

**LIQUOR AND BEER MEETING  
LOCAL LICENSING AUTHORITY  
CITY OF GRAND JUNCTION, COLORADO  
MUNICIPAL HEARING ROOM, CITY HALL, 250 NORTH 5<sup>TH</sup> STREET**

**MINUTES**

**WEDNESDAY, AUGUST 1, 2001, 9:00 A.M.**

**Hearing Officer James Majors**

I. **CALL TO ORDER** – The meeting was convened at 9:03 a.m. Those present were Hearing Officer James Majors, Assistant City Attorney John Shaver and Senior Administrative Assistant Christine English.

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

1. Loco Incorporated dba Loco Food Store No. 16, 2249 Broadway, 3.2% Beer Off Premise

The application was in order and approved.

2. C & F Food Stores Incorporated dba C & F Food Stores, **3 locations**, 3.2% Beer Off Premise

- a. C & F Food Store No. 1, 859 Pitkin Avenue
- b. C & F Food Store No. 3, 2714 Highway 50
- c. C & F Food Store No. 4, 596 25 Road

The applications were in order and approved.

3. Albertson's Incorporated dba Albertson's Food Center #897, 2512 Broadway, 3.2% Beer Off Premise

The application was in order and approved.

4. Albertson's Incorporated dba Albertson's Fuel Center #897, 2520 Broadway, 3.2% Beer Off Premise

The application was in order and approved.

5. Knaysi Enterprises Incorporated dba Pablo's Pizza, 319 Main Street, Beer and Wine

Paul Knaysi was present. The application was in order and approved.

6. QS Incorporated dba Shanghai Garden Restaurant, 715 Horizon Drive, Hotel and Restaurant

Max Chiou was present representing QS Incorporated. The current lease expires on February 1, 2002. The applicant was notified to bring in a new, fully executed lease to cover the entire licensing period of the establishment. Mr. Chiou stated he is in the process of obtaining a new lease. The landlord, who lives in California, needs to sign the lease. Mr. Chiou submitted a copy of the unsigned lease to the Licensing Authority (on file in City Clerk's office). Mr. Shaver stated this same issue has happened in the past

and suggested Mr. Chiou coordinate the lease and license renewal to occur within the same time frame.

The application was in order and approved. Issuance of the license will be contingent upon receipt of a fully executed copy of the new lease.

### **III. REPORT OF CHANGE IN CORPORATE STRUCTURE**

1. Fraternal Order of Eagles 595, 1674 Highway 50, Club

President:	Roger Smith replaces Sid Knauss
Vice President:	Jay Buxton replaces Roger Smith
Trustee:	Tom Noble replaces Larry Alley
Trustee:	Carl Murphy replaces Don Mills

Sidney Smith, secretary of the Fraternal Order of Eagles 595, was present. The application was in order and approved.

### **IV. SHOW GOOD CAUSE ON APPLICATION FOR RENEWAL – Continued from June 20, 2001 and July 18, 2001 Liquor and Beer Meetings**

1. Wigout Productions Incorporated dba Mesa Theater & Club, 538 Main Street, Tavern

Stephanie Rubinstein, City Staff Attorney was present. Ms. Rubinstein submitted to the Licensing Authority the Stipulation and Agreement that has been reached. Mr. Majors and Mr. Shaver reviewed the stipulation.

Mr. Tom Volkmann, attorney for the licensee, was present. Mr. Shaver recommended deleting the phrase “of the Police Department” from the 3rd paragraph of the stipulation. Mr. Majors and Mr. Volkmann concurred. Mr. Volkmann asked for clarification of the term “special event”. This term should not relate to the concerts and other events that are scheduled on the premises. Mr. Majors stated this would be something that is not a routine activity, such as if the Over and Under nights became an event that was scheduled on a different night than what has occurred in the past. Mr. Shaver recommended approval of the stipulation and Mr. Majors concurred. The stipulation was signed (see attached).

The application for renewal was in order and approved.

### **V. VERIFIED COMPLAINT**

1. In the Matter of Mountaineer Hotels Incorporated dba Peachtree Inn, 1600 North Avenue, Hotel and Restaurant-Summary Suspension as of July 19, 2001

On or About July 6, 2001, Peachtree Inn Sold, Served or Distributed Malt, Vinous or Spirituous Liquor in Violation of 12-47-103(20) C.R.S. and Colorado Liquor Regulation 47-418, FAILING TO SERVE MEALS

Mr. Majors stated an Order of Summary Suspension and Notice of Hearing was signed on July 19, 2001 and served on the licensee on July 20, 2001 (see attached).

Ms. Rubinstein stated she is asking for a permanent suspension or a revocation of the liquor license. This is the 2<sup>nd</sup> time the licensee has been cited for this same offense.

