting Awrich Restaurant v. State Liq. Auth., 92 A.D. 925, 926, 460 N.Y.S.2d 347 (2nd Dep't 1983) (quoting Club 95 v. State Liq. Auth. 23 N.Y.2d 784, 785, 297 N.Y.S.2d 147, 244 N.E.2d 713 (1968)).

There were gun shots fired approximately three (3) blocks away from the licensed premises. There was no evidence or testimony connecting these gun shots to the licensed premises. Immediately after responding to the report of shots fired, Police Officer Mena participated in a business inspection at Spades. While the police were conducting a business inspection, patrons who had left the premises, went into the middle of the street and there were reports of fighting.

Officer Mena issued a summons for overcrowded premises (SLA Ex. 2 – Summons # 4443867970) and testified credibly that the bar appeared to be overcrowded, that people were standing shoulder to shoulder, that at times the police had to push their way through the crowd, that he saw approximately one hundred (100) to one hundred and twenty-five (125) people leaving, and that there were reports of fights outside the premises¹³. A security guard's counter estimated that there were more than 130 people at the location. Officer Mena did not do a head count and was not aware of the bar's lawful occupancy, which according to response 3g to the establishment questionnaire is 216 people. on *In the Matter of 47 Ave. B.E. v. NYS Liquor Authority*, 65 A.D.3rd 33, 880 N.Y.S.2d 22 (2009) the Court did hold that a "guesstimate" cannot constitute substantial proof of overcrowding. Furthermore, the guesstimate was less than the lawful occupancy.

¹³ Summons were issued to Terrel Chery and Eric Beriguete for disorderly conduct for fighting on the corner of Boston Road and Wilson Avenue (SLA Ex. 2).

Serial Number: 1308805, Bronx GP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

The Authority did not submit substantial proof that the shots fired were connected to the operation of the licensed premises, that the premises was overcrowded, or that the fight that took place between two individuals on the corner started inside the licensed premises. The charge for suffering or permitting the licensed premises to become disorderly is not sustained.

Charge 2:

There is not substantial evidence to show that on July 7, 2018, the licensee violated rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] regarding a certificate of occupancy. Rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] provides:

The Authority expects all on-premises licensees, regardless of type of premises, to conform with all applicable building codes, fire, health, safety and governmental regulations

Administrative Code §28-118.1 provides in pertinent part:

No building or open lot shall be used or occupied without a certificate of occupancy issued by the Commissioner.

I find licensee's counsel's argument that the Authority would not have issued a liquor license unless there was a current valid certificate of occupancy to be unpersuasive. However, a review of the Department of Buildings' public records shows that there was a valid Certificate of Occupancy for Use Group 6 (Ct Ex. i), a Use Group that includes drinking and eating establishments. I find that the Authority failed to provide substantial evidence that there was no Certificate of Occupancy for the licensed premises. The Charge is not sustained.

Charge 3:

There is substantial evidence to show that on July 7, 2018, the licensee violated rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] regarding street address not displayed. Rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] provides:

The Authority expects all on-premises licensees, regardless of type of premises, to conform with all applicable building codes, fire, health, safety and governmental regulations

Administrative Code Section 29-505.1 pertains to street addressed and provides:

Buildings and structures shall have their lawful address numbers, building numbers and/or other approved building identification, placed at a location on or near a building that allows such building identification to be plainly discernible from the public street or frontage space. These numbers shall

Serial Number: 1308805, Bronx Of 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 1/2 inch (12.7 mm). Address numbers shall additionally comply with the requirements of the Building Code, New York City Housing Maintenance Code and the borough president of the borough in which such building is located.

Administrative Code Section 3-505 also pertains to street numbers and provides:

1. The owner, agent, lessee or other person in charge of any building in the city upon a street to which street numbers of buildings have been assigned by the president of the borough in which such building is situated, shall cause the proper street number or numbers of such buildings to be displayed in such manner that the street number or numbers may always be plainly legible from the sidewalk in front of such building. The term "front" as used in this section shall be construed to mean that side of the building which faces the street on which the number or numbers of such building, or premises on which such building is situated, have been assigned. The number or numbers shall be displayed on such side of such building or premises. Each borough president shall have the power to establish and enforce rules and regulations relating to the size, form, visibility and location of street numbers in accordance with the requirements of this section.

