



Message from the President



Dear Fellow NLLEA Members,

As we begin 2010, we continue to move ahead at a rapid pace toward the goals we set at our business meeting in Dallas last August. Our primary focus continues to be to provide tangible services and resources that can be of day-to-day value to our member agencies and to improve communication and support services for our membership. I would like to thank each of you for the effort and support you have provided toward this end.

Our membership is increasing every week. We now have over eighty-five agency members and over one thousand agency representatives, individual and associate members. Board members Steve Ernst, Rich Cologie, Jim Wilson and Charles Sumner have worked hard to reactivate

member agencies that we have not heard from in a while and to contact state, county, municipal and college law enforcement agencies that have not been members in the past. Over the next few months Rich and Jim will contact you for assistance in identifying agencies in your state that you believe should be members of this association. If you have any suggested agencies you can contact Rich and Jim through our web site at <http://www.nllea.org/contactus.htm>.

We are very close to rolling out improvements to our web site that we believe will be of great benefit to your agency in enforcement, budget and policy matters. In order to accomplish this, it was decided that we would need better server capability. Therefore we contracted for this service and our web site will be transferred from the PIRE server over the next month. PIRE will continue to provide the web design and maintenance for the immediate future. I

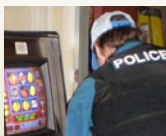
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NLLEA Officers

Ted Mahony
President

Steven Ernst
Vice President

Richard Cologie
Secretary/Treasurer

James Wilson
Sergeant-at-Arms

Charles Sumner
Immediate Past President

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would like to especially thank Howard Edelstein for his tremendous efforts in this project.

Very soon you will be able to go to a single page in the members only section of our site where you will be able to locate statutes, regulations, enforcement policies and procedures, enforcement programs, Drivers License security features, web sites, as well as agency contacts for agencies across the country. Also available will be the national liquor enforcement data project that you participated in last year as well as the results for liquor enforcement survey questions such as criminal background checks for license applicants or poker machine identification as a gambling device per se.

Over the next month the primary agency representatives in each state will receive a liquor enforcement data questionnaire. It will be a much-improved and easier to complete format compared to last year that will allow for narrative answers. This questionnaire will also include various survey questions pertaining to liquor enforcement, from which we will utilize the answers to provide you with snapshot results for a national comparison to your state. The questions were specifically designed to be of assistance to you in budget and policy matters. If you have a specific survey question that would be of use to your agency, please forward it to me at Frederick.Mahony@state.ma.us.

To complete this effort, I ask for your support in completing the questionnaire and providing information for the web site. Doing so is crucial to developing a complete and thorough resource of national liquor law enforcement information and I assure you that your time is very much appreciated by the association.

We are continuing on many courses toward the development of national liquor enforcement partnerships relative to the prevention of underage drinking and impaired driving. Our contract to provide professional support in furtherance of the STOP Act is well underway, and we are working with TEAM Coalition to develop a partnership toward responsible alcohol service, as well as enforcement, at professional and college sports venues.

We have submitted a proposal to the National Highway Traffic Safety Administration to develop and maintain a

nationwide campaign to prevent impaired driving through effective enforcement of Sales to Intoxicated laws by state and local liquor law enforcement agencies as well as to join liquor law enforcement with NHTSA's current impaired driving prevention programs. NHTSA remains a strong partner in the effort to improve public safety through the innovative enforcement of alcohol beverage laws. On behalf of the Association, I extend our sincere appreciation to Bob Hohn and Heidi Coleman for their continuing support of the NLLEA.

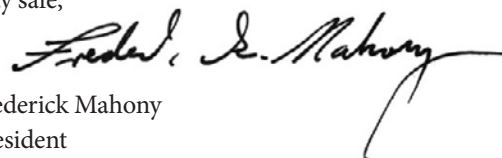
The Louisiana Office of Alcohol and Tobacco Control will host the 2010 NLLEA Training Academy in New Orleans June 6th through the 10th. Our most sincere thanks to Murphy Painter and our friends at Louisiana ATC for their hospitality and support. You can find more information on the 2010 Academy on our web site and on page 8 of this newsletter.

Phillip Calvert (Alabama) is working on a comprehensive paper relative to liquor law enforcement officers killed in the line of duty that will be distributed to the membership. Phillip has researched twenty-four possible nominations to the Circle and, when complete, will prepare a nomination package for the membership. I want to thank Phillip for taking on this issue that is so very important to all of us.

Our annual conference will be held in Anaheim California in August of 2010. We will be updating you on specific dates and our agenda of meetings and activities as they are decided. I strongly urge you to make your hotel reservations at the earliest possible date so that you do not end up at the overflow hotel.

Please remember, *In Unity There is Strength*, and with your support we will continue to develop the respect and recognition that liquor law enforcement officers deserve and provide you with information and tools to develop and protect your agencies.

