

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF BUSINESS REGULATION  
JOHN O. PASTORE CENTER, BLDGS 68-69  
1511 PONTIAC AVENUE  
CRANSTON, RHODE ISLAND 02920**

**IN THE MATTER OF:** :  
: :  
**FINNEGAN'S DRAFT HOUSE, INC.** :  
**d/b/a Finnegan's Wake** :  
: :  
**RESPONDENT.** :

**DBR No.: 13LQ120**

**CONSENT AGREEMENT**

The Division of Commercial Licensing ("Division") of the Rhode Island Department of Business Regulation ("Department") enters into this Consent Agreement ("Agreement") with Finnegan's Draft House, Inc. d/b/a Finnegan's Wake ("Respondent") to resolve the above-captioned matter pursuant to its authority under R.I. Gen. Laws § 42-35-9(d).

It is hereby agreed by and between the Division and the Respondent that:

1. The Respondent admits to the statutory and regulatory violations in an Order to Show Cause Why License Should Not Be Revoked Or Suspended And/or Other Administrative Penalties Should Not Issue, Notice of Hearing and Appointment of Hearing Officer ("Order to Show Cause") in this matter. The Order to Show Cause is attached hereto as Exhibit 1.
2. To effect a timely and amicable resolution of the violations set forth in in the Order to Show Cause without an administrative hearing, the Respondent shall:
  - A. Pay a total administrative penalty of \$11,750. Said sum consists of \$11,250 for fifteen (15) counts of underage drinking as provided for by § 3-8-5, \$250 for violation of § 3-5-18 (display of license on the premises), and \$250 for violation of § 3-9-4 (unlawful

pouring). \$2500.00 of said sum shall be payable on March 1, 2014, and the next payment of \$2500 shall be payable on March 15, 2014. The remainder shall be paid by six (6) monthly payments of \$1,125, each due the first day of each respective month. All payments shall be made by check or money order to "General Treasurer, State of Rhode Island" and forwarded to the offices of the Division.

- B. Close the establishment February 13, 14, and 15, 2014.
  - C. Purchase age verification ID scanning technology that is equipped to detect fake ID cards within thirty (30) days of the date of this Agreement.
  - D. Hire a consultant qualified to advise the Respondent as to operational controls and protocols to prevent underage drinking and other policies and procedures for liquor law compliance. Respondent shall have the consultant document the aforementioned in a written report, a copy of which shall be provided to the Providence Board of Licenses and the Department by March 15, 2014.
3. Respondent voluntarily waives any right to an administrative hearing and appeal to Superior Court under the Rhode Island Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*
4. If Respondent fails to abide by the requirements of this Consent Agreement, the Department may initiate further administrative proceedings against the Respondent.

For the Division:



Signature

Date: 2/12/14

Maria D'Alessandro, Esq.  
Deputy Director, Securities, Commercial  
Licensing and Racing and Athletics

For the Respondent:

 Manager

Signature

Date: 2/12/14

Ezra Spitzer-Williams

Print Name

Finnegan's Draft House, Inc.

# EXHIBIT 1

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DEPARTMENT OF BUSINESS REGULATION  
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	:	
FINNEGAN'S DRAFT HOUSE, INC.	:	
d/b/a Finnegan's Wake	:	DBR No.: 13LQ120
	:	
<u>RESPONDENT.</u>	:	

**ORDER TO SHOW CAUSE WHY LICENSE SHOULD NOT BE REVOKED OR  
SUSPENDED AND/OR OTHER ADMINISTRATIVE PENALTIES SHOULD NOT ISSUE,  
NOTICE OF HEARING AND APPOINTMENT OF HEARING OFFICER**

In accordance with the Rhode Island Administrative Procedures Act ("APA"), R.I. Gen. Laws § 42-35-1 *et. seq.*, and Central Management Regulation 2 *Rules of Procedure for Administrative Hearings* ("CMR 2"), the Director of the Department of Business Regulation ("Department") hereby issues this Order to Show Cause Why License Should Not be Revoked or Suspended and/or Other Administrative Penalties Should Not Issue, Notice of Hearing, and Appointment of Hearing Officer ("Order") to Finnegan's Draft House, Inc. d/b/a Finnegan's Wake ("Respondent"), requiring Respondent to appear before the Department and answer why the Director should not issue an order revoking or suspending Respondent's liquor license(s) and/or imposing other administrative penalties pursuant to the authority set forth in R.I. Gen. Laws § 3-5-21, 23, and 5.

