

**LIQUOR AND BEER MEETING  
LOCAL LICENSING AUTHORITY  
CITY OF GRAND JUNCTION, COLORADO  
TWO RIVERS CONVENTION CENTER, 159 MAIN STREET**

**MINUTES**

**WEDNESDAY, April 21, 1999, 8:00 A.M.**

I. **CALL TO ORDER** – The meeting was convened at 8:00 a.m. Those present were Hearing Officer Phil Coebergh, Assistant City Attorney John Shaver and Acting City Clerk Christine English.

II. **APPLICATIONS TO RENEW LIQUOR AND BEER LICENSES**

1. WTB Enterprises, Incorporated dba Blue Moon Bar & Grille, 120 North 7<sup>th</sup> Street, Hotel-Restaurant

The Health Department reported 3 critical violations. Two were corrected at the time of the inspection and a reinspection is scheduled for April 22, 1999. The application was in order and approved contingent upon a favorable reinspection report.

III. **APPLICATION FOR RENEWAL WITH DECISION ON CAUSE FOR LATE FILING-Continued from April 7, 1999**

1. Black Sam Incorporated dba Pantuso's Ristorante, 2782 Crossroads Blvd., Hotel-Restaurant

Chris Blackburn, corporate officer of Black Sam Inc., was present. The application was originally submitted on March 23, 1999. The expiration date on the license is April 16, 1999. The applicant sent the renewal directly to the state. The state returned the renewal with instructions to first submit it to the Local Licensing Authority. This caused the application to be a late renewal. Mr. Blackburn did submit a letter of explanation on the cause for late filing which was read into the record at the last hearing on April 7, 1999. There was no one present representing Black Sam Inc at the last hearing. A certified letter was sent to Mr. Blackburn requesting his presence at today's meeting.

Mr. Blackburn stated the reason he was not present at the last meeting was due to his wife being pregnant and having a doctor's appointment that morning which took longer than he expected.

Mr. Shaver stated 12-47-302 C.R.S. requires the licensee submit the application to the local authority within 30 days of the expiration date. It appears the application was submitted one day short of this, to the state. Good cause can be found, but the licensee needs to file future renewals properly. Mr. Shaver recommended the application be renewed.

Mr. Coebergh concurred with Mr. Shaver's recommendation and admonished the applicant to file the future applications in a timely manner.

IV. **HEARING ON VERIFIED COMPLAINT**

1. In the Matter of North Avenue Liquors dba North Avenue Liquors, 801 North Avenue Regarding Violation of 12-47-901(5)(a)(I) C.R.S. **UNLAWFUL ACTS**

Dave McCarty, owner, was present. Staff Attorney Stephanie Rubenstein stated a stipulation and agreement has been entered into with North Avenue Liquors. It has been agreed that a 2-day suspension with a fine in lieu of suspension would be acceptable. Ms. Rubenstein presented the signed stipulation to Mr. Coebergh.

Mr. McCarty stated he wanted to speak to the Authority today to explain some circumstances that surround the operation of North Avenue Liquor and to address the violation. Mr. McCarty stated he respects the laws that govern the sale of alcohol. He has trained himself and his employees about the laws and the consequences. He has a current code book, ID checking guide, a calendar on his cash register and a "No ID, No Sale" sticker on the cash register also. He has been successful over the years in finding false ID's, and confronting people. Many false ID's have been turned into the Police Department. As the business is located so close to the college, the students are constantly testing them. They seem to think it is a game, but it is not to him. He has owned the store for five years and never had a violation. He and all his employees attended the Liquor Awareness Training in February, 1999. It is embarrassing for him that this violation happened within two weeks of that training. The employee, Gene Bayliss, has worked in the store for over three years; he is a good employee.

Concerning the incident, Mr. Bayliss remembers the person on several occasions presenting identification which was an out of state ID. On the police report, the person stated he had never been in the store before; that he had heard North Avenue Liquor might be a good place to buy. None of the other employees could identify this person. The incident was video taped.

