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LIQUOR CONTROL ADJUDICATION BOARD
DEPARTMENT OF LIQUOR CONTROL
COUNTY OF MAUI, STATE OF HAWAII

TRANSCRIPT OF PROCEEDINGS
REGULAR MEETING

Held at the Department of Liquor Control Conference Room, David K. Trask, Jr. Office Building, 2145 Kaohu Street, Room 108, Wailuku, Maui, Hawaii, commencing at 9:00 a.m., on February 7th, 2019.

Reported by: Sandra J. Gran, RPR, CSR 424

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APPEARANCES

BOARD MEMBERS PRESENT:

- Bruce U'u, Chairperson
- Gwen Ueoka, Vice Chairperson
- Zachary Helm, Member
- Richard Bergson, Member (in at 9:07 a.m.)
- Jerrybeth DeMello, Member
- Candace Ariaga, Member
- Jason Williams, Member

Staff present:

- Gary Murai, First Deputy Corporation Counsel
- Peter Hanano, Deputy Prosecuting Attorney
- Glenn Mukai, Director, Liquor Control
- Georgette Tyau, Deputy Director, Liquor Control
- Maria Khangsengsing, Board Secretary

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THURSDAY, FEBRUARY 7TH, 2019; 9:00 A.M.

WAILUKU, MAUI, HAWAII

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CHAIR U'U: (Gavel.) The meeting of the liquor control adjudication board is now called to order. Will the board members and staff please introduce yourselves starting with our commission secretary.

MS. KHANGSENGSING: Maria Khangsengsing, liquor.

MEMBER DeMELLO: Oh. Jerrybeth DeMello from Lanai.

MEMBER ARIAGA: Candace Ariaga, Lanai.

MEMBER WILLIAMS: Jason Williams, Wailuku.

MR. MURAI: Gary Murai, deputy corporation counsel.

CHAIR U'U: Bruce U'u, Paia.

MEMBER UEOKA: Gwen Ueoka, Wailuku.

MEMBER HELM: Zach Helm, Molokai.

DIRECTOR MUKAI: Glenn Mukai, liquor control.

DEPUTY DIRECTOR TYAU: Georgette Tyau, liquor control.

MR. HANANO: Peter Hanano on behalf of the prosecuting attorney.

CHAIR U'U: We will now hear Complaint and Accusation No. 28-27 against Pleasant Travel Service doing business as the Royal Lahaina Resort.

Thank you for stepping forward. Will the respondent or its representative please step forward, state your name and

1 in what capacity you represent the respondent.

2 MR. JORGENSEN: Good morning, Chair U'u, Members of
3 the Board, and Staff. My name is Dave Jorgensen, I'm the
4 attorney for the licensee Pleasant Travel Service dba Royal
5 Lahaina Resort. With me this morning is the food and beverage
6 director Braulio Andaluz.

7 CHAIR U'U: Thank you. At this time you have the
8 option of having the charges publicly read or you can waive
9 the reading. What is your preference?

10 MR. JORGENSEN: We'll waive the reading.

11 CHAIR U'U: Mr. Jorgensen, for the record, do you
12 represent the respondent involved?

13 MR. JORGENSEN: Yes, sir.

14 CHAIR U'U: So you are legal counsel?

15 MR. JORGENSEN: Yes, sir.

16 CHAIR U'U: Do you understand the charges against
17 you?

18 MR. JORGENSEN: Yes.

19 CHAIR U'U: What is your plea to each count?

20 MR. JORGENSEN: There are five counts remaining, I
21 believe the board has been informed by the department or the
22 prosecutor, those five counts, the licensee pleads no contest.

23 CHAIR U'U: Thank you.

24 Peter?

25 MR. HANANO: That's correct, yes.

1 CHAIR U'U: Do you want to inform the board or do
2 you want me --

3 MR. HANANO: No, I can.

4 CHAIR U'U: -- of the remaining charges.

5 MR. HANANO: Let's see. And pursuant to a plea
6 agreement the licensee will plead no contest to Count 1;
7 Count -- Counts 2 and 3 will be dismissed with prejudice;
8 there will be a no contest plea on Counts 4, 5, and 6; Count 7
9 will be dismissed pursuant to a plea agreement; Count 8 will
10 be no contest; and Count 9 will be dismissed pursuant to a
11 plea agreement.

