

Licensing (Licensing and Gambling) Sub-Committee

Thursday, 6th September, 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 Lloyd
Councillor Parnell

Contacts

Democratic Support Officer
Sharon Pearson
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Head of Legal, HR and Democratic Services
Richard Ivory
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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 2012/13

2012	15TH NOVEMBER
10TH MAY	29TH NOVEMBER
31ST MAY	13TH DECEMBER
14TH JUNE	2013
28TH JUNE	3RD JANUARY
12TH JULY	17TH JANUARY
26TH JULY	31ST JANUARY
9TH AUGUST	14TH FEBRUARY
23RD AUGUST	28TH FEBRUARY
6TH SEPTEMBER	14TH MARCH
20TH SEPTEMBER	28TH MARCH
4TH OCTOBER	11TH APRIL
18TH OCTOBER	25TH APRIL
1ST NOVEMBER	

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 "Disclosable Personal Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

DISCLOSABLE PERSONAL INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:
Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.
- (iv) Any beneficial interest in land which is within the area of Southampton.
- (v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.
- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.
- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:
 - a) the total nominal value for the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
 - b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

Other Interests

A Member must regard himself or herself as having a, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

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 PECUNIARY INTERESTS

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary 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.

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 23rd August 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 PREMISES LICENCE - SAMI SWOI SHOP LIMITED, 8 PORTSMOUTH ROAD, SOUTHAMPTON, SO19 9AA

Report of the Head of Legal, HR and Democratic Services, detailing an application by Trading Standards for review of premises licence in respect of Sami Swoi, 8 Portsmouth Road, Southampton, SO19 9AA, attached.

Tuesday, 28 August 2012

HEAD OF LEGAL, HR AND DEMOCRATIC
SERVICES

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SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 23 August 2012

Present: Councillors B Harris, Tucker and Vassiliou

34. **ELECTION OF CHAIR**

RESOLVED that Councillor Harris be elected Chair for the purposes of this meeting.

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

RESOLVED that the Minutes of the meeting held on 9th August 2012 be signed as a correct record. (Copy of the minutes circulated with the agenda and appended to the signed minutes).

36. **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 reached its decisions.

37. **APPLICATION FOR PREMISES LICENCE - 5A-6A BEDFORD PLACE, SOUTHAMPTON, SO15 2BY**

The Sub-Committee noted that Item 37, Application for Premises Licence, had been withdrawn.

38. **APPLICATION FOR PREMISES LICENCE - DONYA LIMITED, 50 OXFORD STREET, SOUTHAMPTON, SO14 3DL**

The Sub-Committee considered the late request to adjourn the application for a premises licence in respect of Donya Limited, 50 Oxford Street, Southampton, SO14 3DL.

Mr Morris, Applicant's Solicitor and Mr Wainwright, Environmental Health Officer, were present and with the consent of the Chair, addressed the meeting.

RESOLVED that the matter be adjourned.

It was noted that agreement had been reached by the applicant and Environmental Health to adjourn the application to 1st November 2012 and that residents would be informed of this adjournment in writing.

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Agenda Item 7



Reference: 2012/01536/01SRAP

Hearing:

6th September 2012

Application for Review of Premises Licence

Premises Name: Sami Swoi Shop Ltd
Premises Address: 8 Portsmouth Road
Southampton
SO19 9AA

Application Date: 17th July 2012
Application Received Date: 17th July 2012

Application Valid Date: 17th July 2012



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Representation From Responsible Authorities

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

Other Representations

Name	Address	Contributor Type
None		

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

Sami Swoi
8 Portsmouth Road
Southampton

Post town Southampton

Post code (if known) SO19 9AA

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

Sami Swoi Shop Ltd

Number of premises licence or club premises certificate (if known)

2009/00572/01SPRN

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

I am 18 years old or over

Please tick yes

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 Lucas Marshall Trading Standards Service Southampton City Council Civic Centre Road Southampton SO14 7LY
Telephone number (if any) [REDACTED]
E-mail address (optional) [REDACTED]

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

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

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

The Prevention of Crime and Disorder
Protection of Children from Harm

On 2nd April 2012 I conducted an inspection at Sami Swoi, during which I seized 12 bottles alcoholic spirits, 14 packs of tobacco and 12 packs of cigarettes, all of which were not UK duty paid.

Paragraph 11.29 of the 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." Which includes "the use of the licensed premises for the sale of smuggled tobacco and alcohol". Paragraph 11.30 states that it is envisaged that responsible authorities will use the review procedure to deter such crime.

On 3rd April 2012 I conducted an under age test purchase of alcohol at Sami Swoi. Alcohol was sold to a 17 year old girl.

It is considered that the holder of the premises licence has not fulfilled his duty under the Licensing Act 2003, to prevent crime and protect children from harm. I am therefore applying to review the licence.

In the supporting information I give more details and state the conditions I would wish to see imposed on the licence.

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

In March 2012 I received a complaint from a Polish member of the public regarding alcohol, a cherry liqueur called Lubelska Wisniowka, purchased from Sami Swoi, Portsmouth Rd, Southampton. The complainant alleged that it tasted stronger than she would expect and caused a burning sensation to her mouth. She said that she had selected a bottle displayed on the shelf at Sami Swoi, which was priced at £13, however the shop assistant had then offered her a bottle of the same product located in a cabinet adjacent to the counter for only £10, which she purchased. I took the liqueur from the complainant as a complaint sample. It was found to be satisfactory with regard to tests conducted, however it was clearly illegal in that it was not UK duty paid (it bore Polish duty stamps) and was not labelled in English.

