

Licensing (Licensing and Gambling) Sub-Committee

Thursday, 9th February, 2012
at 9.30 am

PLEASE NOTE TIME OF MEETING

Conference Room 3 - Civic Centre

This meeting is open to the public
Members

Councillor Cunio
Councillor Osmond
Councillor Parnell

Contacts

Democratic Support Officer
Sharon Pearson
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PUBLIC INFORMATION

Terms of Reference

The Sub-Committee deals with licences for which the Council is responsible under the Licensing Act, 2003 and Gambling Act 2005, including:-

- Personal licences for the sale of liquor Licensing Act 2003;
- Premises licences, various permits, variations and reviews (Licensing Act 2003 and Gambling Act 2005);
- Club certificates, variations and reviews Licensing Act 2003;
- Registration and deregistration of designated premises supervisors Licensing Act 2003;
- Determination of police objections to temporary event notices Licensing Act 2003

Relevant Representations

Those who have made relevant representations may address the meeting about the matter in which they have an interest.

When dealing with Licensing Act matters the Sub-Committee can only take into account the following statutory Licensing Objectives:-

- prevention of crime and disorder
- public safety
- prevention of public nuisance
- protection of children from harm

Likewise, when dealing with Gambling Act matters the Sub Committee can only take into account the statutory Licensing Objectives below:-

- Preventing gambling being a source of crime
- That gambling is conducted in a fair and open way
- To protect children and other vulnerable children from harm

Southampton City Council's Seven Priorities

- More jobs for local people
- More local people who are well educated and skilled
- A better and safer place in which to live and invest
- Better protection for children and young people
- Support to the most vulnerable people and families
- Reducing health inequalities
- Reshaping the Council for the future

Smoking policy

The Council operates a no-smoking policy in all civic buildings.

Mobile Telephones –

Please turn off your mobile telephone whilst in the meeting.

Fire Procedure –

In the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

Access –

Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

Dates of Potential Meetings: Municipal Year 2011/12

2011	3 NOVEMBER
19 MAY	17 NOVEMBER
2 JUNE	1 DECEMBER
16 JUNE	15 DECEMBER
30 JUNE	2012
14 JULY	5 JANUARY
28 JULY	12 JANUARY
11 AUGUST	26 JANUARY
25 AUGUST	9 FEBRUARY
8 SEPTEMBER	23 FEBRUARY
22 SEPTEMBER	8 MARCH
6 OCTOBER	22 MARCH
20 OCTOBER	5 APRIL
	19 APRIL

CONDUCT OF MEETING

Terms of Reference

The terms of reference are contained in the Council's Constitution.

Business to be discussed

Only those items listed on the attached agenda may be considered at this meeting.

Rules of Procedure

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

Quorum 3

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

Disclosure of Interests

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "personal" or "prejudicial" interests they may have in relation to matters for consideration on this Agenda.

Personal Interests

A Member must regard himself or herself as having a personal interest in any matter

- (i) if the matter relates to an interest in the Member's register of interests; or
- (ii) if a decision upon a matter might reasonably be regarded as affecting to a greater extent than other Council Tax payers, ratepayers and inhabitants of the District, the wellbeing or financial position of himself or herself, a relative or a friend or:-
 - (a) any employment or business carried on by such person;
 - (b) any person who employs or has appointed such a person, any firm in which such a person is a partner, or any company of which such a person is a director;
 - (c) any corporate body in which such a person has a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - (d) any body listed in Article 14(a) to (e) in which such a person holds a position of general control or management.

A Member must disclose a personal interest.

Continued/.....

Prejudicial Interests

Having identified a personal interest, a Member must consider whether a member of the public with knowledge of the relevant facts would reasonably think that the interest was so significant and particular that it could prejudice that Member's judgement of the public interest. If that is the case, the interest must be regarded as "prejudicial" and the Member must disclose the interest and withdraw from the meeting room during discussion on the item.

It should be noted that a prejudicial interest may apply to part or the whole of an item.

Where there are a series of inter-related financial or resource matters, with a limited resource available, under consideration a prejudicial interest in one matter relating to that resource may lead to a member being excluded from considering the other matters relating to that same limited resource.

There are some limited exceptions.

Note: Members are encouraged to seek advice from the Monitoring Officer or his staff in Democratic Services if they have any problems or concerns in relation to the above.

Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

Agendas and papers are available via the Council's website.

1 ELECTION OF CHAIR

To appoint a Chair for the purposes of this meeting.

2 APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)

To note any changes in the membership of the Sub-Committee made in accordance with the Licensing Act 2003.

3 DISCLOSURE OF PERSONAL AND PREJUDICIAL INTERESTS

In accordance with the Local Government Act 2000, and the Council's Code of Conduct adopted on 16th May 2007, Members to disclose any personal or prejudicial interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Democratic Support Officer prior to the commencement of this meeting.

4 STATEMENT FROM THE CHAIR

5 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)

To approve and sign as a correct record the Minutes of the meeting held on 26th January 2012 and to deal with any matters arising, attached.

6 EXCLUSION OF THE PRESS AND PUBLIC

At a predetermined point during the consideration of all items the Sub-Committee may move into private session in order to receive legal advice when determining issues. The press and the public, unless otherwise excluded by the Licensing Act 2003 (Hearings) Regulations 2005, will be invited to return immediately following that private session at which time the matter will be determined and the decision of the Sub-Committee will be announced.

7 APPLICATION FOR REVIEW OF A PREMISES LICENCE - DALLAS FOOD STORES, 186 NORTHAM ROAD, SOUTHAMPTON, SO14 OQF

Report of the Head of Legal, HR and Democratic Services detailing an application by Trading Standards for review of a premises licence in respect of Dallas Food Stores, 186 Northam Road, Southampton, SO14 OQF, attached.