The licensed premises consists of four (4) store fronts; each store front has a different street address. As per the photo (LIC ex. C) and the testimony, the street address is located on the awning of the restaurant on the far left of the licensed premises. That portion of the building has a different name and a different colored awning from the remainder of the licensed premises. It is not clear that the restaurant where the awning is located is part of the licensed premises. It is clear from the photo that the street number is not in front of the building as required.

The Authority proved by substantial evidence that the licensee failed to comply with governmental regulations regarding street addresses. The Charge for failure to comply with governmental regulations is sustained.

Charge 4:

There is substantial evidence to show that the licensee violated rule 54.3 of the Rules of the State Liquor Authority; it that it did not conform to all applicable governmental regulations regarding books and records. Rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] provides:

The Authority expects all on-premises licensees, regardless of type of premises, to conform with all applicable building codes, fire, health, safety and governmental regulations

Serial Number: 1308805, Bronx OP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

Subdivision 12 of section 106 of the Alcoholic Beverage Control Law provides:

Each retail licensee for on-premises consumption shall keep and maintain upon the licensed premises, adequate records of all transactions involving the business transacted by such licensee which shall show the amount of alcoholic beverages, in gallons, purchased by such licensee together with the names, license numbers and places of business of the persons from whom the same were purchased, the amount involved in such purchases, as well as the sales of alcoholic beverages made by such licensee.

Mr. Gregory, the licensee, testified that all books and records and insurance forms are kept in a locker in the basement and that his sister, Treash Gregory, who was at the premises, and Mr. Barnett know where the books and records are kept. Mr. Barnett testified that he was never asked for the books and records and that he did not know where the books and records are located.

Based on the inconsistent testimony of the licensee and the witness, the determination in Charge 15 that the licensee's testimony is to be given little or no weight, the licensee's motive to lie, and Police Officer Mena's credible testimony that Lt. Kaiser asked Mr. Barnett for the books and records in his presence, I find that the licensee has not set forth a valid credible defense. The Authority provided substantial evidence that the licensee failed to comply with governmental regulations regarding books and records (ABC Law section 106 subdivision 12). The Charge for failure to comply with governmental regulations is sustained.

Charge 5:

There is not substantial evidence to show that on July 7, 2018 the licensee violated subdivision 9(a) of section 106 of the Alcoholic Beverage Control Law in that the window or door glass was not clear and was opaque, colored, stained or frosted. The cited section of law states in pertinent part that:

All glass in any window or door on said licensed premises shall be clear and shall not be opaque, colored, stained or frosted.

I credit Mr. Barnett's testimony and the photo (Lic Ex. B). Based on the plain clothes police officers in the photo, Officer Mena identified the photo as having been taken on July 8, 2018 after the assault. The photo shows clear glass windows. I credit Mr. Barnett's testimony and find that the curtains no longer covered the windows, that the glass had not been replaced, and that the glass was clear. The Charge for having tinted windows is not sustained.

Serial Number: 1308805, Bronx OP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

Charge 6:

There is not substantial evidence to sustain the charge that on July 8, 2018, the Licensee suffered or permitted the licensed premises to become disorderly by suffering or permitting altercations and/or assaults to occur on the licensed premises. Section 106 subsection 6 of the Alcoholic Beverage Control Law states in pertinent part that "(n) person licensed to sell alcoholic beverages shall suffer or permit... such premises to become disorderly."