On 2nd April 2012 I conducted an inspection at Sami Swoi. I found 12 bottles of non-UK duty paid alcohol in a cabinet, which appeared to be disguised as part of the shop fittings. It is an offence under Section 144 of the Licensing Act 2003 for keeping on the premises goods which have been imported without payment of duty or which have otherwise been unlawfully imported, and Regulation 12 of the Consumer Protection from Unfair Trading Regulations 2008, for stating or otherwise creating the impression that a product can legally be sold when it cannot.

Whilst examining the alcohol I noticed the shop assistant, Sylwia Rutkowska, pass a bag over to a customer, which she'd taken from underneath the counter. I took the bag and found inside it 13 packs of Golden Virginia tobacco, 1 pack of Amber Leaf tobacco and 12 packs of L&M blue cigarettes, all of which were non-UK duty paid and were not labelled with the health warnings as prescribed by the Tobacco Products (Manufacture, Presentation and Sale)(Safety) Regulations 2002 (as amended), thereby constituting offences under Section 12 of the Consumer Protection Act 1987.

On 3rd April 2012 I conducted an underage alcohol test purchase exercise in Southampton, using a 17 year old girl. A purchase was made at Sami Swoi. The seller was Sylwia Rutkowska. It is an offence under section 146 the Licensing Act 2003 to sell alcohol to a person under the age of 18. Following the sale Ms Rutkowska was asked for the refusals book, but did not appear to know what one was.

On 19th April 2012 I interviewed Andrzej Wrzeszcz, a director of the company Sami Swoi Shop Ltd, regarding the above offences. He admitted that the illegal alcohol and cigarettes were in possession for sale. He said that he sells them because there is a demand for them. Cigarettes are sold for £4.40 a pack, and purchased for £3.50/£3.80 from customers who bring them back from Poland. With regard to prevention of underage sales Mr Wrzeszcz claimed to have a 'Challenge 21' policy at the store. He had records of training for some, but not all, staff. Refresher training was not conducted. He produced a refusals book but it had been used infrequently.

Simple Cautions were subsequently accepted by Sylwia Rutkowska and Sami Swoi Ltd, in relation to the under age sale, the company for the illegal cigarette and alcohol offences and Andrzej Wrzeszcz, in that those offences were due to his connivance. Copies of those cautions are appended to this application.

With regard to the illicit alcohol and cigarettes Sami Swoi Shop Ltd has clearly breached the licensing objective to prevent crime. The offences that they have committed are not due to ignorance, carelessness, or accident, rather they are due to deliberate intent. The sale of cheap alcohol and cigarettes undermines the Government's intentions to reduce their consumption via pricing, and has a negative effect with regard to competition with other retailer of these products.

I would request that the following conditions are imposed on the licence, to assist the Premises Licence in its effective management, and that the licence is suspended for a period of 3 months, both as a deterrent to committing further offences and to give the business an opportunity to implement the conditions.

Record Keeping

The Premises Licence Holder must keep, for a period of 24 months, 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.

Challenge 25

There will be a Challenge 25 policy operating at the premises. Challenge 25 means that the holder of the premises licence shall ensure that every individual, who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol at the premises or from the premises, shall produce identification proving that individual to be 18 years of age or older. Acceptable identification for the purposes of age verification will include a driving licence, passport or photographic identification bearing the "PASS" logo and the person's date of birth. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person. Notices regarding the premises' Challenge 25 Policy must be displayed on the premises.

Training

All staff who sell alcohol will be trained to APLH (EDI Level 2 Award for Personal License Holders) level. All sales of alcohol must be directly supervised and authorised by a personal licence holder until such staff have achieved training to APLH level. Staff will be trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18, the signs and symptoms of drunk persons and the refusal of sale due to intoxication. Records will be kept of such training which must be signed and dated by the member of staff who has received that training. All staff will receive refresher training every six months as a minimum and that records are to be kept of this refresher training which should be signed and dated by the member of staff who received that training. All training records will be available for inspection by Hampshire Constabulary, Trading Standards and the Licensing Authority. Training records will be kept for a minimum period of two years.

Refusals book

The holder of the premises licence shall keep a written record, namely a refusals book, of those incidents where a person who a member of staff believes to be under the age of 18, and is unable to produce acceptable means of identification proving that they are of 18 years or more, attempts to purchase alcohol and is refused. The record shall include details, in English, of the date, time, a brief description, including estimated age, of the person who attempted to purchase the alcohol, the type of alcohol and the name of the person who refused the sale. Staff shall be trained in the use of the refusals book and it should be kept in a readily accessible place known by all members of staff. The record will be regularly checked by the premises licence holder or the

designated premises supervisor to ensure that all staff are completing records, and this person will sign and date the record as evidence that they have checked it. The refusals book will be immediately available for inspection at the premises by Hampshire Constabulary, the Licensing Authority and Trading Standards, on request.

CCTV

A CCTV system must be operating at all times whilst the premises are open for licensable activity. All equipment shall have a constant and accurate time and date generation. The recording system will be able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days.

Records must be made on a weekly basis and kept for inspection to show that the system is functioning correctly and that data is being securely retained. The DPS or premises manager must be able to demonstrate that the CCTV system has measures to prevent recordings being tampered with, i.e. password protected. There shall be sufficient members of trained staff at the premises during operating hours to be able to provide viewable copies to police and Trading Standards on request when investigating allegations of offences or criminal activity. Any images recovered must be in a viewable format on either disc or VHS. Footage supplied in a digital format on CD or DVD will also have a copy of the CCTV system software enabled on the disc to allow playback. In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS MUST report the failure to the Southampton Police Licensing Unit.

