

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
1511 PONTIAC AVENUE
CRANSTON, RI 02920**

<u>IN THE MATTER OF:</u>	:	
	:	
FISH COMPANY BAR & GRILLE, INC.,	:	DBR No. 10-L-0188
d/b/a FISH COMPANY BAR & GRILLE,	:	
	:	
<u>RESPONDENT.</u>	:	

CONSENT ORDER

The Department of Business Regulation (“DBR”/”Department”) and Fish Company Bar & Grille, Inc., d/b/a Fish Company Bar & Grille (“Respondent”) hereby propose the following terms to resolve the above-captioned matter:

1. The Respondent acknowledges that DBR has alleged certain Facts, Statutory and Regulatory Authority and Statutory Violations in an Order to Show Cause Why License Should Not Be Revoked or Suspended, or Administrative Penalty Imposed, Appointment of Hearing Officer, and Notice of Pre-Hearing Conference (“Order to Show Cause”) in this matter. The Order to Show Cause is attached hereto as Exhibit One.
2. The Department represents that had this matter gone to hearing, the Department would have been prepared to present witnesses, documents, and other evidence of Respondent’s violations to support the alleged violations in the Order to Show Cause.
3. The Respondent acknowledges that had this matter proceeded to hearing that DBR would have been able to establish a factual basis to support a violation

of R.I. Gen. Laws §§ 3-7-25 (and corresponding Rule 22 of Commercial Licensing Regulation 8 (“CLR 8”) (requiring a record verifying cleaning of beer or wine pipe lines, coils, tubes, and appurtenances), 3-7-6.1 (and corresponding Rule 43 of CLR 8) (requiring alcohol server training certification), 3-7-7 (and corresponding Rule 5 of CLR 8) (requiring confirmation of Department of Health food handler’s certification), 3-8-6(c) (requiring minor books evidencing compliance with 3-8-4).

4. Respondent acknowledges that had this matter proceeded to hearing that DBR would have been able to establish a factual basis to support a violation of R.I. Gen. Laws § 3-8-4 (prohibits license holders from selling or furnishing beverages to any person who has not reached his or her twenty-first birthday to drink any beverage upon any licensed premises).
5. Respondent has indicated that it is in the process of trying to transfer the license to new owners.
6. Respondent has indicated that, upon information and belief, the new owners intend to renovate the facility, and intend to employ new management and business model with an emphasis on food, service, and entertainment geared to a mature clientele (as opposed to bands and entertainment which appeal to a younger clientele).
7. Respondent has presented evidence of compliance with R.I. Gen. Laws § 3-7-25 and Rule 22 of CLR 8 by providing a record evidencing cleaning of beer, wine pipelines, coils, tubes, and appurtenances.

8. Respondent voluntarily waives its right to complete the hearing process, voluntarily waives his right to appeal to Superior Court, and acknowledges that it has remedied all alleged violations and has taken all necessary action to allow Respondent to obtain and maintain the License in good-standing.
9. Respondent must:
 - A. Beginning, November 17, 2010 serve a suspension of its license for fourteen (14) business days through to and including December 5, 2010;
 - B. Pay an administrative penalty of one thousand five hundred dollars (\$1,500);
 - C. Should Respondent's License transfer not take place or should Respondent's current owners continue to operate Respondent, the current owners shall submit monthly minor books evidencing compliance with R.I. Gen. Laws §§ 3-8-4 and 6 to the Department for one year;
 - D. Should Respondent's License transfer not take place or should Respondent's current owners continue to operate Respondent, the current owners shall provide evidence of compliance with R.I. Gen. Laws §§ 3-7-6.1, 3-7-7, and Rules 5, 21, and 43 of CLR 8;
 - E. Should Respondent's License transfer not take place or should Respondent's current owners continue to operate Respondent, the current owners shall immediately install identification card scanner with age verification software and instrumentation that verifies the validity of identification cards;

F. Should Respondent's License transfer not take place or should Respondent's current owners continue to operate Respondent, the current owners shall ensure that all current and future employees enroll in a "TIPS" type training class; and

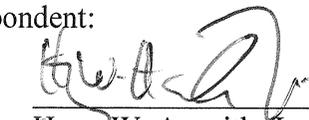
G. Should Respondent's License transfer not take place or should Respondent's current owners continue to operate Respondent, the current owners shall cease and desist from any further statutory or regulatory violations.

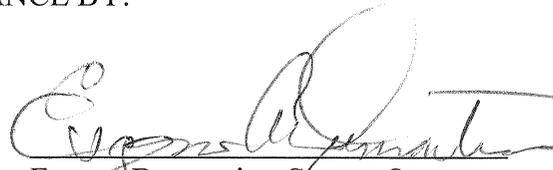
10. The Department will initiate further administrative proceedings to impose penalties against Respondent including, but not limited to: i) suspension, ii) revocation, and/or iii) such additional administrative penalties as deemed appropriate by the Department. Respondent shall be provided with notice and opportunity for hearing should the Department decide to take such further action.

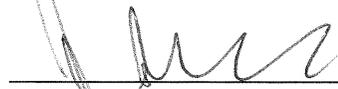
11. This Consent Order shall be without prejudice and not applicable to any new owner or assignee of Respondent.

CONSENTED TO AS TO FORM AND SUBSTANCE BY:

Respondent:

By: 
Harry W. Asquith, Jr., Esq.
Counsel for Respondent


Eugene Dumontier, Current Owner
On behalf of Respondent


Joseph A. Kern, Jr., Current Owner
On behalf of Respondent

Department:

By: Neena Sinha Savage
Neena Sinha Savage, Esq. *By md*
Chief of Legal Services
Department of Business Regulation

By: Maria L. D'Alessandro
Maria L. D'Alessandro, Esq.
Deputy Director
Commercial Licensing Division

Date: 11/19/10

Date: 11/19/10

Recommended by:

Catherine R. Warren
Catherine R. Warren, Esq.
Hearing Officer

Date:

11/19/10

ORDER

I hereby approve reject the Consent Order as agreed to by and between the parties in the above entitled matter.

Order Number: 10-741

Entered: 11-22, 2010

A. Michael Marques
A. Michael Marques
Director of Business Regulation

THIS CONSENT ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. AS SUCH, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW OF SAID COURT. HOWEVER, RESPONDENT UNDERSTANDS THAT BY WAIVING ITS RIGHT TO A COMPLETE HEARING AND AGREEING TO THIS CONSENT ORDER, THE ABOVE RIGHTS ARE WAIVED AND IF ANY TERMS OF THIS CONSENT ORDER ARE VIOLATED, RESPONDENT'S LICENSE SHALL BE SUBJECT TO SUSPENSION OR REVOCATION.

CERTIFICATION

I hereby certify that on this 22nd day of November, 2010 a copy of this Consent Order was sent by first class mail postage prepaid and certified mail and email to:

Counsel for Respondent:
Harry A. Asquith, Jr., Esq.
Asquith & Mahoney, LLP
Attorneys at Law
155 South Main Street
Providence, RI 02903-7115
Email: hasquith@amlawllp.com

And by email to:

Maria D'Alessandro
Deputy Director
Department of Business Regulation

Thomas Broderick
Chief, Auto Wrecking and Salvage Operations
Department of Business Regulation

Maxford Foster, Esq.
City of Providence Board of Licenses

Lieutenant Nicholas M. Tella
Rhode Island State Police



Carl Bruce Salter