12 CHAIR U'U: Thank you.

13 Mr. Jorgensen, do you understand the violations the
14 department of liquor control alleges against you?

15 MR. JORGENSEN: Yes, sir.

16 CHAIR U'U: Do you understand that you have right to
17 plead not guilty?

18 MR. JORGENSEN: Yes, sir.

19 CHAIR U'U: Do you understand that by pleading no
20 contest, you waive the right to a hearing in which you could
21 present evidence and question witnesses on your behalf?

22 MR. JORGENSEN: Yes, sir.

23 CHAIR U'U: Is your plea of no contest voluntary and
24 not the result of force, threats, or of promises apart from
25 any plea agreement?

1 MR. JORGENSEN: Yes, sir, it is.

2 CHAIR U'U: Do you understand that on each count, if
3 the board accepts your plea of no contest, you'll be found
4 guilty and that the board may issue a reprimand or assess and
5 collect a penalty of up \$2,000 or invoke any license at any
6 time or suspend the right of the licensee to use the
7 licensee's license?

8 MR. JORGENSEN: Yes, sir, we do understand that.

9 CHAIR U'U: Do you still wish to plead no count --
10 no contest?

11 MR. JORGENSEN: Yes, sir.

12 CHAIR U'U: The board -- the board hereby finds that
13 the licensee has entered a knowing and voluntary plea of no
14 contest. The board accepts your plea and finds you guilty of
15 Counts 1, 4, 5, 6, and 8 reflected in Complaint and Accusation
16 No. 2018-27.

17 Will the department present a summary of the case.

18 MR. HANANO: Yes. Thank you, Chair.

19 On Saturday, January 13, 2018 at about 8:55 p.m.

20 Liquor Control Officer Cullen Kawano along with Liquor Control
21 Officer Trainees Salika Khangsengsing and Marc Velasquez
22 conducted an inspection at the Royal Lahaina Resort located at
23 2780 Kekaa Drive, Kaanapali, Lahaina, Maui, Hawaii.

24 Upon arrival, liquor control officers noticed that
25 there was a party within the Ali'i Ballroom as the music could

1 be heard from the exterior of the building. As they
2 approached the entrance, there was a sign posted that stated
3 "No One Under 21 Permitted," but there did not appear to be
4 any employees at the door controlling entry.

5 Upon entering the ballroom, liquor control officers
6 observed a "Casino Night" type event that was being held. The
7 license had acquired a permit allowing for the casino games to
8 be set up within the ballroom. There appeared to be about 100
9 patrons within.

10 At about 9:04 p.m., multiple patrons were observed
11 on the dance floor area with drinks in their hands. Employees
12 of the premises did not attempt to prevent or correct this
13 action. The only walkway between the bar/food and the gaming
14 areas was a walkway between the side of the bar and the dance
15 floor. This walkway was consistently congested, which forced
16 patrons to cross the dance floor area, some with drinks in
17 their hands.

18 At about 9:07 p.m., liquor control officers observed
19 a patron with three drinks appearing to contain liquor walk
20 away from the liquor service area. There were multiple
21 patrons sitting on the stage and there were many drinks placed
22 on the stage.

23 In addition, liquor control officers observed
24 patrons arriving at tables having to push aside the drinks
25 from previous customers who had been previously using the

1 table. It was observed at one point that an employee served a
2 group of patrons standing at a high top table without clearing
3 any of the empty drinks from the table. There appeared to be
4 about four drinks per person on the table following service by
5 the employee.

6 At about 9:09 p.m., it was revealed that the Food &
7 Beverage Manager Ford Ushijima's Employee Approved by the
8 Director Certification card was expired.

9 Additionally, the Food & Beverage Director Braulio
10 Andaluz did not possess an Employee Approved By the Director
11 Certification card.

12 There were no employees on duty within the area of
13 the event who possessed a valid Employee Approved By the
14 Director Certification card.

15 (Member Bergson entered the room.)

16 MR. HANANO: As part of the investigation, it was
17 also revealed the licensee's layout of the game devises and
18 tables did not match the layout which was approved by the
19 department of liquor control.

20 In speaking with Andaluz, he stayed that:

21 He did not know that Ushijima's Employee Proved By
22 the Director Certification card had expired.

23 Andaluz stated that he did not know that he also
24 needed an Employee Approved By the Director Certification
25 card.

1 He apologized for not having the cards and said that
2 he would get his as well as making sure that his employees got
3 their Employee Approved By the Director Certification cards.

4 Andaluz apologized for the violation and stated that
5 he would work to resolve any issues and concerns that were
6 observed as a result of the inspection.

7 Andaluz was advised that the department of liquor
8 control does conduct on-site exams and that he could contact
9 the department of liquor control if the licensee wanted to set
10 that up.