Mr. Stoika, representing Mountaineer Hotels Incorporated, was present. Mr. Stoika stated he has had problems maintaining a cook on the premises. He tried serving microwavable food for awhile and has now closed the kitchen. Mr. Stoika stated he will be filing for a tavern liquor license in the future, but for now the kitchen and the bar are closed.

Mr. Majors asked Mr. Shaver if Mr. Stoika could voluntarily relinquish his license. Mr. Shaver stated it would be the same legal principals whether he relinquishes the license or the license is revoked. Mr. Shaver recommended revocation of the license, as this was the 2<sup>nd</sup> time this licensee had been cited for this offense. Mr. Majors stated he is inclined to revoke the license based upon the evidence presented in the Verified Complaint and since this is the 2<sup>nd</sup> time the licensee has been cited for this same offense. Mr. Stoika asked if this would affect his ability to apply for a new tavern liquor license at a future date. Mr. Majors said a whole new license would need to be applied for and Mr. Stoika would be required to do a survey of the needs and desires of the neighborhood. The results of that survey would be brought before the Hearing Authority for consideration. Mr. Majors told Mr. Stoika he has the option of presenting evidence and also of rebutting any evidence presented here today.

Ms. Monique Mull, Mesa County Health Department, was sworn in by Mr. Majors. Ms. Mull presented the results of an inspection that she conducted on July 6, 2001 (see attached report). Mr. Majors asked Mr. Stoika if he had any questions for Ms. Mull. Mr. Stoika stated he would like to make some statements.

Mr. Stoika was sworn in by Mr. Majors. Mr. Stoika stated the kitchen was closed, but food such as hot dogs, sandwiches and chips, was being served. There is a microwave located in the bar along with a small freezer for food. If necessary, the receipts from this time period could be produced. Ms. Rubinstein asked Mr. Stoika if the statement made by Ms. Mull regarding the kitchen being closed and the service of alcohol still taking place is true. Mr. Stoika stated yes.

Ms. Rubinstein asked Ms. Mull, in rebuttal, if she recalled a freezer being in the bar area. Ms. Mull stated she did not. There was a keg cooler present but it had no food items in it.

Mr. Shaver asked if a report was filed on the health and sanitary conditions of the premises. Ms. Mull stated the inspection on July 6, 2001, was not a formal health report was not done. The routine, yearly inspection that was conducted in March 2001, a report was submitted to the City Clerk's office but she did not have a copy of that with her today.

Ms. Rubinstein requested a revocation of the liquor license.

Mr. Majors stated based upon the evidence presented, the licensee was found to be in violation of C.R.S. 12-47-103(20) and Regulation 47-408. Mr. Majors ordered the licensees liquor license revoked and informed Mr. Stoika of his right to appeal this decision. Mr. Stoika was instructed to either post the premises with a notice stating the liquor license had been revoked or to surrender the license to the Licensing Authority.

## **VI. OTHER BUSINESS**

Mr. Volkmann, attorney for Wigout Productions, returned to the podium to speak with the Licensing Authority regarding the feasibility of implementing the Over and Under night restriction. The next scheduled event was to take place tomorrow night, Thursday, August 2, 2001 with an expected crowd of 300 to 400 18 to 20 year olds. In order to implement this in a more orderly fashion, the licensee is asking for 2 weeks time in which inform people that this event will no longer be taking place. Lt. Johnson, Grand Junction Police Department, was present. Lt.

Johnson concurred that it would be prudent to do it this way to avoid any possible problems in the downtown area.

VI. **ADJOURNMENT** – The meeting was adjourned at 10:05 a.m.

**NEXT REGULAR MEETING – August 15, 2001**

CITY OF GRAND JUNCTION, COLORADO  
LIQUOR AND BEER LICENSE HEARING OFFICER  
LICENSE NO. 4980052

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ORDER

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In The Matter of  
WIGOUT PRODUCTIONS, INC., d/b/a Mesa Theatre and Club, Licensee  
538 Main Street  
Grand Junction, Colorado, Respondent.

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FINDINGS AND ORDER:

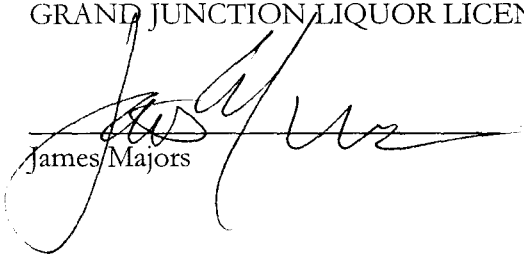
After investigation and pursuant to the Stipulation and Agreement attached hereto, the Local Licensing Authority, having reviewed the Stipulation and Agreement offered by the Licensee does hereby find:

That the terms of the aforesaid Stipulation and Agreement are acceptable to the Local Licensing Authority and are hereby adopted in full as the findings of the Authority.