WEDNESDAY, 1 FEBRUARY 2012

HEAD OF LEGAL, HR AND DEMOCRATIC SERVICES

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Agenda Item 5

LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON 26 January 2012

Present: Councillors Mrs Blatchford (Items 82 and 83), Cunio (Items 76-81), Osmond and Parnell

Apologies: Councillor Drake

76. **ELECTION OF CHAIR**

RESOLVED that Councillor Parnell be appointed Chair for the purposes of this meeting.

77. **APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

The Panel noted that Councillor Osmond was in attendance as a nominated substitute for Councillor Drake in accordance with Council Procedure Rule 4.3.

78. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

RESOLVED that the minutes of the meetings held on 5th and 12 January 2012 be signed as a correct record. (Copy of the minutes circulated with the agenda and appended to the signed minutes).

79. **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED that in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 that the press and public be excluded at a predetermined point whilst the Sub-Committee reach its decisions.

80. **APPLICATION FOR A PREMISES LICENCE - FLEMING ARMS, WIDE LANE, SOUTHAMPTON, SO18 2QN**

The Sub-Committee noted that no hearing was necessary due to the parties having reached agreement and in accordance with the provisions of the Licensing Act 2003.

81. **APPLICATION FOR REVIEW OF A PREMISES LICENCE - KEBAB HOUSE, 42B LONDON ROAD, SOUTHAMPTON, SO15 2AH**

The Sub-Committee considered the application for review of a premises licence in respect of Kebab House, 42B London Road, Southampton, SO15 2AH. (Copy of the report circulated with the agenda and appended to the signed minutes).

Mr Perot, Premises Licence Holder, Mr Nazim and Mr Akrah, Staff Members, Mr Rathore, Solicitor for Premises Licence Holder, Mr Marshall, Trading Standards and PC Lindley and PS Marshman, Hampshire Constabulary, were present and with the consent of the Chair, addressed the meeting.

The Sub-Committee considered the decision in confidential session in accordance with the Licensing Act 2003 (Hearings) Regulations.

RESOLVED that the following additional conditions be attached to the licence:-

- (i) that no tobacco products be sold at the premises; and
- (ii) the previous licence holder should have no involvement in the running of the business or premises.

REASONS

The Sub-Committee considered carefully the application for a review of a premises licence at the Kebab House and gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance, the adopted statement of Licensing Policy, human rights legislation and representations, both written and given orally today by the Police, Trading Standards and the premises licence holder.

The Sub-Committee noted in particular the evidence of the police relating to the transfer of the premises licence subsequent to the commencement of the review proceedings. All parties accepted the transfer to be a genuine disposal and that the new premises licence holder had no connection with the premises prior to the transfer. It was further noted that all parties had reached agreement that the sale of tobacco at the premises in light of previous issues should cease.

The evidence presented by the police and trading standards as set out within the report was accepted by the current premises licence holder. It was noted that the evidence detailed trading beyond hours permitted, issues with CCTV and particularly the illegal sale of non duty-paid tobacco. In light of all the circumstances and issues at the premises the Sub-Committee was satisfied that the additional conditions to be attached to the licence were necessary and proportionate in conjunction with the existing conditions, to address the licensing objective of the prevention of crime and disorder and to ensure that the illegal sale of tobacco would not continue.

82. **APPLICATION FOR REVIEW OF A PREMISES LICENCE - MAXIMS, 159 HIGH STREET SOUTHAMPTON, SO14 2BT**

The Sub-Committee considered the application for review of a premises licence in respect of Maxims, 159 High Street, Southampton SO14 2BT. (Copy of report circulated with the agenda and appended to the signed minutes).

Mr Thami, Premises Licence Holder, PC Lindley and PS Marshman, Hampshire Constabulary were present and with the consent of the Chair, addressed the meeting.

The Sub-Committee considered the decision in confidential session in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

RESOLVED

- (i) that the conditions relating to CCTV and the Incident Book as set out in the review application and as agreed between the parties be attached to the licence, with the following amendments to the CCTV condition.
 - the CCTV should cover the external area of the premises within the immediate vicinity of the entrance/exit to the reasonable satisfaction of the police and having due regard to the Home Office Code of Practice relating to surveillance cameras or any other such guidance as in force from time to time; and
 - the CCTV shall continue in operation until 03h30 on any day the premises is open for licensable activities.

NOTE

Determination of the precise wording for these additional conditions to be delegated to Legal Services to implement and to be confirmed in the formal notice of the decision.

REASONS

The Sub-Committee considered carefully the application for a review of a premises licence at Maxims and gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance, the adopted statement of Licensing Policy, Human rights legislation and representations, both written and given orally today by the Police and the premises licence holder.

The two conditions proposed by the Police were in the main agreed between the parties with the only remaining issues to be determined by the Sub-Committee being the extent to which CCTV coverage should be provided at the premises and the hours or length of time the system should be in operation.

The Sub-Committee considered very carefully all the evidence that it had heard, both in relation to the number and nature of incidents at or within the vicinity of the premises and the practical implications/cost implications for the premises licence holder. Whilst the Sub-Committee noted and accepted that the premises licence holder had provided CCTV on occasions, there remained significant issues of considerable concern with serious incidents of crime and disorder linked to the premises where CCTV was either not available or was not provided. Accordingly the Sub-Committee was satisfied that it was both necessary and proportionate to require by way of condition the proposals outlined within the police review application as well as a clear requirement that the CCTV cover external areas within the immediate vicinity in all the circumstances.

83. **APPLICATION FOR REVIEW OF A PREMISES LICENCE - CHILLIWHITE, VINCENTS WALK, SOUTHAMPTON, SO14 1JY**

The Sub-Committee considered the application for review of a premises licence in respect of Chilliwhite, Vincents Walk, Southampton, SO14 1JY. (Copy of the report circulated with the agenda and appended to the signed minutes).

Mr Stanford, Premises Licence holder, Mr Wood, Proposed Tenant, Mr Smith, Solicitor for Chilliwhite, PC Prior and PC Lindley, Hampshire Constabulary were present and with the consent of the Chair, addressed the meeting.