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

0	9	0	2	2	0	1	1
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If you have made representations before relating to this premises please state what they were and when you made them

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

17/7/12

Capacity Trading Standard Officer

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

Lucas Marshall
Trading Standards Service
Southampton City Council
Civic Centre Road

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)



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 WITNESS STATEMENT

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

STATEMENT OF:	LUCAS MARSHALL
AGE IF UNDER 18:	OVER 18

This statement (consisting of 2 page(s) 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 16 day of July 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 Lucas Marshall. I am employed as a Trading Standards Officer by Southampton City Council. On 22nd March 2012 I received a complaint from a Polish member of the public regarding alcohol, a cherry liqueur called Lubelska Wisniowka, which she'd purchased from
B Sami Swoi, Portsmouth Rd, Southampton on 11th March 2012. The complainant alleged that it tasted stronger than she would expect and caused a burning sensation to her mouth. She said that she had selected a bottle displayed on the shelf at Sami Swoi, which was priced at £13,
C however the shop assistant had then offered her a bottle of the same product located in a cabinet adjacent to the counter for only £10, which she purchased. On 26th March 2012 I took the liqueur from the complainant as a complaint sample. It was found to be satisfactory with
D regard to tests conducted, however it was clearly illegal in that it was non-UK duty paid (it bore Polish duty stamps) and was not labelled in English. On 2nd April 2012 I conducted an inspection at Sami Swoi. I found 12 bottles of non-UK duty paid alcohol in a cabinet, which
E appeared to be disguised as part of the shop fittings. Whilst examining the alcohol I noticed the shop assistant, who had identified herself as Sylwia Rutkowska, pass a bag over to a customer,

Signature: 

ST1(1)HQ

BY: LUCAS MARSHALL

A which she'd taken from under the counter. I took the bag and found inside it 13 packs of Golden
Virginia tobacco, 1 pack of Amber Leaf tobacco and 12 packs of L&M blue cigarettes, all of
which were non-UK duty paid and were not labelled with the health warnings as prescribed by
the Tobacco Products (Manufacture, Presentation and Sale)(Safety) Regulations 2002 (as
B amended), thereby constituting offences under Section 12 of the Consumer Protection Act 1987.
I seized the tobacco products, which I produce as exhibit LM/1, and the alcohol, which I produce
as LM/2. On 3rd April 2012 I organised an underage alcohol test purchase exercise in
Southampton, using a 17 year old girl. A purchase of two cans of lager was made at Sami Swoi.
C The seller was Sylwia Rutkowska. On 19th April 2012 I interviewed Andrzej Wrzeszcz, a
director of the company Sami Swoi Shop Ltd. He admitted that the illegal alcohol and cigarettes
were in possession for sale, that he knew he shouldn't sell them, but does so because there is a
demand for them. He said that he purchases cigarettes for £3.50/£3.80 from customers who
D bring them back from Poland, and sells them for £4.40. The sales of the illegal products were
not going through the business's accounts. With regard to the under age sale he said that he
had a refusals book, a copy of which I produce as exhibit LM/3, which did not appear to have
been regularly used. He did not have records of training for all 5 of his members of staff, and did
E not conduct refresher training. He said that he does have a CCTV system, which records for a
period of over a month. I produce the CD of the Audi Recorded interview as exhibit LM/4. On
21st June 2012 Mr Wrzeszcz accepted Simple cautions on behalf of the Company Sami Swoi
Ltd in relation to the under age sales offences, and the offences relating to sale of illegal alcohol
F and tobacco products. He also personally accepted Simple Cautions in relation to the illegal
alcohol and tobacco products in that the offences were due to his connivance as a director. I
have appended those cautions to the Licence Review. Sylwia Rutkowska accepted a simple
caution in relation to the under age sale.

G Signature:



Refusals Register



	date	time	product	name of person/description	observations	staff member
	14.03.10	13.55	TABACCO	young boy blond hair.	NO ID	MIOLETTA TCHOUZEWSKY
2	22.07.10	19.10	BEER	tail dark hair boy	To young looking	
3	19.10.10	12.10	Beer	dark hair girl with boy	No ID	
4	03.01.11	13.45	wine	blond hair girl	No ID	
5	11.04.11	19.50	Beer	tall boy with tobacco on right cheeks	refused to show ID	
6	19.05.11	11.45	Cigarettes MAY FAIR	girl, with. card. in pocket	NO ID	
7	20.06.11	12.42	Beer (bech)	4 boys eating sandwiches very young looking.	NO ID	
8	07.10.11	18.12	Beer	brun hair girl with glasses.	NO ID	
9	12.12.11	19.22	TABACCO	Boy tall, blond hair.	NO ID	

2/11

REFUSALS REGISTER



Date	Product	Time	Name of Person or Description	Observations	Staff Member
Example: 04/05/09	Cigarettes	7.10pm	Male 14 years? Blonde, 5ft 11"	Nervous and refusing to show ID	Alan Smith
06.04.11	cigarettes	4.00pm	male 14 years Brown hair	no ID	
0.05					
28.06.11	cigarettes	13:10	male curly hair new 1.9m	NO ID SUSPICIOUS	
08.07.11	alcohol	15:38	Female 16 years Chinese young girl	NO ID	
23.08.11	cigarettes	14:10	boy ID - 1994	ID - 1994	
12.10.11	beer	17:40	girls no ID	no ID	
24.10.11	beer	20:20	2 black boys	no ID	

MANAGER'S SIGNATURE _____

DATE: _____



Refusals Register

	date	time	product	name of person/description	observations	staff member
	08.02.12	11.45	CIGARETTES	Robert (dark hair)	NO ID	
2	23.03.12	18.45	Beer	Grn. No speak english or Polish	NO ID	
3	07.04.12	19.23	LOWALYONE	Young boy tall	NO ID	
4						
5						
6						
7						
8						
9						

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: **ELAINE LUCAS**

AGE IF UNDER 18: **OVER 18**

This statement (consisting of 1 page(s) 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 16 day of July 2012

Signature: 

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

I..... of.....

