

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

Blue Iguana Chicago, Inc.)
Scott Mastellone, President)
Licensee/Suspension)
for the premises located at)
2909-11 North Sheffield) Case No. 08 LA 55
)
v.)
)
Department of Business Affairs and Consumer Protection)
Local Liquor Control Commission)
Norma I. Reyes, Commissioner)

ORDER

OPINION OF CHAIRMAN FLEMING JOINED BY COMMISSIONER SCHNORF

The licensee was served notice that a hearing was to be held on June 4, 2007, at 1:30 p.m. in connection with disciplinary proceedings regarding the City of Chicago retail liquor license and all other City of Chicago licenses issued to them. The notice listed these five charges:

1. That on or about March 8, 2007, the licensee, by or through its agent, which has been issued a "consumption on premises - incidental activity" liquor license, engaged in the sale of alcoholic liquor as its principle business and not as an incidental activity on the licensed premises in violation of Title 4, Chapter 60, Section 060(a) of the Municipal Code of Chicago.
2. That on or about March 8, 2007, the licensee, by or through its agent, sold, offered to sell or served an unlimited number of drinks of alcoholic liquor for during a set period of time at a fixed price in violation of 235 ILCS 5/6-28.
3. That on or about March 16, 2007, the licensee, by or through its agent, which has been issued a "consumption on premises - incidental activity" liquor license, engaged in the sale of alcoholic liquor as its principal business and not as an incidental activity on the licensed premises in violation of Title 4, Chapter 60, Section 060(a), of the Municipal Code of Chicago.
4. That on or about March 16, 2007, the licensee, by or through its agent, sold,

offered to sell, or served an unlimited number of drinks of alcoholic liquor during a set period of time at a fixed price in violation of 235 ILCS 5/6-28.

5. That on or about April 17, 2007, the licensee, by and through its agent, sold, gave or delivered alcoholic beverages on the licensed premises to a person under the age of 21 years in violation of Title 4, Chapter 60, Section 140(a) of the Municipal Code of Chicago and 235 ILCS 5/6-16(a).

This matter proceeded to hearing before Deputy Hearing Commissioner John F. Lyke, Jr. on October 22 and November 19, 2007 and February 4, 2008, March 31, 2008, April 14, 2008, May 12, 2008, and June 16, 2008. The Hearing Officer made Findings of Fact in which he ruled the City met its burden of proof on Charges 1, 2, 4 and 5, but did not meet its burden of proof on Count 3. He also found that licensee's City licenses be suspended for twenty-one (21) days. Mary Lou Eisenhauer, in her role then as the Acting Director of the Department of Business Affairs and Licensing adopted these findings. The licensee filed a timely notice of appeal on August 19, 2008. The City did not appeal the finding on Count 3. Oral argument was heard by this Commission on January 22, 2009, and this matter was taken under advisement.

Since this appeal is from an order of a local liquor control commissioner of a city of 500,000 or more inhabitants suspending a license, the review by the License Appeal Commission is limited to the questions:

- a. Whether the local liquor control commissioner has proceeded in the manner provided by law;
- b. Whether the order is supported by the findings;
- c. Whether the findings are supported by substantial evidence in light of the whole record.

To properly evaluate those questions the definition of the applicable statutes and

ordinances will be set out. Title 4, Chapter 60, Section 060 (a) states “the fee for a city retailer’s license for the sale of alcoholic liquor shall be as set forth in Section 4-5-010. Every applicant or licensee shall obtain a separate liquor license for each category of liquor license as defined in Section 4-60-010 that applies to the business to be conducted at the licensed establishment.”

Section 4-60-010 defines the terms consumption of premises - incidental activity license, tavern license and restaurant. “Consumption on premises - incidental activity license” means a city license for the retail sale of alcoholic liquor for consumption on the premises at a place of business where the sale of alcoholic liquor is incidental or secondary to the primary activity of such place of business. An example of such place of business is a restaurant which is defined as “any other public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served pursuant to the required licenses and provided with adequate and sanitary kitchen and dining room equipment and capacity, and having employed therein a sufficient number of and kind of employees to prepare, cook and serve suitable meals for its guests.” “Tavern license” means a city license for the retail sales of alcoholic liquor in an enclosed place of business kept, used, maintained, advertised and held out to the public as a place that primarily serves alcoholic liquor for consumption on premises and in which providing entertainment or the serving of food is only incidental or secondary to the sale of alcoholic beverages for immediate consumption... Places of business within the tavern license classification include, but are not limited to, cocktail lounges, saloons and bars.”

