



On or about December 18, 2008, the undersigned wrote to the parties to confirm that the sanction imposed by the Board solely consisted of a \$1,000 administrative penalty and requesting the parties indicate if this was not correct within ten (10) days of the letter. To date, no response has been received.

It should be noted that the Department has broad and comprehensive control over the traffic in intoxicating liquors. Indeed, the Department's power of review is so broad that it has been referred to as a "state superlicensing board." *Baginski v. Alcoholic Beverage Comm'n.*, 4 A.2d 265, 267 (R.I. 1939). Because of this broad authority to enforce Title 3, the Department may review matters on appeal pursuant to its authority under R.I. Gen. Laws § 3-2-2 rather than R.I. Gen. Laws § 3-7-21. The Department exercises its authority under R.I. Gen. Laws § 3-2-2 when the matter rises to a level that impacts its broad authority over statewide licensing. See *City of Providence Bd. of Licenses v. State Department of Business Regulation*, 2006 R.I. Super. LEXIS 37 (Department has authority to hear a matter on appeal regarding the applicability of the Department's liquor regulations pursuant to the Department's *sua sponte* authority under R.I. Gen. Laws § 3-2-2); *Bourbon Street, Inc. d/b/a Senor Froggs/Sully's Sports Bar v. Newport Board of Licenses Commissioners*, 1999 R.I. Super. LEXIS 18 (Department has power under R.I. Gen. Laws § 3-2-2 to ensure consistency of statewide sanctions).

The legislature chose to limit appeals to suspensions or revocations of license. The types of issues that are heard under R.I. Gen. Laws § 3-2-2 are those that relate to the enforcement of Title 3 (e.g. statewide regulations or inconsistent or arbitrary sanctions). See *Sidebar, LLC, d/b/a Side Bar v. Providence Board of Licenses*, DBR No.: 05-L-0262 (5/29/07).

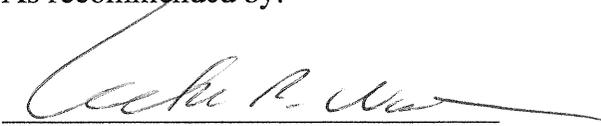
Based on the forgoing, there is no indication that the imposition of the \$1,000 administrative penalty rises to a matter that is appropriate to be heard by the Department pursuant to R.I. Gen. Laws § 3-2-2. Additionally, to allow such an appeal to go forward would be contrary to the clear language of R.I. Gen. Laws § 3-7-21.

WHEREFORE, as a result of the foregoing and upon due consideration thereof, it is hereby ordered as follows:

1. The above-captioned matter is dismissed with prejudice.

As recommended by:

Date: JANUARY 7, 2009

  
Catherine R. Warren  
Hearing Officer

I have read the Hearing Officer's recommendation and I hereby ADOPT/REJECT the recommendation of the Hearing Officer in the above-entitled Order of Dismissal.

Date: 01-08-2009

  
A. Michael Marques  
Director

Entered as an Administrative Order No.: 09- 021 this 8th day of January, 2009.

**NOTICE OF APPELLATE RIGHTS**

**THIS DECISION CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.**

**CERTIFICATION**

I hereby certify on this 8<sup>th</sup> day of January, 2009 that a copy of the within Order and Notice of Appellate Rights was sent by first class mail, postage prepaid to -

Steven Wright, Esquire  
D'Allessandro & Wright, LLC  
1000 Smith Street  
Providence, RI 02908

Maxford Foster, Esquire  
City of Providence Law Department  
275 Westminster Street  
Providence, RI 02903

and by hand-delivery to Maria D'Alessandro, Associate Director Department of Business Regulation, 233 Richmond Street, Providence, RI 02903.

A B Ellison