Stay safe,



Frederick Mahony
President



This Just In

Convicted Cop Killer Set For Early Release

By Gabriel Roxas
WPSD Local 6 News - Paducah, Kentucky
Dec 11, 2009

LYON COUNTY, KY - The crime was almost unimaginable, and now some say so is the punishment. A jury convicted Timothy Doyle in 1999 for killing 27-year-old Brandon Thacker. Thacker was an investigator with the Kentucky Department of Alcoholic Beverage Control.

Thacker was on the Western Kentucky Parkway near Princeton on his way to an assignment. He began to pull over an erratic driver. That driver pulled up beside Thacker's car and fired three shots, killing Thacker. Doyle admitted to pulling the trigger but convinced a jury he suffered from mental illness and received a twenty-year sentence. Now Local 6 has learned he's set for release from the Kentucky State Reformatory at the end of the year.

"I'm a nice guy and a hero." Those were the words of Timothy Doyle ten years ago almost beaming with pride about killing an officer in the line of duty. Now he's just weeks away from freedom.

"It's preposterous," Commonwealth's Attorney G.L. Ovey said, "A Lyon County jury heard the evidence."

Ovey prosecuted Doyle for murder, but the defense convinced the jury Doyle suffered from paranoid schizophrenia and didn't know what he was doing was wrong.

Members of Thacker's family were outraged by the verdict of guilty but mentally ill of 1st degree manslaughter. The jury recommended the maximum sentence of twenty years. Ovey says his next disappointment came last year

when a parole board reduced that sentence to thirteen years. "We provide the man seven years credit? What kind of credit did Brandon Thacker have? None. Brandon Thacker will serve his sentence throughout eternity," Ovey said.

In a statement given to Local 6, Thacker's fellow members of the Kentucky Department of Alcoholic Beverage Control wrote, "The early release of Timothy Doyle rehashes painful memories of a terrible and senseless tragedy. Thacker's death caused immense grief for his friends and colleagues here at ABC."

"This is a classic example why the system is not respected. A court set the man's punishment at twenty years, but yet he doesn't do twenty years, he doesn't come close to doing twenty years," Ovey said.

Now ten years after boasting to television cameras, a killer could be free in time to celebrate the new year while another family endures another year without a father and husband.

Brandon Thacker's widow now serves as the national president of an organization that provides support to the surviving families of law enforcement officers killed in the line of duty. The Thackers daughter, who was eighteen months old at the time of Brandon's death is now twelve. ABC colleagues honor Thacker each year with a ceremony at his grave site.

Local 6 contacted the parole board for comment on this story. They referred us to the Department of Corrections. No one at the D.O.C. was available for comment. Timothy Doyle is scheduled for release December 30th ●

Bloomsburg Keeps Lid on Bar Area Brawls

By Andrew M. Seder
The Times Leader
February 8, 2010

When Leo Sokoloski attended King's College in the early 1980s, there were two bars within walking distance of the North Main Street campus and students rarely crossed paths with police.

Now, as chief of the Bloomsburg Police Department, Sokoloski is responsible for ensuring that thousands of Bloomsburg University students in search of a good time at one the Columbia County town's nightspots are safe, behave and obey the law.

He said that's overwhelmingly the case. Thanks to a very visible police presence around the popular bars on East Main Street and East Street, potential problems are nipped in the bud before they can occur.

"We used to see pushing, shoving and fighting when the bars emptied out at 2:30 (a.m.)," Sokoloski said. But saturation patrols have made a difference, though they haven't eliminated crimes such as public drunkenness or disorderly conduct.

As in many college towns, including Wilkes-Barre, the relationship between students and full-time residents and businesses can sometimes be strained.

But if handled properly, they can be more symbiotic than conflict-filled, Bloomsburg official say.

"I think that most people enjoy the students, respect the students and understand the value a university brings to the town," said Megan Hummel, the manager of Downtown Bloomsburg Inc., an offshoot of the Columbia-Montour Chamber of Commerce.

She said the police officers do a good job "making their presence known without being overbearing."

Dan Knorr, the town's mayor and a Bloomsburg University graduate, said that making sure all residents are obeying the law, regardless of whether they're students, is an important key to keeping incidents to a minimum.

"The students know we're serious about it," Knorr said, adding that the police know the students are there to have a



Bloomsburg patrolmen Michael Fosse, left, and Ken Auchter stand in front of Bill Hess' Tavern on Main Street as students walk by. The borough department routinely maintains a visible police presence around downtown bars at night to keep problems to a minimum. Don Carey/The Times Leader

good time and if they do it legally and responsibly, police won't interfere.

Sokoloski said that's what officers want to do. They're not there to ruin anyone's night.

"We're not hunting DUIs. They're (officers along Main Street) a deterring factor," he said.