Case law holds that in order to sustain the charges, it is critical for the Authority to establish actual knowledge or a foreseeable pattern of conduct. See P.B.L. Entertainment, 149 A.D.2d at 513, 539 N.Y.S.2d 147, 244 N.Y.S.2d 990 (quoting Awrich Restaurant v. State Liq. Auth., 92 A.D. 925, 926, 460 N.Y.S.2d 347 (2nd Dep't 1983) (quoting Club 95 v. State Liq. Auth. 23 N.Y.2d 784, 785, 297 N.Y.S.2d 147, 244 N.E.2d 713 (1968)).

Two security guards¹⁴ stabbed a patron who had not paid a full entry fee for all members of his party. There was no evidence or testimony showing how long the incident took or that was not a spontaneous unforeseen act or that the Licensee or his agents or his employees with managerial responsibilities were involved in the stabbing. There was no evidence of any misconduct on Licensee's part. There is a complete absence of evidence that any person in authority actually "suffered or permitted" the stabbing that took place inside of the licensed premises to occur, or could possibly have anticipated and prevented the stabbing.

The Authority did not submit substantial proof that the Licensee suffered or permitted the licensed premises to become disorderly. The charge is not sustained.

Charge 7:

There is substantial evidence to show that on July 8, 2018, the licensee violated rule 54.3 of the Rules of the State Liquor Authority it that it did not conform with the fire code. Rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] provides:

The Authority expects all on-premises licensees, regardless of type of premises, to conform with all applicable building codes, fire, health, safety and governmental regulations

Ad. Code Section 29-606.5 pertains to unapproved conditions for power supply and provides:

Open junction boxes and open-wiring splices shall be prohibited. Approved covers shall be provided for all switch and electrical outlet boxes.

¹⁴ The licensee argued that only one of the assailants was a security guard.

Serial Number: 1308805, Bronx OP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

Police Officer Rowe issued summons # 4445998056 (SLA Ex. 8) to Mr. Gregory for failure to have a switch box cover. I credit the details of the summons and find that Police Officer Rowe observed that there was no cover on a switch box. A switch box cover is not an item that could be in place and overlooked. For the reasons set forth in Charge 15, I do not credit Mr. Gregory's testimony that the switch box was covered and find that he has a motive to lie.

The Authority has shown by substantial evidence that the licensee failed to comply with governmental regulations regarding switch box covers. The Charge is sustained.

Charge 8:

There is substantial evidence to show that on July 8, 2018, the licensee violated rule 54.3 of the Rules of the State Liquor Authority it that it did not conform with the fire code. Rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] provides:

The Authority expects all on-premises licensees, regardless of type of premises, to conform with all applicable building codes, fire, health, safety and governmental regulations

Ad. Code §29- 805.1 pertains to directions and provides:

Except as otherwise specifically provided for in this chapter, in Group A, E, I, M occupancies, and Group R-1 college and university dormitories, common areas in Group B, R-1 and R-2 occupancies, and any building or structure used as a place of public gathering, decorations shall be flame resistant.

Ad. Code § 805.1.3 pertains to reports and provides:

Where required to be flame resistant, decorations shall meet the flame propagation performance criteria of NFPA 701. Certification of compliance shall be prepared by a certificate of fitness holder and made available to department representatives in accordance with the rules.

Ad. Code § 27-546 F-1 pertains to places of assembly and provides:

places of assembly shall comply with all the requirements of article two of subchapter eight of this chapter, and with the following:

(a) Construction in seating areas.

(1) Scenery or scenic elements may be placed in seating sections of F-1a assembly spaces if such elements:

Serial Number: 1308805, Bronx OP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

a. Are noncombustible, or of materials that have been rendered flameproof in accordance with the provisions of chapter four of this title, or have a flame spread rating of twenty-five or less.

I credit Officer Mena's testimony that there were curtains. Although denied by Mr. Gregory, the licensee, Mr. Barnett testified that there were curtains. The required affidavit of flameproofing has not been provided.

The Authority proved by substantial evidence that the failed to comply with the Fire Code's requirement for an affidavit of flameproofing. The Charge for failure to comply with governmental regulations is sustained.