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

Dated the .. day of ..

2012

Signature:

- A My name is Elaine Lucas, I am employed as a Fair Trading Officer at Southampton City Council. On 3rd April 2012 I was involved in an underage sales operation in Southampton. The volunteer who we used for the operation was called Roseanne and was 17 years old. I produce a sanitised copy of her passport
- B as Exhibit EL/1. I produce 2 photos of Roseanne as Exhibits EL/2 and EL/3. In the photos she is wearing the same clothes as she wore for the exercise. I can confirm that these photos are an accurate representation of Roseanne and have not been enhanced or amended in any way. At approximately
- C 13:50 I entered Sami Swoi, 3 Portsmouth Road, Southampton and Roseanne followed me in. I had asked Roseanne to attempt to purchase alcohol. I did not announce myself to the trader, and, acting as a customer I witnessed Roseanne take to the counter a can of Okocim lager and a can of Strong lager.
- D The person behind the counter was a female with fair skin, approximately 25, with blonde short hair. I witnessed the female sell the cans of lager to Roseanne. I purchased a basket of sundry items from the same female and left the shop. At approximately 13:55 I returned to the shop and announced myself to
- E the female who had sold the alcohol to Roseanne. The seller stated that her name was Sylwia Rutkowska. I explained that she had sold alcohol to a person under 18 during a test purchase exercise. The seller was not aware of a refusals book. The seller stated that the owner is Andrew Wrzeszcz. I explained that we would be in contact with him to discuss the sale of alcohol to a person under 18. I subsequently took the alcohol from Roseanne, and produce this as Exhibit EL/4.

Signature: 



INVESTOR IN PEOPLE

66/2



EL/3



2012/03/14 12:19

Caution

OUR CASE REFERENCE: 12/00492/FOODST
CRW CASE REFERENCE:
COMPANY NAME: Sami Swoi Shop Ltd
COMPANY REGISTERED ADDRESS: [REDACTED]
COMPANY REGISTERED NUMBER 06743890
DATE OF OFFENCE: 2nd April 2012
PLACE OF OFFENCE: Sami Swoi, 8 Portsmouth Road, Southampton, SO19 9AA

BRIEF CIRCUMSTANCES OF OFFENCE:-

That Sami Shop Ltd did, on 2nd April 2012, have in possession for sale at Sami Swoi, 8 Portsmouth Road, Southampton, SO19 9AA, 13 packs of Golden Virginia tobacco, 1 pack of Amber Leaf tobacco and 12 packs of L&M blue cigarettes which were not labelled with the health warnings as prescribed by the Tobacco Products (Manufacture, Presentation and Sale)(Safety) Regulations 2002 (as amended), thereby constituting offences under Section 12 of the Consumer Protection Act 1987.

LEGISLATION

Section 12 Consumer Protection Act 1987

Please read the declaration below and make sure you understand it before you sign.

1. The company admits to committing the offence(s) shown above. A simple caution is not a criminal conviction, but I understand that details of the caution may be kept on any national convictions databases.
2. If new evidence comes to light suggesting that the offence(s) the company has committed are more serious, you might still take legal action against the company.
3. If there are any victims as a result of these offences, they might still take civil action against the company and you might give the name and address of the company's registered office to the victims so they can do this.
4. If the company is charged with another offence and we go to court, you will tell the court that the company has received this simple caution. It will not be cited in court after the expiry of three years from the date of your signature.
5. If the company applies for certain licences connected with the business, e.g. under the Consumer Credit Act 1974 or Licensing Act 2003, this caution may be taken into account in any decision whether to issue any licence.
6. I also understand that in some circumstances the company may be under a duty to disclose the existence of this Caution.

I hereby declare that I

ANDRZEJ WRZESZCZ

am authorised by the company to admit the offence(s) described above and agree to accept a Caution in this case. I understand that a record will be kept of this caution and that it may influence a decision to institute proceedings should the Company be found to be infringing the law in the future. I further understand that this Caution may be cited should the Company subsequently be found guilty of an offence by a Court of Law. I also understand that in some circumstances the company may be under a duty to disclose the existence of this Caution.

NAME (Block capitals) ANDRZEJ WRZESZCZ

SIGNED [REDACTED]

POSITION WITH THE COMPANY DIRECTOR

DATED THIS 21 DAY of Jun 20 12

AFTER A SIGNATURE HAS BEEN ADDED ABOVE, AN OFFICER OF SOUTHAMPTON CITY COUNCIL WILL COUNTERSIGN AND RETURN A COPY.