Driving under the influence arrests aren't a major factor in Bloomsburg, the chief said, since "everything's within walking distance (from campus and most off-campus housing)."

He said that "by being pro-active and progressive, we can reduce and prevent a lot of the collateral stuff"

Both the chief and Hummel said that they see the bars and late night restaurants as part of the fabric of the town, and that if they weren't there the students would find some other place to socialize. Instead of having them and their money leave the town, the businesses keep the students local and help the tax base.

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Bloomsburg - continued from page 4

“They have some disposable income and they’re spending it,” Sokoloski said.

When Sokoloski was a student at King’s, he said many students didn’t even go to the far side of Public Square.

“There just wasn’t anything there. Boscov’s and then it was run down,” he recalled. But thanks to a recent rebirth of the downtown, businesses are moving to Main Street. The movie theater, several restaurants and a strip of bars have opened over the past two years.

Among the crowds they’re drawing are students from King’s and Luzerne County Community College and Misericordia, Penn State and Wilkes universities. On many nights, students and non-students are elbow to elbow at hot spots like Bart and Urby’s, The Hardware Bar, Bourbon Street Saloon, Club Reflex, Rodano’s, Senunas’ and Luna.

In other area college towns, like Bloomsburg, Stroudsburg, Selinsgrove and Lewisburg, the college crowds at downtown bars hail almost exclusively from one school. That lessens inter-collegiate scuffles that can flare up without alcohol but be escalated by it.

In Stroudsburg, home to a bustling main street that’s about a mile from East Stroudsburg University’s campus, three bars within three blocks keep bartenders and police busy. In Stroudsburg, as in Bloomsburg, highly visible saturation patrols are in place between midnight and 2 a.m. Positioned along Main Street between Sixth and Eighth streets, officers are there to keep an eye on things and quickly respond when needed.

Which is a weekly occurrence, said Stroud Area Regional Police Department Lt. Brian Kimmins.

“It’s always good for a couple of fights Thursday, Friday and Saturday nights,” Kimmins said. But it’s not only college students that are involved.

“It’s 50/50,” Kimmins added.

Saturation patrols, partially paid for by grant money from the state Liquor Control Board, help but with three municipalities served by the department, officers can’t all be on Main Street all the time. Still, there are at least two officers, one often in plain clothes, dedicated to patrolling Main Street between midnight and 3 a.m. those three nights.

“I’d hate to see what it would be like if we didn’t have those additional patrols,” Kimmins said. “We’ve quelled a whole lot of problems once we started quality of life patrols,” Kimmins said, referencing the dedicated Main Street patrols funded by the state grant.

Wilkes-Barre Chief of Police Gerard Dessoye said the city has 20 more officers than it did a few years ago but declined to specify how manpower is being deployed to handle the increase in downtown activity.

In Reading, where Albright College, Alvernia College and Reading Area Community College are located – and a Penn State campus and Kutztown University are both within 17 miles of the city – Police Chief William Heim said students aren’t any better or any worse behaved than the majority of city residents.

“We have our moments,” Heim said, “but the college kids don’t pose any more of an issue than the others that attend bars.”

He speculated one reason may be that many of the bars in Reading are “neighborhood corner bars” that can’t attract large crowds. The one nightclub that caters to all students, Club 1402, hasn’t been a problem, Heim said.

“We just don’t have the issues here,” Heim said.

Reading Mayor Thomas McMahan said that having the colleges so spread out probably factors in.

“There’s not much interaction between students from the two,” he said of the city’s two private schools, Alvernia and Albright, which are about eight miles apart. Alvernia has an enrollment of 2,846 students, whole Albright has 2,222. Reading Area Community College, in the heart of the city, has an enrollment of about 3,000. By comparison, King’s College has 2,410 and Wilkes University has 4,777.

McMahan added that he and the presidents and deans of all five colleges in Berks County are in constant contact and meet regularly to discuss issues and ways to keep problems to a minimum.

“That’s what you need to do, keep in constant contact and stay on the same page,” he said.

Andrew M. Seder, a Times Leader staff writer, may be reached at 570-829-7269. ●

Warning: New Drinks May Reveal Themselves to Have Alcohol Only Upon Closer Inspection!

By Jermaine Galloway
Boise Police Department

I currently work the university district around Boise State University. I teach alcohol (and drug) classes all over the U.S. During these classes to law enforcement, educators, coalitions, parents and community members, many do not know that some of energy drinks that they have become familiar with contain alcohol. Many youth are drinking these drinks right in front of us, and in some cases we have no clue. Some of the popular drinks are FOUR Max, Joose, Sparks and Tilt. Though Sparks and Tilt are alcopops, they are widely still considered alcoholic energy drinks. Many of these drinks contain 6-12% alcohol depending on the state they are being sold in. Some of the cans are as large as 24 ounces. This could make one of these drinks the same equivalent as 6 regular beers!