Mr. Coebergh asked for an explanation of the situation. Mr. McCarty stated the person came into the store, purchased, left the store and was ticketed for underage possession by the police. Ms. Rubenstein stated the officer had been nearby and observed that this young person had parked his car in a place that is not a normal place to park. He suspected this young person was trying to purchase liquor without being seen. The officer stopped him and asked him for ID afterwards.

Mr. McCarty stated this incident has been a wake up call for him and his business. He has worked hard at his business. It is his livelihood. Mr. McCarty asked to submit, as part of the file, a letter which he presented to Mr. Coebergh (see attached).

Mr. Coebergh asked if this was a restatement of what he had been saying. Mr. McCarty stated yes.

Mr. John Williams, attorney for Mr. Carty, stated the incident cited on the bottom of the letter happened a week or two after the first incident. Mr. McCarty tries to comply with the law, and seizes ID's which he knows are false, and sometimes the response back from the Police Department is not positive.

Mr. Coebergh stated that is why the Liquor Awareness Training sessions are now being conducted. This includes not only the licensees but also the Police Department and everyone else involved. Mr. Coebergh stated everything seems to be in order and the fine in lieu of suspension is appropriate. Mr. Coebergh signed the order.

**V. REPORT OF CHANGE IN CORPORATE STRUCTURE-Continued from April 7 and March 17, 1999**

1. QS Incorporated dba Shanghai Garden Restaurant, 715 Horizon Drive, Hotel-Restaurant

President: Shiou C. (Joy) Kwan replaces Chiew Han Chiou  
Stockholder: Yen-Fen Chen replaces Quangen Jiang

Mr. Chiew Chiou was present. Mr. Coebergh asked if Mr. Chiou was having Joy Kwan replace him as president of the corporation. Mr. Chiou stated he has been working with the state liquor enforcement and he surrendered the beer and wine license in Breckenridge to them.

Mr. Coebergh stated the application in front of him showed Mr. Chiou being replaced by Joy Kwan as president of the corporation. Mr. Chiou stated he would now be reinstated as president of the corporation.

Mr. Shaver stated the issue was the conflict of financial interest between the Chiew H. Chiou Corporation and the QS Corporation. Originally, Mr. Chiou was the president of QS and was also involved with a license in Breckenridge. That is what brought the matter to the attention of the local authority. Mr. Chiou then submitted the change in corporate structure before the authority this morning, showing Joy Kwan and Yen-Fen Chen as the president and stockholder. Upon surrender of the Bamboo Garden beer and wine license in Breckenridge, Mr. Chiou now elects to be president of QS Incorporated and there is no legal impediment. Mr. Chiou will need to complete the change in corporate structure paperwork again and resubmit it.

Mr. Coebergh asked Mr. Chiou if he understood that he needed to resubmit the change in corporate structure again. Mr. Chiou stated yes, he did understand this and the change would be made. Mr. Coebergh asked Mr. Chiou if Joy Kwan was involved in the operation of the business. Mr. Shaver stated Joy Kwan is still president but there has been no action taken to change the corporate structure. The corporation exists as is shown on the agenda. Even though she is not involved in the operation, she is still corporate president. The minutes submitted from QS Incorporated on October 1, 1998, show the action taken by the corporation and there has been no change since that time. This shows that Joy Kwan is previous and current president of QS Incorporated. This is a financial relationship. It does not have to be a hands on type of operation. A business entity can exist.

Mr. Shaver asked Mr. Chiou what Joy Kwan is actually doing with QS Incorporated; if there is any operation or ownership at this time. Mr. Chiou stated Ms. Kwan has 50% ownership of QS Incorporated.

Mr. Coebergh stated Mr. Chiou would need to start the process for filing a change in corporate structure again. Mr. Chiou asked if he would still be allowed to sell alcohol. Mr. Coebergh stated yes, the license is valid.

