

DECISION-MAKER Licensing (Licensing and Gambling) Sub-Committee

SUBJECT Hearing to Consider an application for Review of Premises Licence –
Premier, 89 Commercial Road, Southampton SO15 1GH

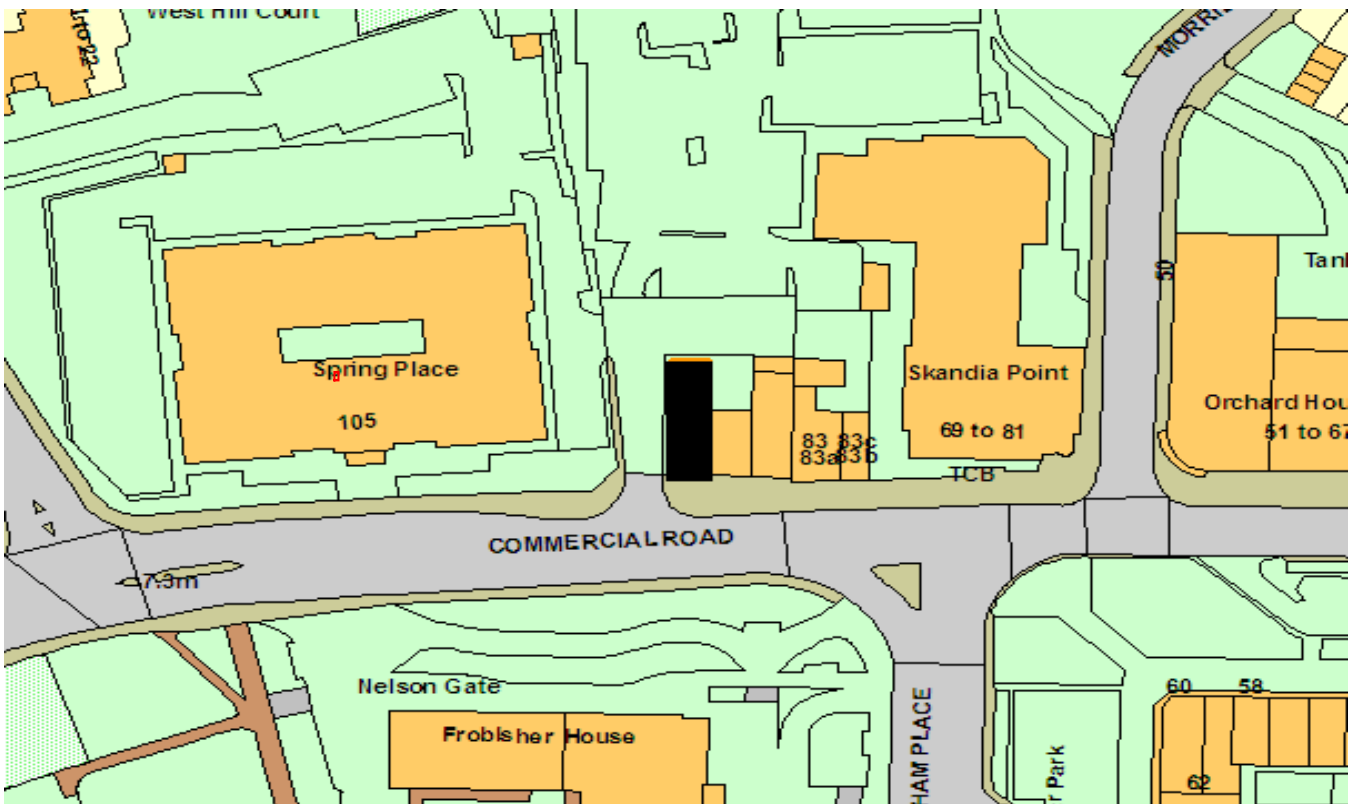
DATE OF HEARING Thursday 29 May 2014

REPORT OF Head of Legal and Democratic Services

E-mail licensing@southampton.gov.uk

Application Date : 10 April 2014 Application Received : 10 April 2014

Application Valid : 10 April 2014 Reference : 2014/01481/01SRAP



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Responsible Authority	Satisfactory?
Child Protection Services - Licensing	No Response Received
Hampshire Fire And Rescue - Licensing	Yes

Environmental Health - Licensing	No Response Received
Planning & Sustainability - Building Control - Licensing	No Response Received
Primary Care Trust - Public Health Manager	No Response Received
Police - Licensing	NO
Trading Standards - Licensing	NO

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 of 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.
: 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.

7. 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.

8. 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
9. 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
10. Copies of the application for review and the applicant's objection are annexed to this report
11. The sub-committee must also have regard to:-

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.

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 affects 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

Commercial Express, 89 Commercial Road, Southampton

Post town Southampton

Post code (if known) SO15 1GH

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

Mrs. Prabhjit Kaur Khaira

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

2010/00082/01SPRN

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 Southampton City Council One Guildhall Square Southampton
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 type="checkbox"/> |

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

This review concerns the sale of illegal non UK duty paid alcohol at Commercial Express, 89 Commercial Rd, Southampton, and is requested on the following grounds:

1. The prevention of crime and disorder.



Please provide as much information as possible to support the application

(please read guidance note 2)

On 17th December 2013 Trading Standards Officers Malcolm Thornton and Lucas Marshall accompanied officers of Hampshire Constabulary to Commercial Express, 89 Commercial Rd, Southampton, where they conducted an inspection of the premises.

Alcohol, namely Smirnoff Red Vodka, Russian Standard, Metropolis Vodka, and Strawberry Smirnoff Vodka were examined and a total of 178 bottles were subsequently seized.