The Director issues this Order for the following reasons:

1. Respondent is registered with the Rhode Island Secretary of State as having its principal office of 397 Westminster Street, Providence, RI 02903, (the "Premises").

2. Respondent holds a Class EDX and N liquor license.
3. The Alcohol Compliance Task Force (“Task Force”) is an inter-agency team that includes Department’s Chief Public Safety Inspector (“Inspector”) and officers of the Rhode Island State Police (RISP) and the Providence Police Department.
4. The Task Force inspected the Premises on September 5, 2013 and September 20, 2013.
5. The 9/5 inspection led to nine (9) individuals being charged by the RISP for violating of R.I. Gen. Laws § 3-8-10 on the Premises.
6. The 9/20 inspection led to six (6) individuals being charged by the RISP for violating of R.I. Gen. Laws § 3-8-10 on the Premises.
7. R.I. Gen. Laws § 3-8-10 makes it unlawful for “[a]ny person who has not reached his or her twenty-first (21st) birthday” to “ha[ve] in his or her possession any [alcoholic] beverage as defined in this title.”
8. R.I. Gen. Laws § 3-8-1 provides: “Licenses issued under this title shall not authorize...the sale or delivery to any underaged person as defined in this title for purposes of sale, possession and consumption of alcoholic beverages, either for his or her own use or for the use of his or her parents, or of any other person.”
9. R.I. Gen. Laws § 3-8-6(a) reads, in relevant part:

§ 3-8-6 Unlawful drinking and misrepresentation by underage persons – Identification cards for persons twenty-one and older. – (a) It is unlawful for:

  - (1) A person who has not reached his or her twenty-first (21st) birthday to enter any premises licensed for the retail sale of alcoholic beverages for the purpose of purchasing or having served or delivered to him or her alcoholic beverages; or
  - (2) A person who has not reached his or her twenty-first (21st) birthday to consume any alcoholic beverage on premises licensed for the retail sale of alcoholic beverages or to purchase, attempt to purchase, or have another purchase for him or her any alcoholic beverage.
10. R.I. Gen. Laws § 3-8-5 reads, in relevant part:

§ 3-8-5 Penalty for violations relating to underage persons. – Any person who sells or suffers to be sold or delivered any beverage to a person who has not reached his or her twenty-first (21st) birthday either for his or her own use or the use of his or her parents or any other person, or allows any person who has not reached his or her twenty-first (21st) birthday to drink beverages on premises licensed under this title or suffers or allows any persons who have not reached their eighteenth (18th) birthday to sell or serve any beverage on the premises shall for the first offense be subject to a fine of two hundred fifty dollars (\$250); for the second offense, be subject to a fine of five hundred dollars (\$500), and for the third and any subsequent offense, be subject to a fine of seven hundred fifty dollars (\$750). In the event that there are no offenses in three (3) successive years from the date of the last offense, then the next offense shall be treated as a first offense.

11. During the 9/5 inspection, the Inspector found that the liquor license was not publically displayed in the premises.
12. R.I. Gen. Laws § 3-5-18 provides that all retail licenses must be displayed on the premises.
13. During the 9/20 inspection, the Inspector observed Respondent’s employees pouring liquid from “test tube shot” containers into a container labeled “DeKuyper Red Headed, Ready to Drink Shots.”
14. R.I. Gen. Laws § 3-9-4 provides: “No person shall sell, keep for sale or offer to sell any impure or adulterated spirituous or intoxicating liquors, nor shall any person sell or keep for sale or offer for sale any liquors of quality inferior to what the liquors are represented to be.”
15. Commercial Licensing Regulation 8 Liquor Control Administration, Rule 39 “Unlawful Pouring” provides that “[i]t shall be cause for suspension or revocation of a license if any licensee or its agent shall sell, offer for sale, or keep on the licensed premise wine or distilled spirits in any package or container which has been refilled or partly refilled.”
16. R.I. Gen. Laws reads, in relevant part:

§ 3-5-21 Revocation or suspension of licenses – Fines for violating conditions of license. –  
(a) Every license is subject to revocation or suspension and a licensee is subject to fine by the board, body or official issuing the license, or by the department or by the division of taxation, on its own motion, for breach by the holder of the license of the conditions on which it was issued or for violation by the holder of the license of any rule or regulation applicable, or for breach of any provisions of this section.