THEREFORE, the undersigned Hearing Officer, Grand Junction Liquor Licensing Authority, hereby orders: That the above-referenced liquor licensee be subject to the terms of the Stipulation and Agreement entered into on August 1, 2001.

Ordered and signed this 1st day of August, 2001.

GRAND JUNCTION LIQUOR LICENSE HEARING OFFICER

  
James Majors

CITY OF GRAND JUNCTION, COLORADO  
LIQUOR AND BEER LICENSE HEARING OFFICER  
LICENSE NO. 4980052

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STIPULATION


IN THE MATTER OF  
WIGOUT PRODUCTIONS, INC., d/b/a Mesa Theatre and Club, Licensee  
538 Main Street  
Grand Junction, Colorado, Respondent.

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Wigout Productions, Inc., d/b/a Mesa Theatre and Club ("Licensee"), and the City of Grand Junction (the "City") hereby submit this Stipulation regarding a proposed condition to Licensee's liquor license for consideration and adoption as part of the Licensee's license renewal.

The City Police Department has expressed concern that the Licensee's policy of holding "College Night-DJ Dance Parties" on Thursdays, in which disc jockeys play recorded dance music and adults between the ages of 18 and 21, and adults older than 21, are allowed entry into the Licensee's premises (hereinafter referred to as an "Over and Under Night"), has resulted in enforcement and control issues in the downtown Grand Junction area. Section 12-47-302 (1) C.R.S. provides that the licensing authority "may refuse to renew any license for good cause." "Good cause" includes

[e]vidence that the licensed premises have been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the establishment is located, which evidence must include a continuing pattern of fights, violent activity or disorderly conduct.

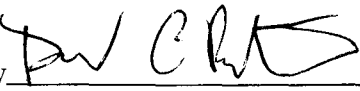
C.R.S. 12-47-103 (9). The Licensee acknowledges the City's position that sufficient evidence exists which would provide good cause for the licensing authority to not renew Licensee's license, but does not admit any of the allegations. In order to address the expressed concerns of the Police Department, the parties have agreed to the following special condition to the Licensee's license: 

1. Licensee agrees not to operate any more Over and Under Nights, by that name or any other, as described above, at which alcoholic beverages are served for a period of one (1) year from the date of signature on this Stipulation. The Licensee shall be reevaluated after one year to determine whether stopping Over and Under Night has resulted in a decrease in the police response to fights, violent activity or disorderly conduct. This agreement does not relate to other events, including, but not limited to, concerts, live theatre, sporting events and other performances, at which patrons both younger and older than 21 years old are allowed to enter, and alcoholic beverages are served in accordance with Licensee's license.

2. No further special conditions to Licensee's license are contemplated in this Stipulation.


Dated this 1<sup>st</sup> day of August, 2001.

WIGOUT PRODUCTIONS, INC., d/b/a  
Mesa Theatre and Club, Licensee

By 

Its President

CITY OF GRAND JUNCTION

By 

Title Staff Attorney

CITY OF GRAND JUNCTION, COLORADO  
LIQUOR AND BEER LICENSE HEARING OFFICER  
LICENSE NO. 4990028

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VERIFIED COMPLAINT IN SUPPORT OF A ORDER FOR SUMMARY SUSPENSION

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In the Matter of  
Mountaineer Hotels Incorporated, d.b.a Peachtree Inn Licensee  
1600 North Avenue  
Grand Junction, Colorado, Respondent.


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The City Attorney of the City of Grand Junction, Colorado, by and through the undersigned Staff City Attorney, informs the Hearing Officer that:

- I. On or about July 6, 2001, Peachtree Inn, the licensee sold, served or distributed malt, vinous or spirituous liquor in violation of 12-47-103(20) C.R.S. and Colorado Liquor Regulation 47-418. FAILING TO SERVE MEALS.

Respectfully submitted this 16th day of July 2001.

OFFICE OF THE CITY ATTORNEY

by:   
Stephanie Rubinstein  
Staff City Attorney  
250 North 5<sup>th</sup> Street  
Grand Junction, CO 81501  
(970) 244-1501



VERIFICATION

I, Monique Mull, Mesa County Health Department in and for the City of Grand Junction, being first and duly sworn upon oath, state that I have read the above and foregoing Verified Complaint, that I know the contents of the allegations therein, and that the same is true to the best of my knowledge and belief.