NAME (Block capitals) C. M. RUSSELL

SIGNED: [REDACTED]

DESIGNATION: PRINCIPAL TRADING STANDARDS OFFICER

DATED THIS 21ST DAY of JUNE 20 12

Caution

OUR CASE REFERENCE: 12/00492/FOODST
CRW CASE REFERENCE:
OFFENDER'S SURNAME: Wrzeszcz
FORNAMES: Andrzej
OCCUPATION: director
HOME ADDRESS: [REDACTED]
DATE OF BIRTH: [REDACTED]
BUSINESS NAME: Sami Swoi Shop Ltd
OFFICER: Lucas Marshall
DATE OF OFFENCE: 2nd April 2012
PLACE OF OFFENCE: Sami Swoi, 8 Portsmouth Road, Southampton SO19 9AA

BRIEF CIRCUMSTANCES OF OFFENCE:-

That Sami Shop Ltd did, on 2nd April 2012, have in possession for sale at Sami Swoi, 8 Portsmouth Road, Southampton, SO19 9AA, 13 packs of Golden Virginia tobacco, 1 pack of Amber Leaf tobacco and 12 packs of L&M blue cigarettes which were not labelled with the health warnings as prescribed by the Tobacco Products (Manufacture, Presentation and Sale)(Safety) Regulations 2002 (as amended), contrary to Section 12 of the Consumer Protection Act 1987 and that these offences were committed with your connivance as a Director of the company Sami Swoi Shop Ltd, by virtue of Section 40(2) of that Act.

LEGISLATION

Section 12 Consumer Protection Act 1987


Please read the declaration below and make sure you understand it before you sign.

- 1 I have admitted to committing the offence(s) shown above. A simple caution is not a criminal conviction, but I understand that details of the caution may be kept on any national convictions databases.
- 2 If new evidence comes to light suggesting that the offence(s) I have committed are more serious, you might still take legal action against me.
- 3 If there are any victims as a result of these offences, they might still take civil action against me and you might give my name and address to the victims so they can do this.
- 4 If I am charged with another offence and I go to court, you will tell the court that I have received this simple caution. It will not be cited in court after the expiry of three years from the date of your signature.
- 5 If I apply for certain licences connected with my business, e.g. under the Consumer Credit Act 1974 or Licensing Act 2003, this caution may be taken into account in any decision whether to issue me with a licence.
- 6 If I already work in a job which is included in the list of notifiable occupations (these are jobs where you are in a position of trust or responsibility, for example, teachers, care workers, taxi drivers, soldiers and doctors), you might tell my employer about this simple caution. (I can ask you for a copy of the full list of notifiable occupations.)
- 7 If I apply for certain jobs, either paid or unpaid, that need me to have a criminal records check (CRB check), you might give my new employer information about this simple caution. (CRB checks are needed for nearly all jobs where you work with children or vulnerable adults, as well as for other sensitive jobs involving a high level of trust.)
- 8 I understand that accepting this simple caution may mean that some countries will not allow me to live there permanently, and some may not allow me to visit (for example, on business, for a holiday or as a student).

Declaration

I have read and understand all this information

I hereby declare that I admit the offence(s) described above and agree to accept a caution in this case. I understand that a record will be kept of this caution and that it may influence a decision to institute proceedings should I be found to be infringing the law in the future. I further understand that this caution may be cited in any subsequent legal proceedings. I also understand that in some circumstances I may be under a duty to disclose the existence of this caution.

Name ANDRZEJ WRZESZCZ Signed 

(Block Capitals)

Dated this 21 day June 20 12

Name C. M. RUSSELL Signed 

Authorised on behalf of Southampton City Council

Dated this 21ST day JUNE 20 12

Caution

OUR CASE REFERENCE: 12/00492/FOODST

CRW CASE REFERENCE:

COMPANY NAME: Sami Swoi Shop Ltd

COMPANY REGISTERED ADDRESS:

COMPANY REGISTERED NUMBER 06743890

DATE OF OFFENCE: 2nd April 2012

PLACE OF OFFENCE: Sami Swoi, 8 Portsmouth Road, Southampton, SO19 9AA

BRIEF CIRCUMSTANCES OF OFFENCE:-

That Sami Shop Ltd did, on 2nd April 2012, have in possession for sale at Sami Swoi, 8 Portsmouth Road, Southampton, SO19 9AA, alcohol, namely 1 bottle of Lubelska Wisniowka, 3 bottles of Wyborowa, 4 bottles of Zoladkowa Gorzka and 2 bottles of Luksus, which were not UK duty paid, thereby constituting an offence under Regulation 12 of the Consumer Protection from Unfair Trading Regulations 2008 by virtue of Paragraph 9 of Schedule 1 of the said Regulations, for stating or otherwise creating the impression that a product can legally be sold when it cannot.

LEGISLATION

Regulation 12 Consumer Protection from Unfair Trading Regulations 2008

Please read the declaration below and make sure you understand it before you sign.


1. The company admits to committing the offence(s) shown above. A simple caution is not a criminal conviction, but I understand that details of the caution may be kept on any national convictions databases.
2. If new evidence comes to light suggesting that the offence(s) the company has committed are more serious, you might still take legal action against the company.
3. If there are any victims as a result of these offences, they might still take civil action against the company and you might give the name and address of the company's registered office to the victims so they can do this.
4. If the company is charged with another offence and we go to court, you will tell the court that the company has received this simple caution. It will not be cited in court after the expiry of three years from the date of your signature.
5. If the company applies for certain licences connected with the business, e.g. under the Consumer Credit Act 1974 or Licensing Act 2003, this caution may be taken into account in any decision whether to issue any licence.
6. I also understand that in some circumstances the company may be under a duty to disclose the existence of this Caution.

I hereby declare that I

ANDRZEJ WRZESZCZ

am authorised by the company to admit the offence(s) described above and agree to accept a Caution in this case. I understand that a record will be kept of this caution and that it may influence a decision to institute proceedings should the Company be found to be infringing the law in the future. I further understand that this Caution may be cited should the Company subsequently be found guilty of an offence by a Court of Law. I also understand that in some circumstances the company may be under a duty to disclose the existence of this Caution.