We are finding that these “beers” are very popular among high school and college age girls. We are seeing higher BAC’s (blood alcohol content) among young girls. Also, during many of the classes that I teach, I find that a large percentage of law enforcement and educators don’t even know that some energy drinks contain alcohol. I am frequently told “I have seen that in my classroom” by educators. I have also had law enforcement officers make statements such as “there is alcohol in energy drinks”? With the popularity of energy drinks and the high alcohol content, we are seeing BAC increase especially among young adults. As we know, the more intoxicated people are, the larger community hazard they become. Recently, I taught a class at a university to all of their security and law enforcement personnel. About 2 months later one of them contacted me and let me know that they had recently responded to a problem in the dorms. When they talked to the young man who was causing the problem he told the security officer that the drink he was holding was just an energy drink. The security officer through the training he had received quickly identified it as an alcoholic energy drink, which was a clear violation of the dorm policies. He said he had no clue prior to the training.

Many of these cans look similar to the non-alcoholic version of the drinks, and others are very difficult to identify as alcohol. As we know when driving by an individual or a group of individuals in a patrol car, it can be very difficult to identify what (if anything) they might be holding.



When you add in these drinks to the mix, it only makes the law enforcement officers job that much more difficult. Because of this we at the Boise Police Department have put a heavy emphasis on educating our community. Recently I conducted a training for our Chief of Police, community leaders and the Mayor’s staff. We have begun conducting community trainings for parents, and we are in the process of setting up training for approximately 1,400 City of Boise employees. We are closely monitoring the sales of these drinks, and during our compliance checks we have our minors attempt to purchase alcoholic energy drinks. Just prior to Christmas we did a news interview with our channel 2 affiliate in an attempt to spread the word to parents. It is our hope that all of these efforts will help raise community awareness about these beverages.

Many of us are aware of these drinks, but please don’t take for granted how little our community really knows and understands in regard to these “beers”. If you can, take the opportunity to educate your teachers, law enforcement and community members regarding these drinks. ●

In Memoriam



Senior Agent Tim Mangum of the Wyoming Department of Revenue Liquor Division lost his battle with cancer on October 7, 2009. Tim has been cremated and the U.S. Navy will bury his ashes at sea from a topside ceremony from a nuclear submarine. Tim was a retired Chief Petty Officer from the Navy and served twenty years in the submarine service. Upon retirement Tim lived in Georgia and Washington before moving to Wyoming. Tim spent the last ten years working as an agent in the enforcement section of the Wyoming Liquor Division. Tim was appointed by Governor Dave Freudenthal to serve on the Governor's Council on Impaired Driving. Tim also served as a member of the National Alcohol Beverage Control Association (NABCA) Regulatory Committee. Tim was a certified TIPS trainer and led a team that developed the Management of Alcohol Policies and Procedures program currently being taught in the state of Wyoming. Tim leaves behind his wife Marsha and his three dogs, Cheyenne, Buddy and Max.

Fourteen Middletown Ohio Bars Cited on Illegal Gambling Charges

By Julie Hinds
Ohio Investigative Unit

Fourteen Middletown area bars have been cited for illegal gambling and other violations after undercover agents from the Ohio Investigative Unit and officers from the Middletown Police Department conducted an investigation. The investigation came on the heels of a complaint received by the Ohio Investigative Unit.

“Enforcing the liquor laws in the state of Ohio includes enforcing illegal gambling within liquor permit establishments. Illegal gambling often leads to other criminal activity occurring within the permit premise,” said OIU Executive Director Glenn Taylor. “The support from our partner law enforcement agencies made this operation possible.”

More than \$1.2 million and 23 gambling machines were seized after a search warrant execution was completed. In all, 217 citations were issued including: operating a gambling house, electronic video gambling device, recklessly permitting public gambling, and game of chance for profit or scheme of chance.

Monroe and Trenton Police Departments, and the Butler



County Sheriff's Office assisted in search warrant executions on the locations.

The case will be turned over to the Ohio Liquor Control Commission. Penalties may include fines, suspension and/or revocation of the liquor permit. Agents may meet with Middletown prosecutors for possible criminal charges. ●

2010 Training Academy Set for New Orleans!

Plans for the 2010 NLLEA Training Academy are well under way. Louisiana ABC is hosting this year's academy. Thanks to Commissioner Murphy Painter and Captain Trevor McDonald and everyone else involved for working so hard to make sure we have everything we need to have a successful academy. Make plans now to send your staff to this academy.

The Academy kicks off promptly at 1200 on Sunday, 6 June, 2010 and ends with graduation at 1700 on Friday, 11 June, 2010. It will be held at the Inn on Bourbon which is located in the heart of New Orleans. The rooms are \$95.00 per night. Please call the hotel directly for reservations. Specify the NLLEA Training Academy to insure you get the reduced rates. The direct number is 504-524-7611 or 800-535-7891. The cutoff date for rooms is 5 May, 2010.