Title 4, Chapter 60, 140(a) and 235 ILCS 5/6-16(a) prohibits the sale of alcoholic liquor

to any person under the age of 21.

The relevant section of 235 ILCS 5/6-28 is paragraph (b)(2) which states “No retail licensee or employee or agent of such licensee shall (2) sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public.”

The testimony at this hearing consisted of several hundred pages of transcript. In order for this decision to be fully understood a summary of relevant testimony will be presented.

With respect to Count 5, alleging a sale of alcoholic liquor to a minor on April 17, 2007, in violation of the Municipal Code and State Statute the City called Joseph Paoletti and police officer Tyrone Jackson as witnesses. Joseph Paoletti was born on March 27, 1988 and was nineteen on the date he testified. He worked for the Chicago Police Department trying to get liquor licensees to sell him liquor. On April 17, 2007, he went to the licensee's establishment at 2909 N. Sheffield at about 4:00 p.m. He entered the Mad River bar, went to the bar and purchased a bottle of Bud Light. He paid with a \$10 bill he received earlier from Officer Jackson. At this time, Officer Jackson identified himself and said that Paoletti was a minor. No one at the bar asked for identification prior to his purchase of the Bud Light. Officer Jackson works in a division of the Organized Crime called SAM (to stop the sale of alcohol to minors). He monitors city employees under the age of 20 to see if the agents of liquor establishments will sell that minor alcohol. He was working in this capacity on April 17, 2007, with a minor named

Joseph Paoletti. They went to Mad River at 2909 N. Sheffield and Jackson followed Paoletti as they entered the establishment. Joseph Paoletti asked the bartender for a Bud Light and the bartender gave it to Paoletti. Paoletti paid for the drink with a pre-recorded \$10 bill and received \$7.00 in change. The bartender did not ask for identification. When Officer Jackson felt the transaction was complete he told the bartender of his office and of the violation. The licensee did not dispute these facts but put into evidence in mitigation. He explained the bartender was suspended for two weeks. He explained the process employed to check identification of patrons and stated the licensee required its employees to undergo TIPS training, which is a course to observe identification and learn visual cues of intoxicated people. The licensee operates five Mad River establishments. All have liquor licenses and none have ever had a fine or suspension. Licensee's Exhibit 66 was observed in evidence. It lists the eleven times that the establishment at 2909-11 N. Sheffield has been tested under the Stop Alcohol to Minors Program since 1997 with the only positive test being that on April 17, 2007.

The City presented the testimony of Officer Stephanie Gonzalez on February 4, 2008, on the remaining counts. She has been a Chicago Police Officer for thirteen years and has been in her current assignment with License Investigations for three years. She does follow-up investigations on establishments for liquor violations. She received an assignment on February 28, 2007, to do a tavern vs. establishment investigation for the premises located at 2909-11 N. Sheffield. That is an investigation of businesses licensed as a restaurant with an incidental liquor license operating similar to a tavern. The 2909-11 N. Sheffield establishment had a retail food license, consumption on premises - incidental activity license and a public place of amusement

license. She first went to Mad River Bar and Grill on March 8, 2007. She arrived at 8:00 p.m. with Officer Keisha Howard. They were in plain clothes in a covert capacity. As they entered they were asked to present their identification by two men. As they stood in the vestibule two women asked if they wanted to buy a wristband for all you can drink from 8:00 p.m. until 10:00 p.m. The two women did not ask the police officers if they were on any sort of list and they had no list with them at the podium. The police officers entered the establishment. Officer Gonzalez described the place as pretty large with the tables, booths and chairs in the bar all occupied. People were mingling and there were approximately 200 people inside. The people standing and mingling were drinking and talking. It took Officers Gonzalez and Howard 20 to 25 minutes to obtain a table. No hostess took their names for a table and a waitress told Officer Gonzalez doesn't mandate who sits at the tables. They can sit and not eat. When Officer Gonzalez was seated she tried to place three orders and were told those items were out of stock. Officer Gonzalez did order nachos, French onion soup and a glass of wine. Officer Gonzalez left the premises at 10:30 p.m. During the time Officers Gonzalez and Howard were at Mad River that night, Gonzalez saw bartenders serving drinks and waitresses serving drinks and food. Food was served to from other tables. She saw people pay for drinks but did not see someone with a wristband obtain a drink.