The Sub-Committee considered the decision in confidential session in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

RESOLVED

- (i) that the premises licence be amended to reflect the modified conditions; and
- (ii) that the following additional conditions as agreed between the parties, be attached to the licence:-

- **ID Scanner**

The provision, maintenance and use of ID Scan or similar equipment upon entry to the premises combined with the Challenge 21 policy must be in operation after 2100 hours during licensable activities and ID to be scanned upon entry. Accepted forms of identification will be passport, photo driving licence, or Proof of Age Standards Scheme (PASS). If a fault develops with the ID scan during operating hours, police must be notified immediately and a written record must be retained of customers ID. The fault will be rectified within one day or a replacement ID scan will need to be loaned in its place. In all other circumstances of a breakdown, police must be notified immediately and the fault rectified within 1 day or a replacement ID scan will need to be loaned in its place.

- **Training**

The DPS and duty manager should complete a nationally recognised Level 2 DPS course and that 3 months be given to allow that qualification to be obtained

All staff who sell alcohol will be trained to BIIAB Level 1 Award in Responsible Alcohol Retail. All sales of alcohol must be directly supervised and authorised by a person holding that award until such staff have achieved the required training.

Staff are trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18; signs and symptoms of drunk persons, refusal of sale due to intoxication and that records are kept of

such training, which are signed and dated by the member of staff who has received the training; that staff receive refresher training every six months as a minimum and that records are signed and dated by the member of staff are kept of this refresher training. Records will be available for inspection by Hampshire Constabulary and the licensing Authority. Records will be kept for a minimum period of two years.

- **Toilet Checks**

The public toilets within the premise shall be checked every 30 minutes when the premises are open for a licensable activity. A record shall be kept by the premise and presented on request by Hampshire constabulary. Toilet check records shall be kept for a minimum period of 3 months.

REASONS

The Sub-Committee considered carefully the application for a review of a premises licence at Chilliwhite and gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance, the adopted statement of Licensing Policy, Human rights legislation and representations, both written and given orally today by the Police and the premises licence holder.

The Sub-Committee noted the specific facts relating to this application and the unusual circumstances relating to the recent transfer of the premises licence. It was accepted that this was a bona fide transfer and that the current premises licence holder and proposed tenant had no connection to the previous premises licence holder.

It was also noted that agreement had been reached with the police in relation to additional conditions to be attached to the premises licence in light of previous issues at the premises. In particular the Sub-Committee had due regard to the agreed wording for those additional conditions relating to ID Scanner, Training and Toilet Checks as submitted to the Sub-Committee at the hearing

84. **APPLICATION TO VARY A PREMISES LICENCE - PENSIONERS ARMS, 29
CARLTON PLACE, SOUTHAMPTON, SO15 2DX**

The Sub-Committee noted that no hearing was necessary due to the parties having reached agreement and in accordance with the provisions of the Licensing Act 2003.

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Agenda Item 7



Reference: 2011/02977/01SRAP

Hearing:

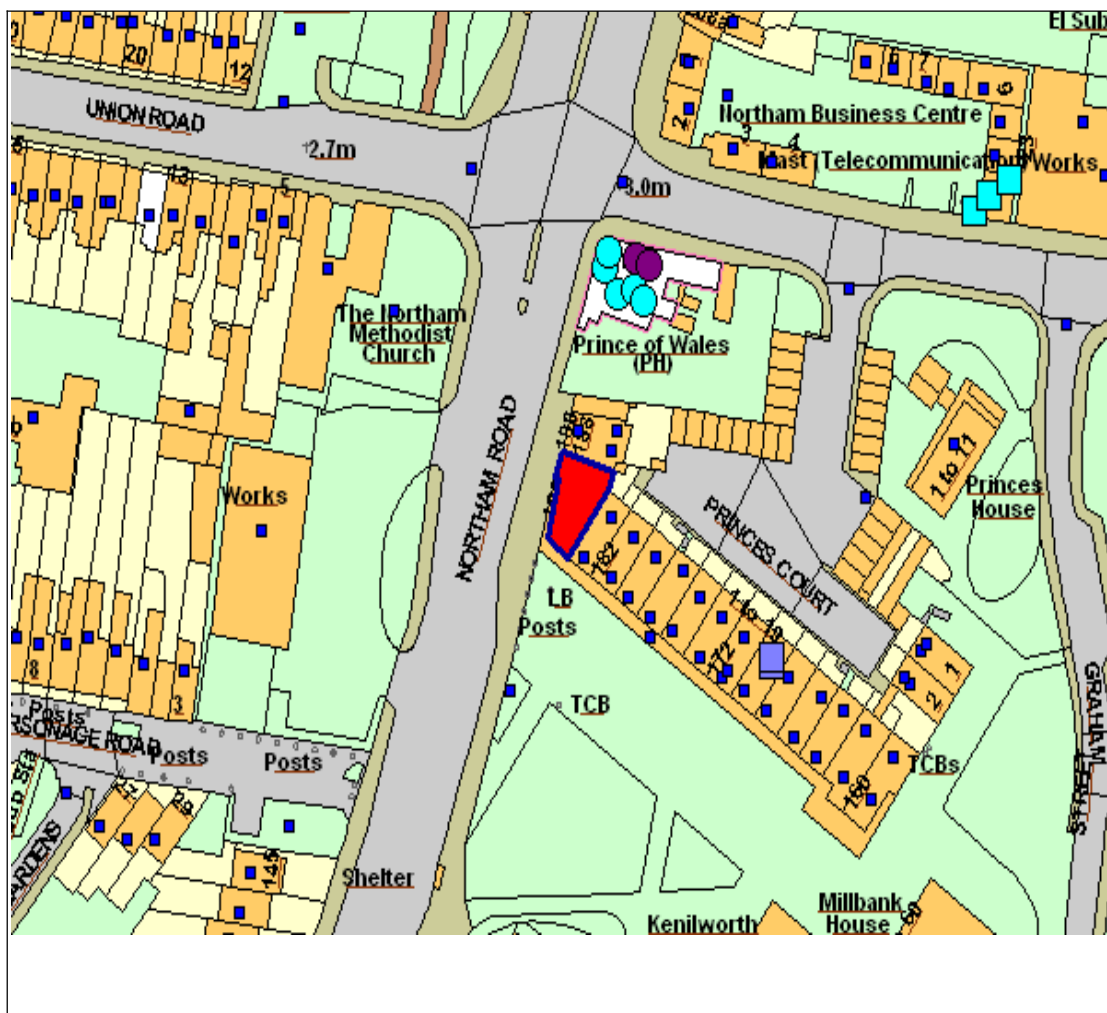
9th February 2012

Application for Review of Premises Licence

Premises Name: Dallas Food Stores
Premises Address: 186 Northam Road
Southampton
SO14 0QF