The announcement, registration forms, and transportation forms are posted on the website. Please send the application forms to me as soon as possible so we can efficiently plan for a great academy. The cutoff date for registration is 5 May.



The class schedule is 90% completed and will be posted on the website soon along with a synopsis of each class. More detailed information will follow as it becomes available. As always if you have any questions or suggestions, please contact me.

Chuck Conkling
NLLEA Training Coordinator
919-481-4998 (Mobile)
cconkling@cwcinva.com

Kentucky ABC Officer Receives Meritorious Service Award

On September 21, 2009 Officer Steve Newell from the Kentucky ABC received a Meritorious Service Award from the Lexington Division of Police for the personal bravery he exhibited in rendering assistance to a Lexington Police Officer at a structure fire scene.



On December 30, 2008, at approximately 2:00 a.m., Lexington Officer Gary Thurman was patrolling his beat when he observed flames emanating from a second story window of an apartment building. By radio he requested the assistance of EMS, and went toward the building to alert sleeping residents.

Officer Newell happened to be in the vicinity when he heard Officer Thurman's radio traffic about the structure fire. Without hesitation, he immediately drove to the scene to render assistance.

Disregarding the potential risk to his own safety, Officer Newell located Officer Thurman and followed him into the building to make sure all occupants were notified and

evacuated. Ignoring the flames on the second level, both officers knocked on apartment doors on the first level.

At one point, both officers entered an apartment and located two elderly residents who were unaware the floor above them was on fire. These residents were confused and reluctant to evacuate. As the smoke became more evident on the first level, the officers convinced the residents that they needed to leave, and helped them gather coats and physically assisted them outside to safety.

The personal bravery that Officer Newell exhibited as he disregarded his own safety to assist another officer and the citizens in the building is truly admirable and greatly appreciated. Due to the combined efforts of the officers, no one was injured in the blaze.

Congratulations to Kentucky ABC Officer Steve Newell on receiving the Lexington Division of Police Meritorious Service Award! ●



Liquor Enforcement Around the Nation

ABRA's Sign Advertisement Enforcement Month: December 2009

By Chief Johnnie E. Jackson, Jr
 District of Columbia Alcoholic Beverage Regulation Administration

The Alcoholic Beverage Regulation Administration (ABRA) in the District of Columbia designated December 2009 as "Sign Advertisement Enforcement Month." ABRA investigated excessive liquor advertisements posted in windows of establishments in the District of Columbia as an issue of safety. This initiative addressed a number of complaints received by ABRA regarding Class A and Class B licensees completely covering their windows with advertis-



ing for alcoholic beverages. ABRA received public safety concerns from the Metropolitan Police Department (MPD) related to this problem, as the vision of officers on patrol is obscured by these sign advertisements. MPD raised a need for greater enforcement in this regard after the owner of a liquor store was killed inside her establishment during an armed robbery. MPD requested ABRA's aid in reinforcing the current statutes pertaining to the advertisements of alcoholic beverages in Class A and Class B establishments.

In the District of Columbia advertisements relating to alcoholic beverages can only be displayed in the windows of Class A and Class B licensees if the total area covered



by the advertisements does not exceed 25% of the window space. In addition, advertisements relating to alcoholic beverages cannot be displayed on the exterior or interior of any door.

ABRA investigators conducted Regulatory Inspections at 176 establishments resulting in violations at 18 of those establishments within the month of December. The violations were written up in investigative reports and presented to the Alcoholic Beverage Control (ABC) Board for adjudicative action.

The majority of licensees expressed safety as a reason for the excessive advertisements covering their establishments. Specifically, the merchants stated they were utilizing the advertisements to conceal the placement of cash registers to patrons from outside the establishment. Other licensees stated that the advertisements were put up by vendors who service their stores as a means for advertising a specific product.

Licensees were agreeable to discussing the safety concerns raised by MPD and ABRA. Through the regulatory inspections performed, a greater understanding between enforcement agencies and licensees was able to be reached, and all licensees were brought into compliance with this regulation. ●

LA/Metro – Grasshopper Bar Takedown

On October 9, 2009, the California Alcoholic Beverage Control (ABC) revoked the alcoholic beverage license of Grasshopper Bar, located at 5100 Fountain Avenue, in the city of Los Angeles.

The LA/Metro District Office worked on a case involving the Grasshopper bar in the Hollywood area for five months after a neighborhood complaint for narcotics sales. Undercover Investigators purchased cocaine and crack cocaine on 12 separate occasions from three patrons and a female bartender. The bartender also furnished Investigators with depressant pills on two occasions and snorted lines of cocaine in front of them.