Charge 9:

There is substantial evidence to show that on July 8, 2018, the licensee violated rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] regarding the posting of a certificate of occupancy sign. Rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] provides:

The Authority expects all on-premises licensees, regardless of type of premises, to conform with all applicable building codes, fire, health, safety and governmental regulations

Administrative Code §28-118.1 provides in pertinent part:

No building or open lot shall be used or occupied without a certificate of occupancy issued by the Commissioner...

Administrative Code §28-118.19 pertains to the posting of certificates of occupancy and provides:

The owner shall post a copy of the building's certificate of occupancy in accordance with this section 28-118.19, except buildings occupied entirely by group R3. Buildings that are not required to have a certificate of occupancy shall be posted by the owner with a sign or placard in a form prescribed by the commissioner. The certificate of occupancy or sign, as applicable, shall be permanently affixed to the structure in a conspicuous location in a public hall, corridor, management office of the building or as otherwise prescribed by the commissioner.

Administrative Code § 27-232 defines owner as:

A person having legal title to premises; a mortgagee or vendee in possession; a trustee in bankruptcy; a receiver or any other person having legal ownership or control of premises.

Serial Number: 1308805, Bronx DP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

I credit Officer Mena's testimony that the occupancy sign was not posted and find that his testimony that he did not know the lawful occupancy of the premises supports this finding. Although the licensee's witness testified that the occupancy sign was posted and the licensee's counsel argued that the sign was shown in the photos, I find that the occupancy sign is not shown in the photos and has never been produced.

The Authority has provided substantial evidence that the occupancy sign was not posted as required by Administrative Code section 28-118.1 et seq. The Charge for failure to comply with governmental regulations is sustained.

Charge 10:

There is not substantial evidence to show that on July 8, 2018, the licensee violated rule 54.3 of the Rules of the State Liquor Authority it that it did not conform with the fire code. Rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] provides:

The Authority expects all on-premises licensees, regardless of type of premises, to conform with all applicable building codes, fire, health, safety and governmental regulations

Ad. Code Section 29-906.7 pertains to hangers and brackets for portable fire extinguishers and provides:

Hand-held portable fire extinguishers, not housed in cabinets, shall be installed on the hangers or brackets supplied. Hangers or brackets shall be securely anchored to the mounting surface in accordance with the manufacturer's installation instructions.

I credit Mr. Gregory's testimony that there were two (2) mounted fire extinguishers, one of which is shown in Lic. Ex. D. I find that the fire extinguisher that was not mounted, was not operational.

I find that the licensee has set forth a credible defense and that the Authority failed to establish by substantial evidence that the licensee failed to comply with the Fire Code regulations regarding fire extinguishers. The Charge for failure to comply with governmental regulations is not sustained.

Charge 11:

There is substantial evidence to show that on July 8, 2018, the licensee violated rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] regarding employment of security guards. Rule 54.3 of the Rules of the Authority [9 NYCRR 48.3] provides:

Serial Number: 1308805, Bronx OP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

The Authority expects all on-premises licensees, regardless of type of premises, to conform with all applicable building codes, fire, health, safety and governmental regulations.

AD Code §28-117.4 refers to places of assembly and states:

Security guards. In the case of a certificate holder that offers for sale food and/or beverages for on-premises consumption, but not including establishments operated by a not-for-profit corporation, and employs or uses the services of a security guard, as that term is defined in subdivision six of section eighty-nine of the general business law, such certificate holder shall comply with the provisions of article 7-A of the general business law, shall obtain proof that such security guard is registered pursuant to article 7-A of the general business law, shall maintain such proof in a readily available location, in accordance with rules promulgated by the commissioner during all hours in which such place of assembly is open to the public, shall maintain a roster of all security guards working at any given time when such place of assembly is open to the public, and shall require each security guard to maintain on his or her person proof of registration at all times when on the premises.