Officer Gonzalez returned to Mad River at approximately 9:30 p.m. on March 16, 2007. She was in plain clothes and was accompanied by Officer Michael Panico and Officer Brian Kavanaugh. There were 50 people waiting in a line behind a rope for access to Mad River.

They were carded by two employees before they were allowed access. Wristbands were being sold by two ladies who were charging \$25.00 for wristbands which entitled you to all you could drink until midnight. Officer Gonzalez did not stand in line but went to the front, announced her office and asked for the manager. A person named Matthew Ochse who identified himself as the manager came. While waiting for Mr. Ochse to arrive, she watched wristbands being exchanged for \$25.00. The people selling the wristbands had no list of people, did not ask the purchaser's name and there was no uniquely identifying factor differentiating the purchaser of the wristbands from the other persons in line. The interior of the premises was full of people. The tables were filled and the bar was full and an excessive amount of people were standing about drinking and mingling. There was also a portable bar where people bought drinks. Officer Gonzalez saw no one eating the evening of March 16, 2007. The manager produced the public place of amusement license, the retail food license and the consumption on premises license. The manager stated wristbands were being sold only to people going to private parties. Officer Gonzalez noticed the patrons with wristbands obtain alcoholic beverages without paying in all areas of the establishment. The people selling the wristbands did not inquire if patrons were there for a private party and Officer Gonzalez did not notice any signs or decorations for a private party. Officer Gonzalez and Mr. Ochse took a tour of the kitchen and Gonzalez took photos in evidence as City's Exhibits 8, 9 and 10. Before her initial visit, Officer Gonzalez had seen a menu for Mad River on the internet and saw the same menu at the first visit. Gonzalez took no pictures on her first visit. In addition to the pictures of the kitchen, she took other pictures on March 16, 2007. These pictures, in evidence, as City's Exhibits 12 through 18, show the line waiting for admittance, an individual buying a \$25.00 wristband, and pictures of the

crowd in the interior of the bar. Officer Gonzalez testified that she saw no food depicted in the pictures of the kitchen, except for bottles of salad dressing and saw no food product in the pictures of the interior of the bar.

On cross, Officer Gonzalez stated her only purpose in going to Mad River was to investigate the premises and observe the operating procedures to see if it is operating as a tavern or a restaurant. One of the things she investigates is whether a place qualifies for an incidental license. There is no such thing as a restaurant liquor license in the city. A determination of percentage of food versus liquor is not the totality of the decision. There are multiple factors in conducting these investigations. Mad River did have a public place of amusement license that allowed it to charge a cover for entertainment. Officer Gonzalez agreed that part of her investigation into Mad River would include an investigation on how Mad River advertised its establishment; whether it held itself out to the public as a place where meals are regularly served; whether meals are regularly served; whether it had adequate and sanitary kitchen equipment and capacity; whether it had adequate and sanitary dining room equipment and capacity and the number and kind of employees to prepare, cook and serve suitable meals for its guests.

Officer Gonzalez also identified Licensee's Exhibit 2, as a memo she received in connection with her investigation of Mad River. It listed seven items she was asked to determine. They were:

1. How is the premises held out to the public on the outside
2. What is the extent of food service as far as menus, tables, chairs and the size of any bar
3. How many people are eating versus drinking

4. The extent of the kitchen facility
5. Is the premises primarily a restaurant or a tavern
6. Do the proper licenses exist
7. If the licensee is closed on weekdays

Also in that memo was an instruction to not make contact with the licensee until the third visit.

Her report on the March 8, 2007, visit concluded Mad River was operating as a tavern. She identified Licensee's Exhibit 3, as basically being an accurate description of the floor plan on March 8, 2007, but she did not know if that was the original floor plan. On that March 8, 2007, visit Officer Gonzalez did not determine if food could be ordered from the bar and she did not observe if there were condiments on the bar. People were seated at the tables and booths. People were eating in six of the booths. She asked for a menu and does not recall built-in menus. Several items were not available. She did not go to the kitchen. She had found advertisements for food on the internet but no advertisements for Trivia Night, Open Mic night or Stand-up Comedy night. She did not look at any print media for advertisements and did no kitchen inspection. She was there from 8:00 p.m. until 10:00 or 10:30 p.m. No facilities for dining were removed and there were servers in and out but she could not tell how many. She does not know how many employees were in the kitchen.