NAME (Block capitals) ANDRZEJ WRZESZCZ

SIGNED: 

POSITION WITH THE COMPANY DIRECTOR

DATED THIS 21 DAY of Jun 2012

AFTER A SIGNATURE HAS BEEN ADDED ABOVE, AN OFFICER OF SOUTHAMPTON CITY COUNCIL WILL COUNTERSIGN AND RETURN A COPY.

NAME (Block capitals) C. M. RUSSELL

SIGNED: 

DESIGNATION: PRINCIPAL TRADING STANDARDS OFFICER

DATED THIS 21st DAY of JUNE 2012

Caution

OUR CASE REFERENCE: 12/00492/FOODST
CRW CASE REFERENCE:
OFFENDER'S SURNAME: Wrzeszcz
FORNAMES: Andrzej
OCCUPATION: director
HOME ADDRESS: [REDACTED]
DATE OF BIRTH: [REDACTED]
BUSINESS NAME: Sami Swoi Shop Ltd
OFFICER: Lucas Marshall
DATE OF OFFENCE: 2nd April 2012
PLACE OF OFFENCE: Sami Swoi, 8 Portsmouth Road, Southampton SO19 9AA

BRIEF CIRCUMSTANCES OF OFFENCE:-

That Sami Shop Ltd did, on 2nd April 2012, have in possession for sale at Sami Swoi, 8 Portsmouth Road, Southampton, SO19 9AA, alcohol, namely 1 bottle of Lubelska Wisniowka, 3 bottles of Wyborowa, 4 bottles of Zoladkowa Gorzka and 2 bottles of Luksus, which were not UK duty paid, thereby constituting an offence under Regulation 8 of the Consumer Protection from Unfair Trading Regulations 2008, by virtue of Paragraph 9 of Schedule 1 of the said Regulations, for stating or otherwise creating the impression that a product can legally be sold when it cannot, and that these offences were committed with your connivance as a Director of the company Sami Swoi Shop Ltd, by virtue of Regulation 15(1)(a) of those Regulations.

LEGISLATION

Regulation 12 Consumer Protection from Unfair Trading Regulations 2008

Please read the declaration below and make sure you understand it before you sign.

- 1 I have admitted to committing the offence(s) shown above. A simple caution is not a criminal conviction, but I understand that details of the caution may be kept on any national convictions databases.
- 2 If new evidence comes to light suggesting that the offence(s) I have committed are more serious, you might still take legal action against me.
- 3 If there are any victims as a result of these offences, they might still take civil action against me and you might give my name and address to the victims so they can do this.
- 4 If I am charged with another offence and I go to court, you will tell the court that I have received this simple caution. It will not be cited in court after the expiry of three years from the date of your signature.
- 5 If I apply for certain licences connected with my business, e.g. under the Consumer Credit Act 1974 or Licensing Act 2003, this caution may be taken into account in any decision whether to issue me with a licence.
- 6 If I already work in a job which is included in the list of notifiable occupations (these are jobs where you are in a position of trust or responsibility, for example, teachers, care workers, taxi drivers, soldiers and doctors), you might tell my employer about this simple caution. (I can ask you for a copy of the full list of notifiable occupations.)
- 7 If I apply for certain jobs, either paid or unpaid, that need me to have a criminal records check (CRB check), you might give my new employer information about this simple caution. (CRB checks are needed for nearly all jobs where you work with children or vulnerable adults, as well as for other sensitive jobs involving a high level of trust.)
- 8 I understand that accepting this simple caution may mean that some countries will not allow me to live there permanently, and some may not allow me to visit (for example, on business, for a holiday or as a student).

Declaration

I have read and understand all this information

I hereby declare that I admit the offence(s) described above and agree to accept a caution in this case. I understand that a record will be kept of this caution and that it may influence a decision to institute proceedings should I be found to be infringing the law in the future. I further understand that this caution may be cited in any subsequent legal proceedings. I also understand that in some circumstances I may be under a duty to disclose the existence of this caution.

Name ANDRZEJ WRZESZCZ Signed 

(Block Capital/s)
Dated this 21 day Jun 20 12

Name C M. RUSSELL Signed 

Authorised on behalf of **Southampton City Council**
Dated this 21ST day JUNE 20 12

Caution

OUR CASE REFERENCE: 12/00580/UAS

CRW CASE REFERENCE:

COMPANY NAME: Sami Swoi Shop Ltd

COMPANY REGISTERED ADDRESS:

COMPANY REGISTERED NUMBER 06743890

DATE OF OFFENCE: 3rd April 2012

PLACE OF OFFENCE: Sami Swoi, 8 Portsmouth Road, Southampton, SO19 9AA

BRIEF CIRCUMSTANCES OF OFFENCE:-

Did, on 3rd April 2012, at Sami Swoi, 8 Portsmouth Road, Southampton, SO19 9AA sell alcohol, namely a can of Strong lager and a can of Okocim beer, to a person under the age of 18 years, namely of the age of 17 years, contrary to Section 146 of the Licensing Act 2003.

LEGISLATION

Section 146 Licensing Act 2003

Please read the declaration below and make sure you understand it before you sign.

1. The company admits to committing the offence(s) shown above. A simple caution is not a criminal conviction, but I understand that details of the caution may be kept on any national convictions databases.
2. If new evidence comes to light suggesting that the offence(s) the company has committed are more serious, you might still take legal action against the company.
3. If there are any victims as a result of these offences, they might still take civil action against the company and you might give the name and address of the company's registered office to the victims so they can do this.
4. If the company is charged with another offence and we go to court, you will tell the court that the company has received this simple caution. It will not be cited in court after the expiry of three years from the date of your signature.
5. If the company applies for certain licences connected with the business, e.g. under the Consumer Credit Act 1974 or Licensing Act 2003, this caution may be taken into account in any decision whether to issue any licence.
6. I also understand that in some circumstances the company may be under a duty to disclose the existence of this Caution.