The bar was a major concern to local law enforcement and was known as a haven for drug use and sales. Two of the drug dealers were known to deliver the money from their illegal sales to a Los Angeles area gang. The Los Angeles Police Department Hollywood Narcotics Division was brought on board during the investigation and assisted with surveillance.



ABC investigators Patrick Bullock and Bradley Beach revoked the license of the Grasshopper Bar in Los Angeles.

On November 14, 2006 a search warrant was simultaneously served at the bar and on one of the dealer's houses. Several ounces of cocaine were found and a Mack 10 automatic firearm was confiscated. Four suspects were arrested on felony charges and are awaiting sentencing. The administrative process has been completed and the Grasshopper bar license has been revoked. ●

CONGRATULATIONS! ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★ ★

NLLEA's Secretary/Treasurer Rich Cologie Promoted to Deputy Director at OIU!



Ohio Investigative Unit Executive Director Glenn Taylor has named Richard Cologie as deputy director in charge of Administration.

Cologie will be responsible for overseeing policies, fleet management and finances for the unit.

He has been an agent with the state of Ohio since 1992, first with the Department of Liquor Control and now with OIU. During his time with OIU, Cologie has served as Agent-In-Charge of both the Athens District Office and Administration. As an Assistant Agent-In-Charge he oversaw the agency's statewide public relations program.

Congratulations Rich!



The Law Corner

“You Can Run but You Can’t Hide”

by Aidan J. Moore, JD*



In this case, the plaintiff, Vino Fino Liquors, Inc. (Vino Fino), was denied a license to sell alcohol under Chicago Municipal Code §4-60-040. The denial was based, in part, upon a belief of the licensing board that the applicant was seeking a new license in order to void their past

record and to avoid the enhanced administrative penalties associated with multiple acts of selling alcohol to a minor. This case offers a tremendous look at the impact of licensing boards and the interpretation of ordinances.

In September of 2009 the Court of Appeals of Illinois, First District, Second Division rendered their opinion in *Vino Fino Liquors, Inc. (Appellant) v. License Appeal Commission of City of Chicago (Respondent)*, No. 1-07-3269.

Plaintiff, Vino Fino Liquors, Inc. (Vino Fino), appealed from the order of the circuit court of Cook County denying the complaint for administrative review it filed against defendants (collectively, the City). In this appeal, Vino Fino argued that: (1) the City’s denial of its application for a packaged goods liquor license was against the manifest weight of the evidence, and (2) in denying its license, the City misapplied section 4-60-040 of the Chicago Municipal Code (Chicago Municipal Code §4-60-040).

The Facts of the Case

In July 2001, Nilsa Gonzalez purchased Paco’s Liquors, Inc. (Paco’s Liquors), a licensed packaged goods liquor store located in Chicago. Gonzalez became the president and sole shareholder of Paco’s Liquors. In January 2004, the City cited Paco’s Liquors for the sale of alcohol to a minor, which resulted in a voluntary seven-day closing of the establishment. Approximately four months later, the City issued a second citation to Paco’s Liquors for selling alcohol to a minor.

On July 23, 2004, Gonzalez filed an application for a new packaged goods liquor license for a new corporation, Vino Fino, which was located at the same address where Paco’s Liquors was licensed to operate. Gonzalez was the presi-

dent and sole shareholder of Vino Fino. After receiving Vino Fino’s application, the LLCC notified Gonzalez that the application review period would be extended.

On September 10, 2004, while Paco’s Liquors’ second citation for sale of alcohol to a minor was pending resolution, the LLCC initiated proceedings to revoke the liquor license of Paco’s Liquors. Ten days later, Gonzalez and Paco’s Liquors settled that citation for a \$2,000 fine, and the LLCC ended the revocation proceedings. The same day, the LLCC’s director, Scott V. Bruner, sent Gonzalez a letter denying Vino Fino’s application for a packaged goods liquor license. The letter stated: “The application for a packaged goods license is disapproved because the issuance of a liquor license to the applicant will create a law enforcement problem.

The Municipal Code allows this Commission to disapprove a license ‘if the issuance of such license would tend to create a law enforcement problem.’ The president and 100% shareholder of the Vino Fino Liquors, Inc., Nilsa Gonzalez, is the current president and 100% shareholder of Paco’s Liquors, Inc.[,] which is issued a license at this address, 2558 W. Division Street. Ms. Gonzalez and Paco’s Liquors[,], Inc.[,] have an established a [*sic*] negative license history at 2558 W. Division.”

The letter further stated, “because Ms. Gonzalez has not prevented the sale of alcohol to minors under Paco’s Liquors, Inc., this Commission sees no reason why she would act differently under Vino Fino Liquors, Inc.[,] and will create a law enforcement problem if issued.”