Her second visit was March 16, 2007, which was the day before St. Patrick's Day. There was a line outside but Officer Gonzalez did not observe any violation of overcapacity. The fact that two people were carding at the door was a factor in her conclusion this was being run as a tavern. Officer Gonzalez did admit there is nothing that says a place cannot card at the door and that carding could prevent under age drinking. She had not found food specials advertised before the first visit online and she did not check online a second time. On March 16, 2007, she

did not try to order food, or ask to sit down at a table or ask for menu and did not check if she could order food at a table, the bar or the booths. The kitchen was open. There were appliances for cooking in the kitchen such as a fryer, a grill and a prep table. When she opened the two large coolers in the kitchen, floor to ceiling coolers, there was food in them. She did not take pictures of the food in these coolers. She did not look for any storage of any food and does not know if there was any storage of food at Mad River. There were two employees in the kitchen and one was there for the sole purpose of preparing food for meals. There was staff busing tables and cleaning out plates, silverware and glasses. There was a live band at Mad River on March 16, 2007. She did no interviews as to whether Mad River held itself out as an entertainment venue. Officer Gonzalez agreed a liquor license can be incidental to a public place of amusement license. On neither day did Gonzalez check to determine how many people had been served meals during the entire day while Mad River was open. She never investigated whether Mad River has carry out food service on either day and , if so, how many carry out orders were sold. She made no investigations as to whether Mad River was open for lunch on either dates. She did not interview the woman selling wristbands except for asking the cost.

Matthew Ochse testified he worked for Mad River since 2002 and was the manager of the Chicago location from July 1, 2006, through the dates in question in this case. He was appearing voluntarily and described his relationship with the owner of Mad River as friendly. He was familiar with the operating procedures at Mad River in February, March and April of 2007. With respect to checking identification, hostesses would act as seaters and would help waitresses by checking identification as people were being seated. The establishment was open from 11:00

a.m. until 2:00 a.m. and anyone underage was welcome Sundays through Thursdays. On Friday and Saturday nights they would assign one to two staff people to check ID's. People under 21 were not allowed in unless it was like a family birthday. Younger kids were allowed with parents. His duties at Mad River included ordering, staffing, and all day to day operations. There were tables and booths throughout the establishment. The seating capacity was 175 to 180 with a maximum of about 200. Food service was available at the bar, tables and booths and generally they liked to have people eating seated. Food service was from opening at 11am until closing at 2am. The menu was the same except for Sunday lunch. There were condiments on the tables and the tables were not moved unless it was to accommodate a large crowd by putting two tables together. In February and March of 2007, Mad river was in the process of redoing its menu and during that time the triple dip, vegetable kabobs, calamari and clam chowder were taken off the menu. The booths had menus attached to them. There were reserved for restaurant-service-only signs on the booths.

Mr. Ochse testified that Mad River was open on March 8, 2007 and March 16, 2007. He identified Licensee's Exhibit 6, in evidence, as an advertisement for Mad River which stated food specials in effect for certain games during the NCAA Tournament. Lunch was served on March 8 and March 16, 2007. There was no set time for lunch as people can order off the menu from opening at 11:00 a.m. until closing. Carry out was also available. During this time period Mad River had about 50 employees dedicated to food and kitchen service. There would be four to five kitchen staff on a Thursday and an additional two on Fridays. There would be four to five servers on a Friday and one less on a Thursday. There was a kitchen manager employed on

March 8 and March 16, 2007, with the responsibility of running everything in the kitchen.

Matthew Ochse stated Mad River offered private party packages in March of 2007. It had a sales and event manager responsible for promoting these events. Food orders would be placed twice a week. Food service was busy on Thursdays and Fridays with Fridays being a little busier. There would be lunch service and then a lull until dinner service from 5 to 8pm or 6 to 9pm. There would be another lull then until about 11:00 p.m. when people would eat again. Ochse identified several pictures in evidence showing the kitchen and the food in the kitchen.

Matthew Ochse was working on March 8, 2007. There was a private party for Find a Cure for Leukemia and Lymphoma with an auction for a charity date with Miss Illinois. He did not encounter the police that day. He did encounter a police officer on March 16, 2007. The Police Officer was told wristbands were being sold for a private party and then the officer told him to have private party people check at the location of the private party and not at the hostess stand. She said nothing about Mad River selling wristbands to the public.