Application Date: 16th December 2011
Application Received Date: 16th December 2011

Application Valid Date: 16th December 2011



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Representation From Responsible Authorities

Responsible Authority	Satisfactory?	Comments
Child Protection Services - Licensing	No response received	
Hampshire Fire And Rescue - Licensing	Yes	
Environmental Health - Licensing	Yes	
Planning & Sustainability - Building Control - Licensing	No response received	
Planning & Sustainability - Development Control - Licensing	No response received	
Police - Licensing	No response received	
Trading Standards - Licensing	No	See attached

Other Representations

Name	Address	Contributor Type
Non received		

Legal Implications

1. Part 3 of the Licensing Act 2003 provides that a responsible authority of a resident or business in the vicinity (interested party) may apply for review of a premises licence.
2. The grounds of review applications must relate to one or more of the licensing objectives.
3. In such circumstances, the applicant for the review must serve a copy of the review application on the holder of the premises licences, the City Council and each of the responsible authorities.
4. On receipt of the application for review, the officers will consider its validity, under delegated powers. Reasons for rejection, in whole or in part, include:
 - that the grounds for review are not relevant to one or more of the licensing objectives and;
 - (in the case of an application not made by a responsible authority), that the application is frivolous, vexatious or repetitious.
5. The City Council must, within one day of receiving the application for review, display a prescribed notice of the review application on the outside or adjacent the premises; the notice must remain on display for 28 days and any interested party in the vicinity or the responsible authorities may make representations in that period.
6. Unless the applicant, licence holder, interested parties and responsible authorities agree that a hearing is unnecessary, the City Council is then required to hold a hearing to consider the review.
7. The sub-committee, in considering the application for review, must have regard to the adopted Statement of Licensing Policy and evidence before it at the hearing.
8. The Licensing Act 2003 provides that, in determining an application for review, the sub-committee may take any (or none) of the following steps, as it considers necessary:
 - modify the conditions of the licence;
 - exclude a licensable activity from the scope of the licence;
 - remove the designated premises supervisor;
 - suspend the licence for a period not exceeding three months;
 - revoke the licence.
9. The Licensing Act 2003 makes provision for appeal to the Southampton Magistrates' Court against the sub-committee's decision in relation to an application for review.
10. In considering this application the sub-committee will sit in a quasi-judicial capacity and is thus obliged to consider applications in accordance with both the Licensing Act 2003 (Hearings) Regulations 2005, and amending secondary legislation and the rules of natural justice. The practical effect of this is that the sub-committee must make its decision based on evidence submitted in accordance with the legislation and give adequate reasons for reaching its decision.
11. Copies of the application for review and the Police objection are annexed to this report.

12. The sub-committee must also have regard to:-

13. *Crime and Disorder Act 1998*

Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

14. *Human Rights Act 1998*

The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affect another's rights must be no more onerous than is necessary in a democratic society. The matters set out in this report must be considered in light of the above obligations.

SOUTHAMPTON CITY COUNCIL

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Southampton City Council Trading Standards Service

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Dallas Food Store, 186 Northam Road, Southampton, SO14 0QF	
Post town Southampton	Post code (if known) SO14 0QF

Name of premises licence holder or club holding club premises certificate (if known) Vinay Patel
--

Number of premises licence or club premises certificate (if known) 2005/00178/01SPRC
--

Part 2 - Applicant details

I am

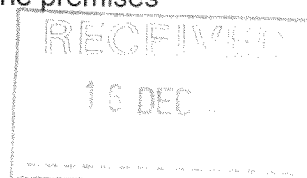
Please tick yes

1) an interested party (please complete (A) or (B) below)

a) a person living in the vicinity of the premises

b) a body representing persons living in the vicinity of the premises

c) a person involved in business in the vicinity of the premises



- d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title (for example, Rev)

Surname

First names

Please tick yes

I am 18 years old or over

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Christine Hill Trading Standards Service Southampton City Council Civic Centre Road Southampton SO14 7LY
Telephone number (if any) 023 8
E-mail address (optional) christine.hill@southampton.gov.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Please state the ground(s) for review (please read guidance note 1)

The Prevention of Crime and Disorder

On 12th September 2011 24 bottles of counterfeit Jacobs Creek wines were found at Dallas Food Store, 186 Northam Road, Southampton.

Trading Standards Officers have been aware of counterfeit Jacob's Creek wines on the market since December 2010. The counterfeit wine is not known to be harmful, but it is of poor quality and is inferior to the genuine product. The identifying features of the counterfeit wines are not immediately obvious to a purchaser, being spelling mistakes on the rear label of the bottle and differences in the closure. Genuine Jacob's Creek wines typically retail at around £8 per bottle, so purchasers of the counterfeit product are paying a premium for wine which is not of equivalent quality.

Meanwhile the producers and retailers of the genuine product are losing out economically, including loss of repeat sales by purchasers who do not like the inferior counterfeit version but believe it to be the genuine product.

Paragraph 11.26 of the October 2010 Amended Guidance Issued Under Section 182 of the Licensing Act 2003, states that "there is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously." This includes "the use of the licensed premises for the sale of smuggled tobacco and alcohol". It is highly unlikely that duty would have been paid on the counterfeit wine.