Article 7-A § 89-f of the General Business Law defines security guard company:

5. "Security guard company" shall mean any person, firm, limited liability company, corporation, public entity or subsidiary or department of such firm, limited liability company, corporation or public entity employing one or more security guards or being self-employed as a security guard on either a proprietary basis for its own use or on a contractual basis for use by another person, firm, limited liability company, corporation, public entity or subsidiary thereof within the state.

Article 7-A § 89-g (1) of the General Business Law restricts the employment of security guards by a security guard company.

The licensee failed to comply with any regulations pertaining to security guards. The licensee did not produce a contract with a proprietary security guard company, the security guards were not licensed, there was no roster of security guards, the security guards were not trained, and there was no background check of the security guards. The Authority provided substantial evidence that the licensee failed to comply with governmental regulations regarding security guards.

Charges 12 - 14:

These charges are identical to the charges in Charge 11 and are duplicative. The Charges are not sustained.

Serial Number: 1308805, Bronx OP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

Charge 15:

There is substantial evidence to show that on or before July 20, 2018, the licensee failed to conform with all representations set forth in the application or approved amendments thereto regarding the use of managers, promoters, and/or its security system. Pursuant to the Method of Operation (SLA Ex. 13, response to question 6), the licensed premises is to be managed by principal(s) and managers will not be employed; pursuant to the Method of Operation (SLA Ex. 13, response to question 3b), the premises will not use the services of an event promoter, and pursuant to the Method of Operation (SLA Ex. 13, response to question 10), there will be an electronic surveillance system with 19 surveillance cameras located inside and outside the premises.

§ 110 of the Alcoholic Beverage Control law pertains to information to be requested in applications for licenses and provides:

1. The following shall be the information required on an application for a license or permit:

(g) A statement that the applicant has control of the premises to be licensed by ownership of a fee interest or via a leasehold, management agreement, or other agreement giving the applicant control over the food and beverage at the premises, with a term at least as long as the license for which the application is being made, or by a binding contract to acquire the same and a statement of identity under paragraph (a) of this subdivision for the lessor of any leasehold, manager of any Management agreement, or other agreement giving the applicant control over the food and beverage at the premises, with a copy of the lease, contract, management agreement, or other agreement giving the applicant control over the food and beverage at the premises, or deed evidencing fee ownership of the premises.

7. The authority may, by rule, adopt additional categories of information which may be reasonably necessary to carry out the provisions of this section.

Rule 54.8(a) of the Rules of the State Liquor Authority [9 NYCRR 48.8(a)] states:

Each license issued hereunder shall be subject to the licensee continuing to conform with all representations set forth in the application for license and the provisions of this Part and any amendment thereto applicable to the type of premises under which such license was applied for and issued. Such representations shall constitute continuing representations for the life of the license and all renewals thereof. Any change or deviation therefrom in any material respect, without the permission of the Authority, shall be cause for

Serial Number: 1308805, Bronx DP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

the institution of proceedings to revoke, cancel or suspend such license or refusal to renew the same.

Both Mr. Gregory and Mr. Barnett denied that Mr. Barnett is a manager. The testimony was that Mr. Gregory is the owner/manager, that he is present at the bar almost every night, and that if there is a problem, the employees are advised to call 911 and to telephone him. Mr. Gregory's sister Treash and Mr. Barnett are in charge when Mr. Gregory is not at the premises, but they are not managers.

Both Mr. Gregory and Mr. Barnett testified that Mr. Gregory purchased a security system with 19 cameras at auction and that the security system had been operational. On July 8, 2018, when the police asked to look at the surveillance footage, Mr. Gregory discovered that the cameras were not recording. He was told that the hard drive had burned out. He has purchased a new surveillance camera.

Mr. Gregory testified that he does not use event promoters. This denial is demonstrably and blatantly false¹⁵. SLA Investigator Pardo submitted downloads from social media (Exhibits 10 and 12). Mr. Gregory testified that he had the flyers made and duplicated and that the people mentioned in the flyers were deejays, not promoters. The fact that Mr. Gregory did not know the name of the company that he hired to make the flyers is not dispositive of his credibility. However, the fact that two of the flyers in SLA Ex. 12 state "RESPECT THE PROMOTER" is indicative of the fact that the licensee used promoters. Moreover, both flyers that state "respect the promoter" are followed by the language "GIRLSLOVEBHRIS". Mr. Gregory was unable to state the meaning of that phrase or what "BHRIS" means.