Mr. Ochse stated on cross that he is looking for work in the restaurant and hotel industry in Chicago, and Mad River is one of his references. The kitchen manager in March of 2007 was Brad Goss. He was a full-time employee on salary. The sales and event manager in February and March of 2007 was Ashley Sneddon. She was a salaried employee. He had a bonus structure based on profitability from sales of food and beverage. He did not know the percentage of profit from food versus profit from beverages. Mad River occasionally had a disc jockey who

would bring in his equipment. All private parties were held in areas designated for such parties. Each area had its own bar. Mad River maintained lists of the guests at those parties. The March 8th fundraiser was at the back bar and there was also an auction for a date with Miss Illinois. One needed a wristband for that party and hostesses collected the money which he believed was \$20.00. Employees would collect the money for wristbands for private parties.

There were private parties at Mad River on March 16, 2007, but Mr. Ochse could not remember who had those parties. The list of guests for private parties was kept at the hostess stand. People coming to private parties were required to stand in line if Mad River was at capacity. He remembers that private parties were occurring on March 16, 2007, because the police officer spoke to him about the parties. The hostess had the lists for those parties but he never showed the list to Officer Gonzalez. She did ask to see the lists.

Mr. Ochse stated people were working in the kitchen on March 16, 2007. There were probably four people working in the kitchen. The police officer did not ask him to open up the coolers to photograph the food items and she did not photograph the dry-storage area. Wristbands were not available for sale to the public at Mad River on March 8th or March 16th of 2007.

Michael Mastellone is the owner of Mad River Bar and Grille. There are five locations in total with one in Chicago. He bought the stock of an existing business in March of 2006. He identified Licensee's Exhibit 3, as the floor plan as it existed when he bought the Blue Iguana

and it was the same floor plan on March of 2007. He was not present at Mad River on March 8 or March 16, 2007. He views Mad River as an entertainment venue; a restaurant with the service of alcohol. There is a different entertainment activity each night to bring in customers. The food specials makes it different from other restaurants in the area. March 8th was a Thursday and Mad River had a band which brings in customers. In March of 2007, there was also food specials with drink specials. Mad River does not charge for entertainment but is licensed to do so. Mad River advertised the various entertainment it had in March of 2007. At that time, Mad River had the capacity to serve close to 300 meals on a given evening. The kitchen opens at 11:00 a.m. each day and closes when the establishment closes. On busy nights 16 people would be concerned with food service and on slow nights eight people. Company policy was to ID everyone at the front door. A hostess would do this during the week and a doorman would do it on weekends. The employee who sold alcohol to a minor was suspended for two weeks. Mad River sells wristbands to private parties and not to the public.

Ashley Sneddon was the Sales and Party Planner a Mad River in March of 2007. She ran different advertisements to market Mad River. She was responsible for having contracts executed and maintaining the records of private parties. There were three private event spaces available.

There were three private parties at Mad River on March 16, 2007. She found the contracts for those parties. Each party had a guest list. There was a guest list for a Tim Sherman party, and a contract for a party for Genesis Hey for March 16, 2007, and a Tommy Choi for that

date. The guest lists for these parties would have been placed by her at the hostess stand the evening of March 16, 2007. There were three women working as hostesses for the parties on March 16, 2007. Each was responsible for one party. People not on the guest list were not admitted on March 16, 2007, unless the host confirmed that person was invited to the party. Mad River never sold wristbands to the public. The March 8, 2007, private event was a fundraiser for Leukemia. The lady from the charity had a guest list that night.

With respect to Charges 1 and 3, the findings of the Deputy Hearing Commissioner that on March 8 and 16, 2007, the licensee engaged in the sale of alcoholic liquor as its principal activity are not supported by substantial evidence in light of the record as a whole. This Commissioner is well aware of the law standard of proof required for the City to meet the substantial evidence threshold. This Commissioner also acknowledges that there is evidence that on March 8 and March 16, 2007, during the specific time period in which Officer Gonzalez was present at Mad River Bar and Grille, the sale of alcoholic liquor may have been greater than the sale of food. That evidence in itself does not meet the burden of proof of a violation of this type. The evidence is that Mad River was open for business from 11:00 a.m. until 2:00 a.m. on these dates. Officer Gonzalez can only testify to the operations of the licensee for the time periods she was present on those dates. Officer Gonzalez had no idea of what the business was like before or after she left Mad River on March 8 and March 16, 2007. No Appellate Court case on point was found but the opinion of Judge Nancy Arnold in the case of Daley v. Late Night, Ltd., d/b/a Drink and Eat Too, 01 CH 3953, is instructive as what evidence would prove these types of charges. In that case, the City presented evidence similar to that from Officer Gonzalez that

there were patrons primarily drinking and not eating and most activity was around the bars with the dining area empty. Additional evidence was produced from Drink's own accountant that over a six month period alcohol sales were \$1,685,450.00 and food sales were \$301,855. While such evidence may not be required in all cases to prove this type of charge, the lack of this type of evidence is an important factor in this decision. These two counts are reversed.