It is considered that the holder of the premises licence has not fulfilled the duty under the Licensing Act 2003 to prevent crime and disorder. We are therefore applying to review the licence.

In the supporting information we give more details and state the conditions we would wish to see added to the licence in order to promote the above licensing objective.

Please provide as much information as possible to support the application
(please read guidance note 2)

On Monday 12th September 2011 I conducted a routine inspection at Dallas Food store, 186 Northam Road, Southampton. During the inspection I examined 24 bottles of Jacobs Creek wines on sale in the shop which I noticed had a number of spelling mistakes on the labels on the bottles. This led me to believe that the wine may be counterfeit and I seized the 24 bottles. I submitted the bottles for examination to Pernod Ricard, the UK brand holder, who have given a statement confirming that the wine is counterfeit.

On Monday 14th November 2011 I conducted a recorded interview with Vinod Patel who owns the business Dallas Food Store together with Vinay Patel who is the Premises Licence Holder and the Designated Premises Supervisor.

During interview Mr Patel said that he was responsible for buying the stock for the shop. He usually buys it from big cash and carries such as Bookers, and Eastleigh, and also sometimes from London wholesalers. He was unable to produce any invoices for Jacobs Creek wine. He said he bought the Jacobs Creek about a year ago from a man who turned up in a van claiming to be from a London cash and carry, who he had dealt with before, and that he didn't buy vodka because he had heard there might be problems with it, but the wine looked OK. He said he does not normally sell Jacobs Creek as it is expensive, but bought 4 or 5 cases. He said he asked for a receipt but was never given one. After the interview he went on to say that he often sees this man round Southampton and he drives an Enterprise Hire van. Mr Patel admitted that he had made a mistake buying this wine and shouldn't have done it.

The sale of counterfeit wines and spirits has, over the last few years, become an increasingly large problem. In all cases this is detrimental to legitimate businesses, duty is not paid on the counterfeit products and there may also be health and safety issues with some products. It is not acceptable that a premises licenced by this Authority should become a market place for such goods. I would therefore request that the following conditions are imposed on the premises licence to promote the licensing objectives:

- "The Premises Licence Holder must keep complete records, such as invoices, receipts and delivery notes, relating to alcohol and cigarettes obtained by him for sale from his shop. Records must include the name, address and telephone number of the supplier, the date of supply, the products supplied, and their prices. Where items have been delivered to his shop by a vehicle details of the vehicle registration, the name of the delivery person and contact details including the name, address and telephone number for the business must be kept. These details must be available on request to Responsible Authorities within 24 hours. The Premises Licence Holder must be able to identify who supplied alcohol and cigarettes present at his premises "

- "A CCTV system shall be installed and maintained in the licensed premises to the satisfaction of the Licensing Authority, Hampshire Constabulary and Trading Standards. As a minimum, it shall enable surveillance of both external and internal areas of the premises including entrances and exits. Recordings from the system shall be of a quality acceptable as evidence in a court of law and shall be securely retained at the licensed premises for a minimum period of 30 days after the recording, and shall be surrendered to Hampshire Constabulary, the Licensing Authority, or Trading Standards immediately on request. The Premises Licence Holder and staff must be capable of operating the CCTV system".

- I would also ask that the licence is suspended for a period of 1 week, both as a deterrent and to give the Premises Licence Holder a period of time in which to put the above conditions into effect.

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

If you have made representations before relating to this premises please state what they were and when you made them

N/A

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date

16/12/2011

.....

Capacity Trading Standards Officer

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

Christine Hill
Trading Standards Service
Southampton City Council
Civic Centre Rd

Post town

Southampton

Post Code

SO14 7LY

Telephone number (if any) (

|

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) christine.hill@southampton.gov.uk

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.
6. See separate guidance for responsible authorities' details.

Trading Standards Service
Southampton City Council
Civic Centre
Southampton SO14 7LY



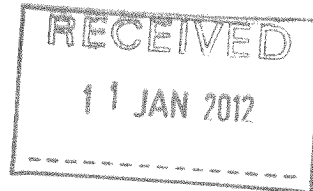
Direct dial: 023 8022 4024

Please ask for: Christine Hill
Our ref: 11/01495/FOODST
Your ref: 2011/02977/01SRAP -LL25/0094

.uk

9 January 2012

Southampton City Council
Licensing Team
PO Box 1344
Southampton
SO15 1WQ



Dear Sir/Madam

Licensing Act 2003

Further to my letter of 16 December 2011 enclosing an application for the review of the premises licence relating to the following Premises Licence Holder:

Vinay Patel T/A Dallas Food Store, 186 Northam Road, Southampton, SO14 0QF
Premises Licence No. 2005/00178/01SPRC

Please find enclosed copies of the S9 statements relating to this application.

Yours faithfully

Christine Hill
Trading Standards Officer

If you require this letter or future correspondence from us in a different format (e.g. tape, Braille, or disc) please do not hesitate to let us know.



INVESTOR IN PEOPLE

TRADING STANDARDS SERVICE WITNESS STATEMENT

(C J Act 1967 S.9; MCA 1980 ss5A(3)(a) and 5B; Criminal Procedure Rules 2011 (Rule 27)

STATEMENT OF: **CHRISTINE HILL**

AGE IF UNDER 18: **OVER 18**

This statement (consisting of 2 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the *6* day of *Jan* 2012

Signature: ..

..... being unable to read the statement,

I..... of

.....read it to him/her before he/she signed it.