On July 8, 2018 after the stabbing, Jonathan Finner¹⁶, one of the individuals who was later arrested for the incident, signed a statement (SLA Ex. 5) witnessed by Detective Mullarkey, in which he stated that he was an employee and that the victim and his friends tried to enter the premises without paying the full entrance fee to the promoter's "money guy".

In addition to interviewing Mr. Finner, the police interviewed James Mendy, the victim at Jacobi Hospital, Pierre Bell, security guard Donald Parker, security guard Lawrence Hill, Tristan Clarke, Shannon Bragg, and two eyewitnesses who were friends of Mr. Mendy.

Pierre Bell stated that he is a friend of the owner and that earlier in the evening, when he borrowed a pen from Mr. Gray, the pen had a pen on one end and a knife blade on the other¹⁷. He added that Mr. Gray was collecting money at the door.

¹⁵ Since I find Mr. Gregory's testimony on the issue of promoters to be blatantly false, I have the right to reject all his testimony (falsus in uno, falsus in omnibus). I also find that Mr. Gregory lied on the issue of whether there were curtains, and what security guard company was being used. His testimony is given very little weight.

¹⁶ Mr. Finner does not have a security guard license.

¹⁷ A pen knife was used to stab Mr. Mendy.

Serial Number: 1308805, Bronx OP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

Tristan Clarke stated that he is employed by the club, that the club uses promoters, and that patrons pay \$20 per person at the door.

Donald Parker stated that he was working as a security guard with his partner "Jon". Lawrence Hill stated that he was working as a security guard and that he had been hired by Stanley¹⁸. Shannon Bragg stated that she is employed at the premises as a server and that the victim had been arguing with one of the security guards.

The two eyewitnesses stated that the security guard argued with and stabbed Mr. Mendy because he did not have enough money to pay the cover charge for all members of his party. This supports the Authority's allegations that contrary to its method of operation, the licensee used promoters.

The Authority has shown by substantial evidence that on or before July 20, 2018 the licensee failed to conform with its Method of Operation regarding the use of promoters. The Charge is sustained

Charge 16:

There is substantial evidence to sustain the charge as the Authority has shown through substantial evidence and testimony that on or before July 20, 2018, the noise, disturbance, misconduct, disorder, act or activity occurring in or around premises has historically been a focal point for police attention, as is required under Rule 36.1(f) [9 NYCRR 53.1(q)] of the Rules of the State Liquor Authority.

Rule 36.1(f) of the Rules of the State Liquor Authority [9 NYCRR 53.1(q)] states:

When any noise, disturbance, misconduct, disorder, act or activity occurs in the licensed premises, or in the area in front of or adjacent to the licensed premises, or in any parking lot provided by the licensee for use by licensee's patrons, which, **in the judgment of the authority**, adversely affects or tends to affect the protection, health, welfare, safety, or repose of the inhabitants of the area in which the licensed premises are located, or **results in the licensed premises becoming a focal point for police attention** or is offensive to public decency (emphasis added).

Under rule 53.1(q), a license may be revoked, canceled or suspended when "any noise, disturbance, misconduct, disorder, act or activity occurs in the licensed premises, or in the area in front of or adjacent to the licensed premises, or in any parking lot provided by the licensee for use by licensee's patrons, which * * * results in the licensed premises becoming a focal point for police attention" (9 NYCRR 53.1(q)).

¹⁸ Stanley Bell does not have a security guard license.