I hereby declare that I

ANDRZEJ WRZESZCZ

am authorised by the company to admit the offence(s) described above and agree to accept a Caution in this case. I understand that a record will be kept of this caution and that it may influence a decision to institute proceedings should the Company be found to be infringing the law in the future. I further understand that this Caution may be cited should the Company subsequently be found guilty of an offence by a Court of Law. I also understand that in some circumstances the company may be under a duty to disclose the existence of this Caution.

NAME (Block capitals) ANDRZEJ WRZESZCZ

SIGNED 

POSITION WITH THE COMPANY DIRECTOR

DATED THIS 21 DAY of Jun 2012

AFTER A SIGNATURE HAS BEEN ADDED ABOVE, AN OFFICER OF SOUTHAMPTON CITY COUNCIL WILL COUNTERSIGN AND RETURN A COPY.

NAME (Block capitals) C. M. RUSSELL

SIGNED: 

DESIGNATION: PRINCIPAL TRADING STANDARDS OFFICER

DATED THIS 21st DAY of JUNE 2012

Caution

OUR CASE REFERENCE: 12/00580/UAS

CRW CASE REFERENCE:

OFFENDER'S SURNAME: Rutkowska

FORNAMES: Sylwia

OCCUPATION: Shop assistant

HOME ADDRESS: [REDACTED]

DATE OF BIRTH: [REDACTED]

BUSINESS NAME: Sami Swoi

OFFICER: Lucas Marshall

DATE OF OFFENCE: 3rd April 2012

PLACE OF OFFENCE: Sami Swoi, 8 Portsmouth Road, Southampton SO19 9AA

BRIEF CIRCUMSTANCES OF OFFENCE:-

Did, on 3rd April 2012, at Sami Swoi, 8 Portsmouth Road, Southampton, SO19 9AA, sell alcohol, namely a can of Strong lager and a can of Okocim beer, to a person under the age of 18 years, namely of the age of 17 years, contrary to Section 146 of the Licensing Act 2003.

LEGISLATION

Section 146 Licensing Act 2003

Please read the declaration below and make sure you understand it before you sign.

- 1 I have admitted to committing the offence(s) shown above. A simple caution is not a criminal conviction, but I understand that details of the caution may be kept on any national convictions databases.
- 2 If new evidence comes to light suggesting that the offence(s) I have committed are more serious, you might still take legal action against me.
- 3 If there are any victims as a result of these offences, they might still take civil action against me and you might give my name and address to the victims so they can do this.
- 4 If I am charged with another offence and I go to court, you will tell the court that I have received this simple caution. It will not be cited in court after the expiry of three years from the date of your signature.
- 5 If I apply for certain licences connected with my business, e.g. under the Consumer Credit Act 1974 or Licensing Act 2003, this caution may be taken into account in any decision whether to issue me with a licence.
- 6 If I already work in a job which is included in the list of notifiable occupations (these are jobs where you are in a position of trust or responsibility, for example, teachers, care workers, taxi drivers, soldiers and doctors), you might tell my employer about this simple caution. (I can ask you for a copy of the full list of notifiable occupations.)
- 7 If I apply for certain jobs, either paid or unpaid, that need me to have a criminal records check (CRB check), you might give my new employer information about this simple caution. (CRB checks are needed for nearly all jobs where you work with children or vulnerable adults, as well as for other sensitive jobs involving a high level of trust.)
- 8 I understand that accepting this simple caution may mean that some countries will not allow me to live there permanently, and some may not allow me to visit (for example, on business, for a holiday or as a student).

Declaration

I have read and understand all this information

I hereby declare that I admit the offence(s) described above and agree to accept a caution in this case. I understand that a record will be kept of this caution and that it may influence a decision to institute proceedings should I be found to be infringing the law in the future. I further understand that this caution may be cited in any subsequent legal proceedings. I also understand that in some circumstances I may be under a duty to disclose the existence of this caution.

Name LUTKOWSKA SYLVIA Signed _____

(Block Capitals)

Dated this 21.06 day _____ 20 12

Name C. M. RUSSELL Signed _____

Authorised on behalf of Southampton City Council

Dated this 21st day JUNE 20 12

From: Evans, Jane
Sent: 08 August 2012 10:33
To: Licensing
Subject: FW: Licensing applications checked by SSCB
Dear Team,

Please see below in Ian's absence.

Kind regards,
Jane Evans
SSCB Coordinator
Southampton Safeguarding Children Board
Floor 5, Marland House
Southampton
SO14 7PQ

From: Evans, Jane
Sent: 08 August 2012 10:27
To: McGuinness, Ian
Cc: Budgen, Felicity; Fagan, Grace
Subject: RE: Licensing applications checked by SSCB

Dear Ian,

Grace has discussed the matter with the Head of Children Services, who confirms that the below is the view of Children Services, given their role in reviewing the licenses.

Kind regards,
Jane Evans
SSCB Coordinator
Southampton Safeguarding Children Board
Floor 5, Marland House
Southampton
SO14 7PQ

From: Fagan, Grace
Sent: 01 August 2012 14:39
To: Budgen, Felicity; McGuinness, Ian
Cc: Evans, Jane
Subject: RE: Licensing applications checked by SSCB

Dear Ian

You have requested we support or not the application submitted in relation to risk that may be presented to children. Clearly the evidence gathered is overwhelming clear that this establishment do not act within the law to safeguard children.