**VI. ADJOURNMENT – The meeting was adjourned at 8:20 am.**

**NEXT REGULAR MEETING - May 5, 1999**

**NORTH AVENUE LIQUOR STORE  
801 NORTH AVENUE  
GRAND JUNCTION, CO 81501**

April 7, 1999

Mr. Philip Coebergh, Hearing Office  
Grand Junction Liquor Licensing Authority

Dear Mr. Coebergh:

My name is Dave McCarty and I am the owner of North Avenue Liquor Store. I write this letter to fully explain the circumstances surrounding the operation of North Avenue Liquor Store and the violation of March 5, 1999.

First, I want to convey my respect for the laws that govern the sale of alcohol. I believe I have tried my best over the years to train myself and my employees about the laws and the consequences. I have a current code book, and I.D. checking guide, a Zodiac sign calendar on my cash register as well as a "NO I.D. – NO SALE" sticker.

We have been very successful over the years in finding false I.D.'s and confronting people that are just plain not old enough. I have turned in my share of I.D.'s to the Police Department.

Being located so close to the college, we get tested constantly. It is a game to the students, but not to me. They have no idea what my consequences would be. Most of them know that nothing will happen to them if they are caught. All they have to do is try. If they do not get away with it, nothing happens to them.

I have owned North Avenue Liquor Store for five years and have never had a violation. I believe that I had the highest attendance of any one establishment in Mesa County at the Liquor Awareness Training program held in February this year. All of my employees were present. It is embarrassing to say the least that the violation happened two weeks after class was held. I do not know what else I could have done to prevent this violation from happening. Nobody at my store would ever intentionally sell liquor to a minor as they are well aware of the consequences.

My employee has worked at my store for over three years now, working three nights per week. In that time he has never missed a day's work and has even worked holidays when nobody else would. I have known my employee since 1986 and I know him to be trustworthy, honest and reliable. Employees like him are hard to find. If it were not for this fact alone, he would have been terminated from my store. I somewhat feel responsible for not recognizing that he should take some time off from the store.

Concerning the incident, my employee remembers him presenting identification on several prior occasions (obviously false) with an out of state I.D. as he remembers. I do not know what the police found on this young man concerning identification. Perhaps they police did not look hard

Mr. Philip Coebergh, Hearing Officer  
April 7, 1999  
Page 2

enough. I understand that false identifications were found on other young men in the parking lot who were issued summonses for possession of alcohol.

We are aware that the Police Department watches our store. We see them all the time. They are parked outside my complex in various locations. We know this by observing, and by our customer's comments. I have been told by some customers that they shop elsewhere when they see this only because they think some sort of problem is happening. My books show a loss of sales for the past month. I somewhat feel harassed since the incident.

This has been a wake up call for all of us.

I had noticed a mention of Violation #47-900 (Conduct of Establishment). This is in addition to the first one. I read the code book and do not understand how this pertains to me. If I am in violation of this, I would like to know the particulars.

We made a mistake. I have no credits for any positive things we have done.\* Since this is our first offense, I feel that in lieu of possible fine for my employee, that no administrative action should be asserted against my establishment.

Sincerely,

E. David McCarty

\*On March 8, 1999 (the Monday following the incident), I confiscated an I.D. from a 20-year old male trying to purchase alcohol. I did not sell to him and called the Police Department. When they arrived, I gave them the I.D. and they confronted the individual. The police officer then entered my store to talk to me. He wanted to know if I wanted to prosecute the young man. It is "illegal to attempt" to purchase whiskey, wine or beer by anyone under 21 years of age. It says so on my wall and also in the Liquor Code. How come I was asked to prosecute and the police did not? The police officer asked me what I wanted to do, stating that the young man really did nothing wrong except to "attempt" to buy it. I told the police officer that I wanted him to prosecute the young man and he said he really could not. I did not prosecute. The officer scolded the young man, gave him back his I.D. and drove away. DM 4-8-99