Serial Number: 1308805, Bronx OP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

Beer Garden, Inc. v. New York State Liquor Authority, 79 N.Y.2d 266, 590 N.E.2d 1193, 582 N.Y.S.2d 65 (NY 1992)

The uncontroverted evidence and testimony shows that the Police Department has a directed patrol at the licensed premises and that the Police Department frequently has to engage time, energy, and resources in order to respond to events at the establishment in addition to the directed patrol.

An establishment doesn't become a "focal point" because the police simply make referrals to the Authority; an establishment becomes a "focal point" because of the number of times Police and Police resources are used because of activity on or about the Licensee's premises. It is the continual, long-term, constant engagement of the Licensee with the Police, due to noise, disturbance, misconduct, disorder, act or activity and the consequent drain on police resources that has provided the Authority with the power to determine, in the Authority's judgment, that the Licensee has become a "focal point for police attention" as is contemplated within the scope 9 NYCRR 53.1(q). See *MJS Sports Bar & Grill, Inc. v. New York State Liquor Authority*, 129 A.D.3d 1368, 12 N.Y.S.3d 343, 2015 N.Y. Slip. Op. 05247 (3rd Dept. 2015); See also *La Trieste Restaurant & Cabaret, Inc. v. New York State Liquor Authority*, 249 A.D.2d 156, 671, N.Y.S.2d 250 (1st Dep't, 1998).

The Authority submitted the 911 daily average calls within 100 feet of the licensed premises (SLA Ex. 14) from June 1, 2018 to July 8, 2018, the day of the stabbing compared to the average daily 911 calls from July 9, 2018 to August 20, 2018 and argued that the average daily calls went from .78 a day to .39 a day. I find that due to the large number of 911 calls regarding the July 8, 2018 stabbing, the numbers are skewed.

The Authority also submitted the overall rate of summonses issued during those periods (SLA Ex. 14) which shows that after the stabbing, there were the same number of arrests, the number of A-Summonses increased from 11 to 15, and the number of B-Summonses increased from 3 to 4. As proof that the premises is a focal point, the Authority pointed out that the rate of C-Summonses decreased by 50% from 24 to 12. I reject these statistics as proof that the licensed premises was a focal point for the police. I find that there was an increase in the A and B summonses after the stabbing and that of the 24 C - summonses issued from June 1, to July 8, 2018, 11 were issued to the licensed premises on July 7, 2018 and 11 were issued to the licensed premises on July 8, 2018¹⁹.

However, given the fact that a directed patrol was assigned to the licensed premises and parked in front of the licensed premises virtually every night, there is substantial evidence to sustain the charge that the noise, disturbance, misconduct, disorder, act or activity in and around the premises has resulted in the premises becoming a focal point for police attention, as is described under Rule 36.1(f) [9 NYCRR 53.1(q)] of the Rules of the State Liquor Authority. The Charge, therefore, is sustained.

¹⁹ It would have been a better statistical sample, if the Authority contrasted statistics and reports for a similar time period in 2017, before Spades opened.

Serial Number: 1308805, Bronx OP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

Charge 17:

There is substantial evidence to sustain the charge that on or about before July 20, 2018, the licensee failed to exercise adequate supervision over the conduct of the licensed premises. Rule 54.2 [9 NYCRR 48.2] of the Rules of the State Liquor Authority provides:

The proper conduct of on-premises licensed establishments is essential to the public interest. Failure of a licensee to exercise adequate supervision over the conduct of such an establishment poses a substantial risk not only to the objectives of alcoholic beverage control but imperils the health, welfare and safety of the people of this State. It shall be the obligation of each person licensed pursuant to this Part to insure that a high degree of supervision is exercised over the conduct of the licensed establishment at all times in order to safeguard against abuses of the license privilege and violations of law. Each such licensee will be held strictly accountable for all violations that occur in the licensed premises and are committed by or suffered and permitted by any manager, agent or employee of such licensee.