Vino Fino then appealed the denial of its application for a packaged goods liquor license to the LAC, which conducted an evidentiary hearing. Richard Haymaker, deputy director of the LLCC, was the City’s sole witness. Haymaker testified that he reviewed approximately 10 to 15 liquor license applications per week. The review process included a review of the application file, an investigation into the license history of the individuals applying for the license, and an investigation of the location of the business.

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Haymaker further testified that he reviewed Vino Fino's application. During the normal course of review, Haymaker investigated the license history at the establishment's location and investigated whether Gonzalez held any other licenses. He learned that Paco's Liquors received four citations for the sale of alcohol to a minor: one in 1994, one in 1995, and two in 2004. The first two citations were issued while Paco's Liquors' was under the control of its previous owner, Nelson Colon, and the latter two were issued during Gonzalez's ownership of Paco's Liquors. The LLCC did not consider the first two citations in its denial of Vino Fino's application because they occurred before Gonzalez acquired Paco's Liquors.

Haymaker further testified that the LLCC denied Vino Fino's license because an approval of the application would "have allowed an existing licensee escape their license history." Specifically, the issuance of a license to Vino Fino would have impeded the enforcement of section 4-60-181(d) of the Municipal Code of Chicago, which provides for the immediate revocation of a liquor license upon the third sale of alcohol to a minor violation within three years. (Chicago Municipal Code §4-60-181(d) (amended October 31, 2007)). According to Haymaker, if Gonzalez were issued a packaged goods liquor license for Vino Fino and committed another violation for the sale of alcohol to a minor within three years, the LLCC would be unable to enforce the automatic suspension provision of section 4-60-181(d). Although Haymaker testified that the LLCC could attempt to hold Paco's Liquors' prior license history against Vino Fino in future disciplinary proceedings, he believed that it would be a "very difficult case." On cross-examination, Haymaker acknowledged that he did not contact Alderman Ocasio, the alderman in whose ward Vino Fino was located, the local police district commander, or any community group before the LLCC denied Vino Fino's application.

After the City rested its case, Vino Fino called 14 witnesses: 2 aldermen, an officer testifying on behalf of the 14th police district, the director of Cook County Commissioner Roberto Maldonado's office, the developer of age-verification software installed at Paco's Liquors, the director of the Division Street Business Development Association, 7 local residents, and Gonzalez.

Gonzalez testified she made several improvements to Paco's Liquors after purchasing the store in 2001. She installed an automated cash register system and also installed several security cameras in the interior and the ex-

terior of the establishment that she believes have helped deter crime in the area immediately surrounding Paco's Liquors and Vino Fino.

Gonzalez further testified that when she purchased Paco's Liquors, she was not aware of the two violations for sale of alcohol to a minor under its previous owner. She discovered these violations when she appeared before the LLCC in January of 2004. After receiving her second violation for sale of alcohol to a minor, Gonzalez installed an age-verification software system to prevent the future sale of age-restricted items to minors.

During direct examination, Gonzalez was asked if she had decided to create a new corporation and why she had made that decision, to which she replied:

"At that time, yes. I felt that I was in trouble and I needed to have a better way of handling the business because now I didn't know what I was involved with the prior violations, so I followed the regular - the law, you know, with [my attorney's] advice, and I put in for a new license, and I had to go back to all the community like once again, and the police commissioner, the community members, the alderman, and filled out the applications, got the proper notification, and moved in that way."

On cross-examination, Gonzalez testified that as a result of her second sale of alcohol to a minor violation, she voluntarily closed Paco's Liquors until the age-verification system was installed. However, she denied that her application for a new packaged goods liquor license was an attempt to erase her disciplinary history at Paco's Liquors. Gonzalez admitted that her father had worked at Paco's Liquors for approximately 30 years and that he was responsible for the first sale of alcohol to a minor under her ownership. Gonzalez did not work at Paco's Liquors until she purchased the store in 2001.

Alderman Manuel Flores of the 1st ward and Alderman Billy Ocasio of the 26th ward each testified that Gonzalez had a good reputation and that she was active in the community. Neither alderman believed that the issuance of a new packaged goods liquor license to Gonzalez would have created a law enforcement problem. On cross-examination, Alderman Flores admitted that he was unaware Gonzalez had already been operating a liquor license establishment, but stated that his opinion remained the same.

Officer Anthony Robles, a patrol officer in the Chicago

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police department, testified on behalf of the 14th police district. As a law enforcement officer, Officer Robles was familiar with the area around 2558 West Division Street. He was not aware of any law enforcement problems associated with the liquor license and believed that the external security cameras on Vino Fino's premises prevented law enforcement problems. On cross-examination, Officer Robles admitted that although he had discussed the license history of the location with Commander Avila, they had only discussed three prior violations for the sale of alcohol to a minor.