11 Department of liquor control records reveal that on
12 January 18, 2018 Ford Ushijima obtained a new Employee
13 Approved By the Director Certification card.

14 And on November 5th, 2018, Braulio Andaluz was
15 also -- his card was also renewed on that date.

16 Nothing further, Chair. Thank you.

17 CHAIR U'U: Thank you.

18 Any questions by members of the board at this time?

19 (No Response.)

20 CHAIR U'U: Seeing none, Mr. Jorgensen, you now have
21 the opportunity to make a statement regarding this case. You
22 may also inform the board of any mitigating circumstances
23 which may or may not applied to sentencing.

24 MR. JORGENSEN: Thank you. I'll make some comments
25 and then Mr. Andaluz would like to make brief comments too.

1 You know, this is one of those -- this is an
2 expensive, embarrassing situation for the client. Mr. Andaluz
3 and Mr. Ushijima have both been with Royal Lahaina for a long
4 time. Usually they're not the ones working events like Casino
5 Night. Due to circumstances, they ended up being employees
6 that were there because the event needed to be supervised.
7 Mr. Andaluz had checked with Mr. Ushijima to make sure he had
8 a card. Mr. Ushijima said he did, he didn't realize it had
9 been expired, so that was certainly a miscommunication and a
10 mistake on behalf of the licensee. Mr. Andaluz didn't realize
11 that there needed to be a second card because of the event.
12 If there's live music, then we know there needs to be a second
13 card. But if there's an event like this, there does need to
14 be a second card.

15 So this is one of those where, you know, it's a bad
16 situation, it -- you know, especially for the F & B director
17 and manager to be involved and to not have control of the
18 situation and -- is an embarrassment. And Mr. Andaluz has
19 taken responsibility, both he -- and, again, he doesn't
20 normally work events, but he does have a current card.
21 Mr. Ushijima got his card within I believe it was a couple
22 weeks of this incident. And they've made sure that all their
23 staff is fully trained in the various things that happen.

24 When you have an event like this, a lot of times the
25 companies that put it on are responsible for certain things.

1 The layout of the games for the event were approved, as is
2 required by the department, but there was a last-minute change
3 that was made for flow and for practicality and that was not
4 approved by the department. So things like that, you know,
5 everybody, the staff and they make sure any outside companies
6 that come in know, you know, this is the event, that this is
7 the layout, it does not change unless proper procedures are
8 followed.

9 Again, even with the change, the last-minute change
10 that was made, there was still some problems with guest flow
11 and some other issues as far as on occasion that somebody
12 being handed three drinks instead of two and those things have
13 been addressed by the -- by the Royal Lahaina to make sure
14 they don't happen again. The --

15 As I said, there have been many follow-up training
16 sessions with the banquet staff for the hotel to make sure
17 they understand the rules. The Royal Lahaina really
18 appreciates the department's efforts and as Mr. Prosecutor
19 said, that there -- the department does have on-site testing,
20 which is appreciated, and that makes things easier for the
21 department so everybody doesn't have to necessarily come over
22 here.

23 You know, we request that you take all this into
24 consideration. They're -- the Royal Lahaina has, obviously,
25 been in business a long time and they haven't had problems.

1 One of the things that needs to -- sometimes, you know, they
2 get a little complacent and for this to have occurred with the
3 director and the manager there, they take this very serious
4 and they're taking every step they can to make sure it doesn't
5 happen again.

6 Mr. Andaluz just wanted to make a couple comments.

7 MR. ANDALUZ: Thank you, David.

8 Yeah, and I want to -- these violations happened
9 when -- under my supervision. It's my department, it's my
10 responsibility, and -- this has really helped me understand
11 how much more attention and effort I have to put to make sure
12 that my team is better prepared. And so we've taken steps
13 since this incident happened to make sure that everybody is
14 aware of what their responsibilities are and we'll do anything
15 that we can to avoid that with the company and the licensee
16 and in this situation. Thank you.

17 MR. JORGENSEN: And we're both available for any
18 questions any members of the board might have.

19 CHAIR U'U: Questions by the board?

20 Jerrybeth.

21 MEMBER DeMELLO: Mr. Jorgensen, you made mention
22 that --

23 (Telephone interruption.) Whoops. I'm sorry.

24 -- that Angelo (*sic*) didn't know that there's
25 supposed to be a second card for the event.