Dated the day of2012... Signature:

A My name is Christine Hill. I am employed by Southampton City Council as a Trading Standards
B Officer based at 7 Civic Centre Road, Southampton. On Monday, 12 September 2011 I carried
C out a routine inspection at Dallas Food Store, 186 Northam Road, Southampton. During the
D inspection I examined 24 bottles of Jacobs Creek wines which were displayed for sale in the
E shop. I noticed a number of spelling mistakes on the bottle labels which indicated to me that the
wines might be counterfeit. I issued a PACE Code B notice to Nayne Patel and seized all 24
bottles, which I produce as Exhibit CRH/1. On Monday, 14 November 2011 I conducted a
recorded interview with Mr Vinod Patel who is the joint owner of Dallas Food Store in
accordance with the Police and Criminal Evidence Act 1984 and associated codes of practice.
The interview was conducted in the interview room at Trading Standards Service, 7 Civic Centre
Road, Southampton. I produce a copy of the interview CD as Exhibit CRH/2. During the
interview Mr Patel said that he was responsible for buying the stock for the shop, usually buying
it from big cash and carries such as Bookers, and Eastleigh Cash and Carry and sometimes from
London wholesalers. He said he bought the Jacobs Creek about a year ago from a man who

ST1(1)HQ

BY **CHRISTINE HILL**

A turned up in a van claiming to be from a London cash and carry, who he had dealt with before, and that he didn't buy vodka because he had heard there might be problems with it, but the wine looked OK. He said he does not normally sell Jacobs Creek as it is expensive, but bought 4 or 5 cases. He said he asked for a receipt but was never given one. On Monday, 28 November
B 2011 I visited Mr Vinay Patel at 33 Glenfield Avenue, Southampton SO18 4ES. I cautioned Vinay Patel at 3.25 pm. He said that he had owned Dallas Food since 1987 but was now semi-retired and left Vinod Patel to run the business. He confirmed he is the designated Premises Supervisor and Premises Licence Holder for Dallas Food. Vinay Patel said that he helps in the
C shop if needed. He said he is not involved in buying any stock for the shop, and that he had told Vinod where he could buy alcohol. He said he has no idea where the counterfeit wines had come from. I asked what he had done to prevent this happening again and he said he had told Vinod not to do it again. I left the house at 3.30 pm.

D Sig

E

F

G

ST1(2)HQ



Incident reference

11/01495/FOODST

Exhibit reference

CRH/1

Description of article

24 BOTTLES OF
JACOBS CREEK WINES

Signature of person originally identifying

CHRISTINE HILL

EH.126 07.10.22561



Incident reference

11/01495/FOODST

Exhibit reference

CRH/2

Description of article

COPY OF INTERVIEW CD

Signature of person originally identifying

Name

CHRISTINE HILL

STATEMENT OF WITNESS

(Criminal Procedure Rules 2005, r.27.2);

Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5B

Statement of: Jodie McCombie
Age of Witness: Over 21 years
Occupation of Witness: Manager,
 Brand Security Pernod Ricard

This statement (consisting of four pages, each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signed:

Date: 14/10/2011

I am Jodie McCombie, and I hold the appointment of Manager of Brand Security, Pernod Ricard. I have been so employed since 5th May 2009.

I report to the Vice President, Brand Security, Pernod Ricard who is the senior executive in charge of all matters relating to the security of Pernod Ricard's portfolio of brands. I am therefore authorised to speak on behalf of the company in this respect. Headquartered in Paris, France, Pernod Ricard is a leading global producer of premium branded beverages, operating in more than 190 countries and territories. I am based in Pernod Ricard's London office at Chivas House, 72 Chancellors Rd, London, W6 9RS. Pernod Ricard has global ownership and responsibility for all production, marketing and distribution of the Company's beverage alcohol brands.

One wholly owned subsidiary of Pernod Ricard is the Premium Wines Brands Pty Ltd, Australia and their subsidiary Orlando Wines, Australia. One of the range of wines produced by Orlando Wines is Jacob's Creek Wines. One of my

roles and responsibilities is the visual examination of my company's brands, including Jacobs Creek, to establish whether or not it is genuine product.

The mark 'Jacob's Creek' is a UK registered trade mark 1184628 held by Pernod Ricard Pacific Pty Ltd. I produce and identify a true copy of the registration and renewal certificates for Jacob's Creek UK National Trademarks in Class 32 and Class 33, and also EU Class 33 as exhibits JM/1, JM/2 and JM/3 respectively.

In January 2011 my company received a small number of consumer complaints regarding the apparent poor quality of wine in bottles of what appeared to be Jacob's Creek wines that had been purchased from independent retail outlets in the greater London area. Subsequent investigations by my department revealed the wine was counterfeit and that in December an unknown volume of counterfeit Jacob's Creek wines had been offered for sale to retail and wholesale outlets by persons as yet unknown. Analysis of the wine in the counterfeit bottles revealed no evidence of any potentially harmful material. However, the quality of the counterfeit wines is poor and an obvious difference to the genuine exists.

Since that time, and in a process managed by Pernod Ricard Brand Security, Trading Standards offices in the UK have been briefed on the presence of the counterfeit wine and advised on how to identify it during their inspections.

On 11 October 2011 Christine Hill of Southampton Trading Standards Service showed me the following items, which were marked with the Jacob's Creek trade mark:

Evidence seal: 03714146, resealed 03714088

5 bottles of Semillon Sauvignon Blanc

Evidence seal: 03714147

3 bottles of Semillon Chardonnay

Evidence seal: 03714166

4 bottles of Cabernet Sauvignon

Evidence seal: 03714181

2 bottles of Merlot

1 bottle of Shiraz

Evidence seal: 03714148

4 bottles of Semillon Chardonnay

Evidence seal: 03714143, resealed 03714025

5 bottles of Chardonnay

As a result of my examination of the aforementioned bottles I can confirm that they all bear a copy of the Jacob's Creek registered trade mark. A visual inspection of the products revealed they are inconsistent with products produced by Pernod Ricard. In particular, the labels reveal a series of spelling mistakes. The mistakes include, for example; "www.drinkaware.co.uk" is spelt "www.drinkoware.co.uk"; "Australia" is spelt "Austrlia"; "Responsibly" is spelt "Responsibility". The ROPP ("Roll On Pilfer Proof") closure is also inconsistent with genuine product as evidenced by the fact that the print detail and colour are not the same as the original. The ROPP closure is a tamper evident closure which provides a visual indicator when the closure has been opened as the cap separates from the bottom ring of the closure.