With respect to Count 3 there is substantial evidence in the record to support the finding of the Deputy Hearing Commissioner that on March 16, 2007, the licensee by and through its agent sold, offered to sell or served an unlimited number of drinks of alcoholic liquor during a set period of time at a fixed price in violation of 235 ILCS 5/6-28. Counsel for the licensee suggested at oral argument that this finding contradicts the ruling in favor of the licensee on Count 2, since the evidence on both counts was the same. At first glance that argument seems to have merit but when one looks at the specific finding that the City failed to prove wristbands were offered for sale at a fixed price, the argument fails. As set forth in the previous review of evidence Officer Gonzalez did not state what the price of a wristband was on March 8, 2007. Without such evidence the City did not prove that charge. There was specific evidence that the price of wristbands on March 16, 2007, was \$25.00.

The evidence as to whether wristbands were sold to the general public on both dates was contradictory. Officer Gonzalez testified the public could purchase wristbands while the witnesses for the licensee, including Ashley Sneddon, testified only people on the guest list could purchase the wristbands. As pointed out by counsel for the licensee, the Deputy Hearing

Commissioner did find all witnesses including Ashley Sneddon credible but the Findings of Fact also specifically finds any witness that contradicted Officer Gonzalez to be less credible than Officer Gonzalez. It is not the function of the this Commission to reweigh the credibility of the witnesses. Credibility of witnesses is a fact to be determined by the finder of fact who has the opportunity to observe the witnesses as they testify. Based on that determination of credibility and the evidence in the record, the City met the substantial evidence standard on this count.

There is no dispute that the City met its burden as to Count 5 alleging a sale of alcohol to a minor in violation of the City Ordinance and state statute. The licensee presented only evidence in mitigation.

The final issue to be addressed is whether the 21 day suspension of all city licenses is appropriate. Initially it is the position of this Commissioner that this Commission does not have jurisdiction over anything but the liquor license and this decision deals only with the 21-day suspension of the liquor license.

The Deputy Hearing Commissioner did not indicate in his finding if the 21 day recommended suspension was concurrent for all of the counts he found in favor of the City. Since the state statute does not give this Commission the power to remand, it must make the assumption that the 21 day suspension was concurrent on all charges. Should a reviewing court feel such an assumption is improper, I would ask that it remand the matter to the Deputy Hearing Commissioner for clarification.

The fact I and my fellow Commissioners would not have imposed a 21 day suspension is not the issue before this Commission. The question is whether a 21 day suspension for the two charges proven is so arbitrary as to require an outright reversal. The answer is no. An outright reversal would result in no punishment at all for an admitted sale of alcohol to a minor. Since this Commission does not have the power to modify a suspension, and the 21-day suspension is not so arbitrary or capricious as to require outright reversal it stands.

The findings of the Deputy Hearing Commissioner as to Charges 1 and 3 are reversed and the findings on Charges 4 and 5 are affirmed. Charge 2 was not part of this appeal. The 21-day suspension of the liquor license of Blue Iguana Chicago, Inc. is affirmed.

OPINION OF COMMISSIONER KOPPEL

I concur with Chairman Fleming's opinion. The Local Liquor Control Commission's decision is affirmed.

IT IS THEREFORE ORDERED AND ADJUDGED That the order suspending the liquor

license of the appellant for TWENTY-ONE (21) days is AFFIRMED.

Pursuant to Section 154 of the Illinois Liquor Control Act, a Petition for Rehearing may be filed with this Commission within TWENTY (20) days after service of this order. The date of the mailing of this order is deemed to be the date of service. If any party wishes to pursue an administrative review action in the Circuit Court the Petition for Rehearing must be filed with this Commission within TWENTY (20) days after service of this order as such petition is a jurisdictional prerequisite to the administrative review.

Dated: March 27, 2009

Dennis M. Fleming
Chairman

Irving J. Koppel
Member

Stephen B. Schnorf
Member