1 Have you ever had events at Royal Lahaina that you
2 were -- it was under you?

3 MR. ANDALUZ: We've had events previously, yes.

4 MEMBER DeMELLO: Okay. So by this, you didn't know
5 that you should've applied for a second card for the event?

6 MR. ANDALUZ: I was under the assumption that having
7 one card would've been -- would've been okay.

8 MR. JORGENSEN: For this type of event, this is a
9 Casino Night, and -- I mean, I'm only saying this because of
10 other clients I represent. There's -- when you have live
11 music, you have to have another card, but that's not the only
12 time you have to have another card.

13 MEMBER DeMELLO: So you had the live music, you had
14 the casino, and then you have the function?

15 MR. ANDALUZ: That is correct.

16 MEMBER DeMELLO: Okay.

17 MEMBER WILLIAMS: Chair.

18 MEMBER DeMELLO: Yeah.

19 MEMBER WILLIAMS: I have a question.

20 Have you already been doing annual trainings or 6-
21 month trainings for your staff? You know, have you -- have
22 you been updating your staff and getting them to sign in --
23 sign that they acknowledge they know the rules? 'Cause this
24 isn't your first event, so -- and so, you know, what -- what
25 have you done in the past to make sure your staff understands

1 the rules and what are you doing now?

2 MR. ANDALUZ: Yeah, we do periodical trainings to
3 certify the staff and make sure that especially if they're
4 involved in an area where alcohol is being served, then -- so
5 there is a series of steps that we take to make sure they
6 understand what their responsibilities are.

7 Since this incident, it helps to understand that we
8 need to be -- there are a lot more areas that we need to be
9 aware of, pay attention to, and so we since have certified all
10 of the managers in our department to go through any events
11 that we have and understand how that affects the guidelines
12 and rules of the department or how those events need to be
13 monitored and regulated. And we've taken the steps to follow
14 those guidelines as well. We've gone to the extent of also
15 certifying managers in other departments as well to be -- to
16 be more aware of what happens when we operate under the
17 guidelines of liquor commission.

18 And one of the things that was mentioned, we took
19 advantage of the training that is offered on the site. We had
20 an officer that came over and helped us to through that
21 process. The certification for the managers in the other
22 departments happened through that process where they came over
23 to the hotel and we managed to certify the managers in the
24 other areas.

25 MEMBER WILLIAMS: And as a follow-up, this -- the

1 big main concern for me was the whole having bartenders
2 serving more than two drinks, you know, with -- you know,
3 that's one of the most common known rules. And so were
4 they -- were they reprimanded for that? Were they -- were
5 they talked to separately regarding that?

6 MR. ANDALUZ: Yes.

7 MEMBER WILLIAMS: I mean, 'cause that's the rule.

8 MR. ANDALUZ: That's something that -- I'm sorry.

9 MEMBER WILLIAMS: Oh, no. Go ahead, please.

10 MR. ANDALUZ: Yeah. And it's -- you know, we -- we
11 have guidelines and we have standards and then once those
12 guidelines and standards are established, then we just have to
13 consistently go back and monitor to make sure that those are
14 followed. So, unfortunately, in this situation, this was
15 something that the bartender was aware of, something that
16 should have not happened. They've been trained on that, they
17 know that that's a -- one of the basic responsibilities to
18 know in their position and -- so, unfortunately, that was not
19 the case in this incident.

20 Yes.

21 CHAIR U'U: Mr. Helm.

22 MEMBER HELM: Sir, the event that you had this
23 violation, is this one of your biggest events or do you have
24 more events such as this Casino Night? And prior to that
25 event did you meet with staff and go through some, you know,

1 requirements and training?

2 MR. ANDALUZ: We did. Casino Night is not something
3 that we do on a regular basis. This was a -- this was an
4 event that happened for an employee party and -- so this is
5 kind of, actually, outside of what we normally -- we would do
6 on the -- on a regular basis. But we do have a lot of events
7 that we operate, we have -- the banquet department does a
8 significant number of -- amount of business. We do have the
9 luau and then our three-meal-period restaurant.

10 We did have a preparatory meeting for -- leading up
11 to -- like we do for all events as to what -- what were the
12 guidelines that needed to be followed not just specific to
13 regulation, but also the flow of the event, preparation,
14 staffing. But, unfortunately, some of these items were
15 missed.

16 MEMBER HELM: Okay. Thank you.

17 CHAIR U'U: Any more questions by the board?

18 MEMBER UEOKA: One more.

19 So, sir, now that all this has come to light, when
20 does your card expire, the one you carry now, do you know?

21 MR. ANDALUZ: I -- do you mind if I look?

22 (Laughter.)