The above information enables me to state categorically that the examined bottles are counterfeit. Pernod Ricard does not authorise the use of the Jacob's Creek trade mark on products that are not genuine, therefore I can confirm that the above product bears the Jacob's Creek trade mark without the consent of the trademark holder.

The impact of counterfeit Jacob's Creek is potentially highly significant. Pernod Ricard invests a significant amount of effort and resources to ensure that all our brands, including our range of Jacob's Creek wines, are of premium quality and

offer value to consumers. In addition, significant amounts are invested in promoting these brands, to raise consumer brand awareness and understanding.

Counterfeiting of Jacob's Creek, or indeed any other wine or spirit brand, misleads consumers into purchasing poor quality products which do not meet our high standards or the expectation of the consumer. As the deception is often not obvious to the consumer, their quality perception of the product they have purchased will be attributed to the Jacob's Creek brand which is extremely detrimental to the reputation and brand equity of Jacob's Creek. The counterfeit products also take unfair advantage of the high levels of consumer awareness of the Jacob's Creek brand, which has been built by Pernod Ricard at significant cost.

Signed:

Date: 14/10/2011

TRADE MARKS
REGISTRY



REGISTRATION
CERTIFICATE

Trade Marks Act 1994 of Great

Britain and Northern Ireland

The mark shown below has been registered under No. 2221250 as of the date 03 February 2000.

JACOB'S CREEK

The mark has been registered in respect of:

Class 32:

Beers; non-alcoholic beverages.

In the name of Orlando Wyndham Group Pty Ltd
Incorporated in Australia

PERNOD RICARD BRAND SECURITY

IDENTIFICATION OF EXHIBIT Criminal Procedure Rules R27

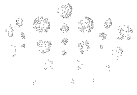
THIS IS THE: Jacob's Creek UK National Trademark Class 32

REFERRED TO IN MY STATEMENT DATED 16/10/2011

AS EXHIBIT NUMBER: _JM/1_

Sealed this day at my direction

✓
ALL
DATE 14 July 2000



Mewburn Ellis LLP
33 Gutter Lane
London
UK
EC2V 8AS

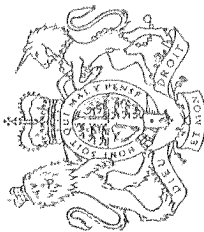
04 January 2010

CERTIFICATE OF RENEWAL OF TRADE MARK

Trade Mark Number : 2221250
in Class(es) : 32
registered in the name of : Pernod Ricard Pacific Pty Ltd
has been renewed until : 03 February 2020
Your Reference : 6609291R

IMPORTANT We have shown the first 100 characters of the owner's name as recorded in the Register of Trade Marks. If this is wrong, please fill in and send us a form TM16 if ownership has changed or a form TM21 for other changes.

If you have any queries on this renewal, they should be addressed to the Renewals Section on 01633 814433



TRADE MARKS ACT, 1938

GREAT BRITAIN AND
NORTHERN IRELAND

Certified a true copy of
the original document

2472/1000-2 2018 1510

KYLIE THOMAS
A Commissioner for taking Affidavits
in the Supreme Court of South Australia

JACOB'S CREEK

*167 Fullerton Road, Dulwich
South Australia 5008*

The Trade Mark shown above has been registered in Part I of the Register under No. 1,157,520 as of the date 2nd November 1938
in Class 33 Schedule IV in respect of wines, spirits (beverages) and liqueurs,

in the name of G. SPURP & SONS PROPRIETARY LIMITED, Australia (South Australia).

The Trade Marks Registry, Patent Office,
25, Southampton Buildings, London, W.C.2.

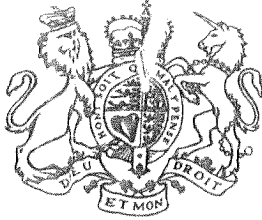
Registration is for 7 years from the date first above mentioned, and may then be renewed, and
also at the expiration of each period of 14 years thereafter.
This certificate is not for use in Legal Proceedings or for obtaining Registration abroad.

Sealed at my direction this

6th day of February 1985

IVOR DAVIS CB
REGISTRAR.

NOTE—Upon any change of ownership of this Trade Mark, or change in address,
applications should AT ONCE be made to the Registrar to register the change.



TRADE MARKS ACT, 1938

GREAT BRITAIN AND
NORTHERN IRELAND

1230

CERTIFICATE OF RENEWAL

The Trade Mark No. 1184628 in Class 33, registered in the name of
G. GRAMP & SONS PROPRIETARY LIMITED

has been renewed for a period of 14 years from the 3 November 1989

The Trade Marks Registry, The Patent Office,
State House
66-71 High Holborn,
London WC1R 4TP

P.R.S. HARTNACK
REGISTRAR

Certified a true copy of
the original document

KYLIE THOMAS
A Commissioner for taking Affidavits
in the Supreme Court of South Australia
167 Fullarton Road, Adelaide
S.A. Australia 5065

TRADE MARKS
REGISTRY



RENEWAL
CERTIFICATE

The Trade Mark No. 1184628 in Class(es) :-

33

registered in the name of Orlando Wyndham Group Pty Ltd
Incorporated in Australia
has been renewed for a period of 10 years from the 3 November 2003
and was advertised as renewed in Trade Mark Journal 6503.

Certified a true copy of
the original document

KYLIE THOMAS
A Commissioner for taking Affidavits
in the Supreme Court of South Australia
167 Fullarton Road, Duncraig
South Australia 5085

Copied this day at my direction

ALISON BRIDGES W, REGISTRAR

DATE

30 September 2003



Case details for Trade Mark 1184628

[Explanation of terms used on this page](#)

[Case history including, where available, licensee details](#)

Mark

Mark text: JACOB'S CREEK

Status

Status: Registered

Class: 33

Relevant dates

Filing date: 03 November 1982

Next renewal date: 03 November 2013

Publication in Trade Marks Journal

First advert:

Journal: 5537

Page: 2816

Publication date: 24 October 1984

Renewal:

Journal: 6503

Publication date: 24 October 2003

List of goods or services

Class 33: Wines, spirits (beverages) and liqueurs.