(b) Any fine imposed pursuant to this section shall not exceed five hundred dollars (\$500) for the first offense and shall not exceed one thousand dollars (\$1,000) for each subsequent offense. For the purposes of this section, any offense committed by a licensee three (3) years after a previous offense shall be considered a first offense.

17. R.I. Gen. Laws reads, in relevant part:

§ 3-5-23 Revocation of license for criminal offenses or disorderly conditions – Action on bond. –

(b) If any licensed person permits the house or place where he or she is licensed to sell beverages under the provisions of this title to become disorderly as to annoy and disturb the persons inhabiting or residing in the neighborhood, or permits any gambling or unlawful gaming to be carried on in the neighborhood, or permits any of the laws of this state to be violated in the neighborhood, in addition to any punishment or penalties that may be prescribed by statute for that offense, he or she may be summoned before the board, body, or official which issued his or her license and before the department, when he or she and the witnesses for and against him or her may be heard. If it appears to the satisfaction of the board, body, or official hearing the charges that the licensee has violated any of the provisions of this title or has permitted any of the things listed in this section, then the board, body, or official may suspend or revoke the license or enter another order.

(c) In case the license is revoked, the licensed person after the revocation shall cease to have any authority under the license and shall be disqualified from holding any of the licenses provided for in this title for a period of five (5) years following the revocation.

18. The Department has reasonable cause to believe that the Respondent has a negative licensing history with the City of Providence Board of Licenses.

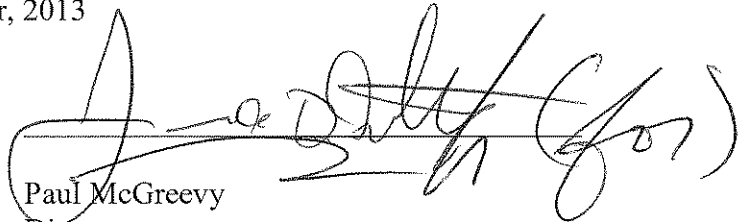
**THEREFORE**, the Director hereby orders the Respondent to appear before a Hearing Officer to show cause why the Director should not revoke or suspend the Respondent's liquor license(s) and/or why other administrative penalties should not issue pursuant to the authority set forth in R.I. Gen. Laws § 3-5-21, 23, and 5. In accordance with CMR 2, Section 6, a pre-hearing conference shall be held on **January 14, 2014 at 10:00 a.m.** at the Department's offices located at 1511 Pontiac Avenue, Bldg. 68-69, Cranston, Rhode Island 02920.

Pursuant to R.I. Gen. Laws § 42-6-8, the Director hereby appoints Ellen R. Balasco, Esq., as Hearing Officer for the purpose of conducting the hearing and rendering a decision in this matter.

The proceedings shall be conducted in conformity with the APA and CMR 2. CMR 2, Section 5 provides that it shall be the Respondent's sole responsibility or his/her or its representative to present his/her or its defense to the Hearing Officer. Pursuant to CMR 2, Section 7, you may be represented by legal counsel admitted in the State of Rhode Island.

If you have any questions regarding the subject matter of the hearing, please contact Jenna Algee, Esq. at (401) 462-9593 or [jenna.algee@dbr.ri.gov](mailto:jenna.algee@dbr.ri.gov) and reference the case name and number.

Dated this 16<sup>th</sup> day of December, 2013

  
Paul McGreevy  
Director

**All are welcome at the Rhode Island Department of Business Regulation ("DBR"). If any reasonable accommodation is needed to ensure equal access, service or participation, please contact DBR at 401-462-9551, RI Relay at 7-1-1, or email [directorofficeinquiry@dbr.state.ri.us](mailto:directorofficeinquiry@dbr.state.ri.us) at least three (3) business days prior to the hearing.**