Case law states that, in addition to suffering and permitting any premises to become disorderly in violation of ABCL § 106(6), Rule 54.2 of the Rules of the State Liquor Authority requires that a Licensee "exercise adequate supervision over the conduct of the licensed business." It must be shown that the Licensee's "management was aware, or should have been aware, of the unbecoming conduct. *Go West Entertainment, Inc. v. New York State Liquor Authority*, 54 A.D.3d 609, 863 N.Y.S.2d 670 (1st Dept., 2008).

The licensed premises had recently opened. The licensee was using promoters, did not realize the security cameras were not recording, did not know the names of the security guards who were working at the premises, and had to be reminded that Shannon Bragg was employed as a server at Spades.

Clearly, the licensee had switched security guard companies from a licensed one to an unlicensed one or to an individual. The security guards who were working at the premises were unlicensed and unvetted and at least two (2) of them were convicted felons. Mr. Gray who was described as either a security guard of the "money man" for the promoter, the man who is charged with stabbing the victim, has a conviction for manslaughter and was in possession of a penknife.

The Authority provided substantial proof that the licensee did not exercise a high degree of supervision over the conduct of the licensed premises. The Charge for failure to exercise adequate supervision over the conduct of the licensed business is sustained.

CONCLUSION

Case No. 127571

Serial Number: 1308805, Bronx OP 13808805

Case Number(s): 127571

Licensee: Mr. Damion J Gregory

Based upon the hearing, testimony, and evidence before me, I find that:

- Charge 1: The Charge is not sustained.
- Charge 2: The Charge is not sustained.
- Charge 3: The Charge is sustained.
- Charge 4: The Charge is sustained.
- Charge 5: The Charge is not sustained.
- Charge 6: The Charge is not sustained.
- Charge 7: The Charge is sustained.
- Charge 8: The Charge is sustained.
- Charge 9: The Charge is sustained.
- Charge 10: The Charge is not sustained.
- Charge 11: The Charge is sustained.
- Charge 12: The Charge is not sustained.
- Charge 13: The Charge is not sustained.
- Charge 14: The Charge is not sustained.
- Charge 15: The Charge is sustained.
- Charge 16: The Charge is sustained.
- Charge 17: The Charge is sustained.

parent address books

switch over to no home fire no c/o supply guns

monitors/cameras failed to exercise control

7/8

7/20

Dated: September 14, 2018

Marilyn D Piken
Marilyn D Piken
Administrative Law Judge

**INDEX
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

In the Matter of the Application of

SHADES LOUNGE NYC LLC,

PETITIONER,

For Review Pursuant to Article 78 of the CPLR

-against-

NEW YORK STATE LIQUOR AUTHORITY,

RESPONDENT(S).

PETITION

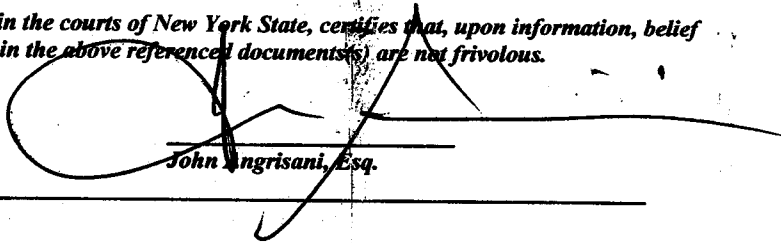
**By: The Rios Law Firm
By: John Angrisani, Esq.
2560 Mathews Avenue
Bronx, New York 10467
(347) 346-8700
Attorneys for PETITIONER**

ATTORNEY CERTIFICATION

The undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information, belief and reasonable inquiry, the contentions contained in the above referenced document(s) are not frivolous.

Dated: Bronx, NY

3/17/2019



John Angrisani, Esq.

**State of New York)
County of Bronx)**

ss.:

_____ being duly sworn, deposes and says: that deponent is not a party to the action, is over 18 years of age and resides at _____ County, New York. That on the _____ day of _____, 2019, deponent served the within Attorneys for Defendant(s):

the address designated by said attorney(s) for that purpose by depositing same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

NOTARY PUBLIC

**Sworn to before me this _____
Day of _____, 2019**

(Stamp)