Names and addresses

Proprietor: Pernod Ricard Pacific Pty Ltd
167 Fullarton Road, Dulwich SA 5065, Australia

Incorporated country: United Kingdom

Residence country: United Kingdom

Customer's ref: REW/FG6602510

ADP number: 0841193001

Other cases owned by this proprietor

Agent: Mewburn Ellis LLP
33 Gutter Lane, London, EC2V 8AS

ADP number: 0000109001

Service: Mewburn Ellis LLP
33 Gutter Lane, London, EC2V 8AS

ADP number: 0000109001

Other particulars

Disclaimer: Registration of this mark shall give no right to the exclusive use of the word "Jacob's".

Earlier rights notification

Opted in for notifications

Explanation of terms used on this page

© Crown Copyright 2009
Intellectual Property Office is an operating name of the Patent Office



Trade Mark Details as at 09 June 2010

Case details for Trade Mark 1184628

Historical Event	
Date Actioned:	28 January 2009
Details:	TM33 received L/F 2005195 JNL 6773
Previous Details:	
Agent:	Withers & Rogers LLP Goldings House, 2 Hays Lane, London, SE1 2HW
ADP Number:	0001776001
Service:	D. Young & Co. LLP 120 Holborn, London, EC1N 2DY
ADP Number:	0000059001

Historical Event	
Date Actioned:	20 February 2007
Details:	ADP NUMBER CHANGED BY CLEANUP 00049933

Historical Event	
Date Actioned:	20 February 2007
Details:	ADP NUMBER CHANGED BY CLEANUP 00049933

Historical Event	
Date Actioned:	20 February 2007
Details:	ADP NUMBER CHANGED BY CLEANUP 00049933

Historical Event

Date Actioned: 30 September 2003
Details: Trade Mark Renewed

Historical Event

Date Actioned: 11 August 2003
Details: Renewal Reminder Sent

Historical Event

Date Actioned: 7 April 1993
Details: TM1 RECEIVED 22.03.1993

Historical Event

Date Actioned: 31 March 1993
Details: ADP NUMBER CHANGED BY CLEANUP
00008804

Historical Event

Date Actioned: 31 March 1993
Details: ADP NUMBER CHANGED BY CLEANUP
00008804

Historical Event

Date Actioned: 20 March 1992
Details: Record Correction
Previous Details:
Disclaimer: Disclaimer inserted:
Exclusive use restrictions: addition of a wholly descriptive and non-Trade Mark
character.tererons filedthe word JACOB'S

Historical Event

Date Actioned: 5 April 1991

Details: Name And Address Change

Previous Details:

Proprietor: Pernod Ricard Pacific Pty Ltd
167 Fullarton Road,Dulwich SA 5065,Australia

Residence Country: United Kingdom

ADP Number: 0841193001

Historical Event

Date Actioned: 28 March 1991

Details: Name And Address Change

Previous Details:

Proprietor: Pernod Ricard Pacific Pty Ltd
167 Fullarton Road,Dulwich SA 5065,Australia

Residence Country: United Kingdom

ADP Number: 0841193001

Historical Event

Date Actioned: 16 October 1989

Details: Trade Mark Renewed

Historical Event

Date Actioned: 14 August 1989

Details: Renewal Reminder Sent

WORLD INTELLECTUAL
PROPERTY ORGANIZATION

34, chemin des Colombettes, P.O. Box 18, CH-1211 Geneva 20 (Switzerland)
WIPO postal cheque account No. 12-5000-8 Geneva
Int'l Bank Account Number (IBAN): Credit Swiss Bank, Geneva
CH35 0425 1048 7080 8100 0 / Swift Code: CRESCHZZ12A
Tel. (41-22) 338 9111 Fax : (41-22) 733 5428
E-mail: intreg.mail@wipo.int Internet: http://www.wipo.int



24 MAR 2006

Madrid Agreement
and
Madrid Protocol

By registered mail

Madderns
Level 1,
64 Hindmarsh Square
ADELAIDE SA 5000
Australia

Our reference: 860/331635501

Geneva, 16/03/2006

Re: Statement of Grant of Protection
International registration No. 837572 (JACOB'S CREEK)

Madam,
Sir,

Please find enclosed a statement of grant of protection for the above-mentioned international registration, issued by the Office of European Community, in accordance with Rule 17(6) (a) (i) of the Common Regulations under the Madrid Agreement and the Protocol Relating to that Agreement.

You will also find enclosed a copy of Information Notice No. 23/2000, which concerns such statements.

International Bureau of the World Intellectual
Property Organization (WIPO)

PERNOD RICARD BRAND SECURITY

IDENTIFICATION OF EXHIBIT Criminal Procedure Rules R27

THIS IS THE: Jacob's Creek Trademark EU Class 33

REFERRED TO IN MY STATEMENT

AS EXHIBIT NUMBER: ___JM/3_



OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET
(TRADE MARKS AND DESIGNS)

Trade Marks Department

W304

Second Statement of Grant of Protection pursuant to Rule 17(6)(a)(iii) of the Common Regulations under the Madrid Agreement and Protocol, and Rule 116(2) of the Regulation implementing the Community Trade Mark Regulation

Alicante, 06/03/2006

<i>International registration number:</i>	0837572
<i>Date of notification to OHIM:</i>	23-12-2004
<i>Name of the Holder:</i>	Orlando Wyndham Group Pty Ltd
<i>Trade Mark:</i>	JACOB'S CREEK

The opposition period has expired without any opposition or observations by third parties being filed and the above-mentioned mark is accepted for protection in the European Community.

Pursuant to Article 146(2) of the Community Trade Mark Regulation and Rule 116(1) of the Regulation implementing the Community Trade Mark Regulation, it shall have the same effect as the registration of a mark as a Community trade mark.

MORALES PAREDES, Juan Antonio
Examiner