I conducted an inspection of the licensed premises on Friday July 6, 2001 and found that the kitchen was not staffed, that food was not being served and that the premises did not indicate that food service had been or was being conducted. Specifically, I observed both a refrigerator and freezer were empty, as well as dry storage, and the gas at the stove did not appear to be on. It is also my opinion, having observed the kitchen, that meals, as that term is defined by Colorado liquor law, are not being routinely prepared and served because the kitchen was not staffed or equipped to prepare the food on the menu. Also attached and incorporated by this reference are copies of my report from my inspection on July 6, 2001.

Monique Mull

STATE OF COLORADO )  
COUNTY OF MESA )

Subscribed and sworn to before me by Monique Mull this 18 day of July 2001.

Jeanne L. Adams  
Notary Public

My Commission Expires: 8-8-2002

WITNESSES:

*Note to File**faxed to  
Chris English  
7/9/01*

Facility: Peachtree Inn  
Address: 1600 North Avenue, Grand Junction, CO 81501  
Owner: Nick and Michelle Stoika  
Date: July 6, 2001

Received a phone call from Chris English, City Clerk's Office, regarding the food service at the Peachtree Inn. She had received an anonymous complaint stating that the kitchen had been completely shut down. There was reportedly no food stored there and even the gas to the stove had been shut off in the kitchen.

The complaint was logged as MCHD complaint #116. I went to the facility and spoke with Diane, the front desk clerk and Darleen, one of the housekeepers. They said the bar opens at 5 PM, and the kitchen is closed. They usually serve chips in the bar, but they are out of chips now. They did not have keys to the bar or kitchen, but Nick, the owner was on his way and he has keys. I asked Diane and Darleen if any food was served from the kitchen and they both said no. Diane then said that she wasn't sure what they serve because she leaves at 4 PM.

When Nick arrived he unlocked the kitchen door and allowed me to look around the kitchen. The small white domestic freezer was empty with the door opened. The sliding glass door refrigerator was empty and turned off. The walk in refrigerator had some condiments (salad dressing) stored in it. No food that could be considered a meal was observed in any of the refrigerators. I did not see food stored in the dry storage area. The gas at the stove did not appear to be on. Nick said that the pilots were out. We did not verify whether or not the gas supply was shut off in the kitchen.

I asked if the bar and kitchen were still operating. He said that Michele, his wife, had been sick and they could not afford to hire a cook so the kitchen had been closed. When I asked if he had the bar open and was serving drinks he said yes but that business hadn't been very good so he wasn't serving much. They were still deciding what to do about the bar and kitchen and he said that he should probably call Christine English at the City (Clerk's Office) to talk to her. I suggested he contact her soon.

*mm 7/6/01*

cc: Christine English, City Clerk's Office

CITY OF GRAND JUNCTION, COLORADO  
LIQUOR AND BEER LICENSE HEARING OFFICER  
LICENSE NO. 4990028

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ORDER OF SUMMARY SUSPENSION AND NOTICE OF HEARING

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In the Matter of  
Peachtree Inn Incorporated, Licensee  
1600 North Avenue  
Grand Junction, Colorado, Respondent.

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YOU ARE HEREBY NOTIFIED that it has been alleged to the City of Grand Junction Liquor and Beer License Hearing Authority that you have committed violations of law, 12-47-103(2) and violation of Colorado Liquor regulation 47-418. Said violations are said to have occurred on July 6, 2001.

THE AUTHORITY HAVING CONSIDERED SUCH EVIDENCE AS IT DEEMS APPROPRIATE:

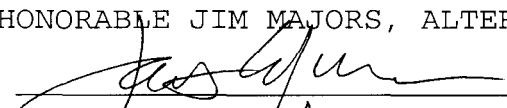
- 1) Finds that there is probable cause to believe that the Licensee violated the terms, conditions or applicable legal provisions of the license sufficient to issue and cause to be served a notice to show cause why the license should not be revoked on the grounds stated in the verified complaint.
- 2) Finds that the Licensee has committed deliberate and willful violations of law as stated in the verified complaint.
- 3) Orders that effective immediately the license is summarily suspended pending a further hearing on

August 1, 2001.

YOU ARE NOTIFIED that on WEDNESDAY, the 1st day of August, 2001, at 9:00 a.m., the City of Grand Junction Liquor and Beer License Hearing Authority shall convene a public hearing to consider the allegations.

YOU ARE FURTHER NOTIFIED that at this hearing you will be afforded an opportunity to be heard and that you should appear at such time and place and show cause, if any, why you should not be fined and/or the license not further suspended or revoked.

BY THE ORDER OF THE LOCAL LICENSING AUTHORITY  
THE HONORABLE JIM MAJORS, ALTERNATE HEARING OFFICER

  
DONE this 19 day of July, 2001. 11:09 a.m.

Wick Skalka

7/20/01