23 MEMBER UEOKA: Go ahead.

24 MR. HANANO: 2022.

25 MEMBER UEOKA: Of course.

1 MR. ANDALUZ: I believe it's on -- 2022.

2 MEMBER UEOKA: Okay. I hope you remember that in
3 the future.

4 MR. ANDALUZ: I will.

5 MR. HANANO: It's on the record.

6 MR. ANDALUZ: Yes.

7 CHAIR U'U: Do you have anything to --
8 Any more questions by the board?

9 (No Response.)

10 CHAIR U'U: At this time we'll take the director's
11 argument as to a penalty.

12 MR. HANANO: Thank you, Chair. The original license
13 for this licensee was issued back in May of 1983. It looks
14 like they did have some issues back in 2001. There are
15 several liquor-related convictions that resulted from, I
16 guess, an incident on November 1st, 2001; however, since then
17 they've had none. In light of that, we're recommending in
18 Count 1 a \$250 fine, Count 4 a \$500 fine, Count 5 a \$250 fine,
19 Count 6 a \$500 fine, and Count 8 a \$500 fine.

20 CHAIR U'U: Could you go over again?

21 MR. HANANO: Yes, Chair. Count 1, 250.

22 CHAIR U'U: Okay.

23 MR. HANANO: Count 4, 500.

24 CHAIR U'U: Okay.

25 MR. HANANO: Count 5, 250.

1 CHAIR U'U: Okay.

2 MR. HANANO: Count 6, 500.

3 CHAIR U'U: Okay.

4 MR. HANANO: And 8, 500.

5 CHAIR U'U: The commissioners are good with that?

6 MEMBER UEOKA: Yes.

7 CHAIR U'U: At this time the board will take this
8 matter into consideration. I would entertain a motion to go
9 into deliberation.

10 MEMBER HELM: Motion.

11 MEMBER ARIAGA: Second.

12 CHAIR U'U: All those in favor, say "aye."

13 (Response.)

14 CHAIR U'U: (Gavel.) Motion to deliberate.

15 (Pause in Proceedings: 9:20 a.m.-9:27 a.m.)

16 CHAIR U'U: (Gavel.) The board is now back in
17 session.

18 After careful deliberation, the board has assessed a
19 penalty for Count 1 of \$250; for Count 4, \$500; for Count 5, a
20 fine of \$250; for Count 6, a fine of \$500; and for Count 8, a
21 fine of \$500.

22 Thank you guys for showing up today. The department
23 will notify you when payment is due. Thank you.

24 MR. JORGENSEN: Thank you.

25 MR. ANDALUZ: Thank you.

1 CHAIR U'U: Have a good day.

2 DIRECTOR MUKAI: The department would just want to
3 remind you all to submit your financial disclosure statement.
4 It's due, I believe, April 15th.

5 CHAIR U'U: I believe one -- I lost mine.

6 DIRECTOR MUKAI: Maria can provide you with a --

7 CHAIR U'U: Thank you.

8 Anything else?

9 DIRECTOR MUKAI: No, that's all.

10 CHAIR U'U: Anybody?

11 MEMBER DeMELLO: Question: Since I'm going out, I
12 don't have to?

13 DIRECTOR MUKAI: No.

14 MEMBER DeMELLO: Okay. Just checking.

15 CHAIR U'U: Any other questions?

16 (No Response.)

17 CHAIR U'U: Seeing none, I need a motion to adjourn.

18 MEMBER ARIAGA: So moved.

19 MULTIPLE MEMBERS: Second.

20 (Laughter.)

21 CHAIR U'U: (Gavel.)

22 (The proceedings were adjourned at 9:28 a.m.)

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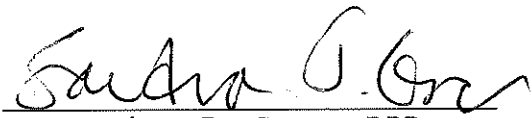
C E R T I F I C A T E

STATE OF HAWAII)
) SS.
COUNTY OF MAUI)

I, Sandra J. Gran, Certified Shorthand Reporter for the State of Hawaii, hereby certify that on February 7th, 2019 at 9:00 a.m. the proceedings was taken down by me in machine shorthand and was thereafter reduced to typewritten form under my supervision; that the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

I further certify that I am not an attorney for any of the parties hereto, nor in any way concerned with the cause.

DATED this 22nd day of February, 2019, in Maui, Hawaii.


Sandra J. Gran, RPR
Hawaii CSR 424