I have passed your email onto the Head of Safeguarding – Felicity Budgen, who has raised the objections based on the information provided. I will ask her nominated department to consider how best to respond to yourselves.

Kind regards
Grace Fagan
SSCB Manager
Southampton Safeguarding Children Board
Floor 5
Marland House
Southampton
SO14 7PQ

From: Evans, Jane
Sent: 01 August 2012 14:04
To: Fagan, Grace
Subject: FW: Licensing applications checked by SSCB

Jane Evans
SSCB Coordinator
Southampton Safeguarding Children Board
Floor 5, Marland House
Southampton
SO14 7PQ

From: McGuinness, Ian **On Behalf Of** Licensing
Sent: 01 August 2012 13:47
To: Evans, Jane
Subject: RE: Licensing applications checked by SSCB

Good Afternoon Jane,

With reference to Sami Swoi Shop, can you advise if this is purely a comment or you wish to make representation with regards to the review application? Should this be the case, please advise in more detail as to the grounds of this. This will form part of the hearing report and an invite to the hearing will be issued in due course.

Kind regards,

Ian

Ian McGuinness

Licensing Enforcement Officer
Legal, HR and Democratic Services
Southampton and Eastleigh Licensing Partnership
Southampton City Council

Please Note: - This email is confidential but may have to be disclosed under the Freedom of Information Act 2000, the Data Protection Act 1998 or the Environmental Information Regulations 2004. If you are not the person or organisation it was meant for, apologies, please ignore it, delete it and notify us. SCC does not make legally binding agreements or accept formal notices/proceedings by email. E-mails may be monitored.

From: Evans, Jane
Sent: 30 July 2012 13:35
To: Licensing
Subject: Licensing applications checked by SSCB

Dear team,

Please find below:

Date Reviewed by CSL	Premises/Applicants Name	Does application meet Objective 'E' - "The Protection of Children"? Y/N	Authorised by:
30.08.2012	Sami Swoi Shop Ltd (Application for review by Lucas Marshall, Trading Standards Officer)	Children's Services do not support this premises holding a licence, based on the information presented in the application for review.	Interim Board Manager, Grace Fagan

Kind regards,
Jane Evans
SSCB Coordinator
Southampton Safeguarding Children Board
Floor 5, Marland House
Southampton
SO14 7PQ

Representations following an application to review the premises licence for Sami Swoi.

Sami Swoi Shop Limited wishes to express its considerable regret that it has been necessary to call for a review of their premises licence following a failed test purchase and also for selling alcohol and cigarettes on which no excise duty had been paid. The company apologises to the Licensing Committee and Responsible authorities involved in the enforcement process.

Mr Wrzeszcz a co-director of the Company co-operated fully with Trading Standards in respect to the investigation into the offence of selling the alcohol and cigarettes. He is deeply ashamed by his actions, and the whole experience, for someone who has been a respectable businessman and individual throughout their life, has had a salutary effect. The decision to sell the items which had been offered to him was one he realises was stupid and one which in fact brought him minimal additional income over a short period of time.

Mr Wrzeszcz appreciates that having accepted a caution for an offence of dishonesty it will be difficult for the Licensing Committee to accept his assurance that there would be no reoccurrence of this or any other criminal activity at the store. Nonetheless that is an assurance he gives, asking the Committee to appreciate that having experienced the stress and anxiety of the investigation and the risk he has placed his business in with this subsequent licence review, he could never put himself or his family through something like that again.

With respect to the failed test purchase Mr Wrzeszcz again accepted a caution in respect of an offence relating to that failed test purchase. There are measures in place to ensure that staff do not sell alcohol to persons under the age of 18. Training is provided to staff but it is accepted by Mr Wrzeszcz that training records were not kept. He confirms the member of staff who sold the alcohol was trained and had worked for him for sometime and knew what her responsibilities were.

Since the offence Mr Wrzeszcz has adopted a challenge 25 policy. There was a challenge 21 policy at the time of the test purchase.

There was a refusal book in operation which is completed by staff when they refuse age restricted products. The person who made the sale has made entries within the refusal book and Mr Wrzeszcz has observed her challenging customers age in the past. All staff have been reminded about the importance of completing this record.

The member of staff has been spoken to about the offence. She accepted a caution for the offence. However, the member of staff was not shown the photograph of the seller and could not in fact remember the individual when she was interviewed about the offence. She was very scared and told the Officer that she had identified the girl on an earlier occasion and did not therefore check on that day of the sale. This she accepts could not possibly be the case but she was desperate to have the matter over and done with. Her command of English is not good and she was confused in the interview.

She has subsequently seen the photograph attached to the review papers of the person who purchased the alcohol and she confirms that she believes the person looks about 21 years old and accordingly she would have no reason to suspect they were under the age of 18. This is a statutory defence to the allegation.

Mr Wrzeszcz was not shown a photograph of the test purchaser either and subsequently confirms the view of the seller that the young woman definitely looks over the age of 18. He accepted the caution on the basis that the training records for staff were not properly completed and the refusals book had not been maintained and used at all times.

Mr Wrzeszcz accepts the conditions being sought are appropriate and proportionate and all have been put in place already. Mr Zenka also accepts that the Committee should impose a period of suspension for the premises licence. This however, should only be what is considered appropriate and proportionate to act as a deterrent and promote the licensing objectives.

Blake Laphorn Solicitors on behalf of the premises licence holder.