Wayne Worthington, an expert in the area of computer technology for age verification and driver's license systems, testified that Vino Fino purchased and installed an age-verification software system he developed. The system required a store clerk to scan a patron's identification or manually enter a birth date before the sale of an age-restricted item, such as alcohol or tobacco, was completed. Worthington opined that the age-verification system materially decreased the possibility of sales of alcohol to minors at Vino Fino. On cross-examination, Worthington admitted that there was a possibility that the age-verification system could be uninstalled.

Steve Shavers, director for Cook County Commissioner Roberto Maldonado's office, testified that Commissioner Maldonado's office fully supported Vino Fino's packaged goods liquor license. Shavers had never heard of any community or police complaints about Vino Fino and, in his opinion, the issuance of a new packaged goods liquor license to Vino Fino would not create a law enforcement problem.

Enrique Salgado, executive director of the Division Street Business Development Association, testified that Gonzalez had a good reputation in the community and that she was not responsible for any law enforcement problems. He further testified that Vino Fino's use of age-verification technology made it a model business for the community.

Seven local residents ... testified that Gonzalez had a good reputation in the community and that Vino Fino's external cameras reduced crime in the neighborhood. At the conclusion of the hearing, the LAC affirmed the LLCC's denial of Vino Fino's packaged goods liquor license. The LAC found that Gonzalez had reincorporated as Vino Fino to "either wipe the slate clean of previous violations and start anew or to avoid responsibility for previous violations." The LAC determined that the issuance of a license to Vino

Fino would allow Gonzalez to avoid the responsibility and consequences of her past violations. The LAC explained: "To allow licensees to run up a history of violations and then when their prior bad acts have their licenses on the brink of revocation to avoid responsibility for that history and wipe the slate completely clean by changing only the name of the entity that runs the business would not serve the interests of the community. Such a policy could virtually preclude the revocation of any license."

The LAC further found that the LLCC's denial was reasonable and did not constitute an abuse of discretion.

However, one member of the LAC, Commissioner Koppel, filed a dissent, finding that the LLCC's decision to deny Gonzalez a license should be reversed. Commissioner Koppel stated: "The Mayor's License Commission has denied this application because under the previous corporation there were two violations for selling liquor to minors. One of these violations took place when the applicant was not involved in the corporation. The second violation occurred on June 18, 2004 and the applicant had an interest in the corporation."¹

Commissioner Koppel determined that the testimony in favor of Gonzalez was "impressive" and that Gonzalez's prior history could be taken into account in future disciplinary proceedings.

Vino Fino subsequently filed a petition for rehearing alleging that the LAC's denial of a packaged goods liquor license was in error. The LAC denied the petition. Vino Fino then sought review in the circuit court of Cook County. The circuit court remanded the cause to the LLCC to reconsider the application relying only on the violations that took place after Gonzalez purchased Paco's Liquors.

The LLCC again denied Vino Fino's application for a packaged goods liquor license because the issuance of a license would create a law enforcement problem. The LLCC explained:

"Taking these two violations into account, the LLCC has no reason to believe that Gonzalez, who has not prevented the sale of alcohol to minors under Paco's Liquors, Inc., will act differently under Vino Fino Liquors[,] Inc. In addition, since the corporate license applicant is also entirely owned by Nilsa Gonzalez, and in light of her testimony at the hearing before the License Appeal Commission, it is clear that the sole purpose of this application is to attempt to erase her license disciplinary history. The LLCC has de-

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terminated that allowing a licensee with a track record of violations to shed its disciplinary history undermines the regulatory process, endangers the public, and poses a law enforcement problem.”

The LLCC also noted that while this matter was pending on appeal, Paco's Liquors incurred another violation for the sale of alcohol to a minor. The LLCC stated, “[w]hile not considered as a part of Vino Fino's original application for a packaged goods liquor license, this additional violation only solidifies the view that under Gonzalez's ownership the corporation has failed to prevent the sale of alcohol to minors.” Thereafter, the circuit court of Cook County affirmed the LLCC's decision, and Vino Fino filed the appeal.

Editor's Comment

Because of the length of this opinion we are prohibited from publishing the remainder of the Court's analysis of this appeal. If you would like to read the remainder of the case, you can download the case by visiting the NLLEA website at <http://www.nllea.org/lawarticles.asp> (members only section of the website). ●

* Aidan Moore served as NLLEA President from 2003-2004.

¹ Contrary to Commissioner Koppel, our review of the record reveals that Paco's Liquors had four violations for selling liquor to minors at the time of the hearing. Two of the violations took place while Gonzalez owned the business, and the other two took place under Paco's Liquors' previous ownership.

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We're looking for articles for the Winter 2010 issue of the *NLLEA Today*. If you would like to contribute an article, news about your agency and its programs, or career updates to the next issue, please submit to the address below by **April 9, 2010**.

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