The Smirnoff Red, Russian Standard and Metropolis Vodka were later examined by John Fitzpatrick (see statement), who is employed as a security consultant with the International Federation of Spirits Producers. He confirmed that the Smirnoff Red Vodka, of which there were 47 bottles, was genuine Smirnoff, however it had been re-labelled with counterfeit back labels: the back label of a UK Duty paid example bears a pink circular duty stamp which indicates that UK duty has been paid, and on a legitimate bottle of Smirnoff Red Vodka this is applied to the bottle at the production stage. Products that are not intended for sale in the UK, and therefore are not liable for the duty to be paid on them, would normally have a different rear label without a duty stamp. Criminal gangs obtain spirit drinks that are destined to be sold outside of the UK at a much lower price than UK market product. They then apply a counterfeit label with duty stamp to make it appear to be legitimate UK stock and sell it within the UK.

John Fitzpatrick also examined the Metropolis Vodka, of which there were 120 bottles, and noted that the duty stamp number was incorrect, and related to a manufacturer that did not produce Metropolis. This is believed to be illegal, non UK duty paid vodka and has been subject to seizures nationally. He also examined the Russian Standard vodka and noted discolouration of the duty stamp on the bottles and that the duty stamp was tacky to touch, indicating that the product may have been subject to duty fraud. Such signs indicate that the duty stamp has been overlaid with a sticker which is a requirement for such stock going into duty suspension, effectively declaring it is not going to be sold in the UK and will not have the duty paid on it. The overlaid sticker has been removed and this indicates the product may have been sold on without the duty being paid.

With regard to the single bottle of Strawberry Smirnoff Vodka this did not bear a duty stamp, so was clearly not legal for sale.

On 20th December I visited Commercial Express with PC Sarah Norris. During my inspection I cautioned Gursamraj Khaira, the Director of R&J Off Licences Ltd, who trade as Commercial Express. Gursamraj told me that the Russian Standard and Metropolis vodka had been supplied by a trader called World of Drink and showed me an invoice dated 15/11/2013 itemising the alcohol. The invoice bore no detail of ownership of the business or the address. It had a VAT number, but enquiries have shown that this does not relate to any business. On further questioning, and during subsequent interview, Gursamraj told me that this alcohol is delivered by a man called Tom, whom he did not have any contact details for, from his car on a monthly basis.

With regard to the Smirnoff he said that he had bought 10 cases (60 bottles) from a family friend, called Gary Sidhu at £10 per bottle. Gursamraj said that he had believed that Mr Sidhu who had originally bought the vodka for a wedding.

It is alleged that the Company, R&J Off Licence Ltd and the director Gursamraj Singh, due to his negligence, have committed offences under Regulation 4(c) of the General Food Regulations, for failing to comply with Article 18(2) of EC178/2002, in that there was insufficient traceability relating to supply of the alcohol. Gursamraj Khaira and the Company have accepted Simple Cautions in relation to these offences (see attached). It is alleged that the Company has committed an offence under Section 92(1)(c) of the

Trade Marks Act 1994 for having in possession for sale goods (the Smirnoff Vodka) which bears a sign likely to be mistaken for a registered trade mark (see attached Trade Mark Certificate). The Company has accepted a Simple Caution in relation to this offence (see attached). Additionally offences are committed under Section 144 of the Licensing Act 2003 for having on the premises smuggled goods. There has been a clear breach of the licensing objective "to prevent crime & disorder". The Home Office Guidance issued under Section 182 of the Licensing Act 2003 states that criminal activity, including the sale of smuggled alcohol, should be treated particularly seriously. In addition to the illegality of smuggled vodka, the low purchase and subsequent low retail price has an adverse effect on competition with legitimate retailers. A low retail price also encourages consumption, which the current Government is attempting to counter by raising retail prices of alcohol via new legislation. The Metropolis Vodka was purchased for only £8.49 per bottle, and sold at £8.99, a very low price which covers duty and VAT, but only just: the current duty and VAT on a 70cl bottle of 37.5% vodka is £8.89. The Premises Licence Holder, Designated Premises Supervisor and Director of the Company should have taken into account the low purchase price and the manner in which the alcohol was supplied to the premises when ascertaining whether it was likely to be legal, but neglected to do so.

Southampton Trading Standards would therefore ask that the following condition is imposed on the licence, and that the licence is suspended for a period of 3 months, as a deterrent to further offences being committed:

"The Premises Licence Holder must keep, for a period of 24 months, complete records, such as invoices, receipts and delivery notes, relating to alcohol obtained by him for sale from his premises. 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 present at his premises."

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

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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

[Redacted signature area]

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

Post town

Post Code

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.



WITNESS STATEMENT

(Criminal Procedure Rules, Rule 27.1(1);

Criminal Justice Act 1967, Section 9; Magistrates Courts Act 1980, Section 5B

Page 1

Statement of: **Lucas David Marshall**

Age if under 18:	Over 18	Occupation:	
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CRIMINAL PROCEDURE AND INVESTIGATIONS ACT 1996

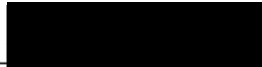
Record below anything that may affect the credibility of the person making this statement, eg previous convictions, relationship to defendant. If there is nothing state 'none' below.

None

Dated the 7 day of *APRIL* 2014 Signed 

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.

Signature:



Date:

7th APRIL 2014

My name is Lucas Marshall. I am employed by Southampton City Council as a Trading Standards Officer. On the morning of 17th December 2013 Trading Standards Officer Malcolm Thornton and I visited Commercial Express, 89 Commercial Road, Southampton to examine some alcohol to ascertain whether it was illegal. This was part of a police exercise. I identified to Mr Thornton alcohol which I thought might be illegal, namely Smirnoff Vodka, Russian Standard Vodka, Metropolis Vodka and a bottle of Strawberry Smirnoff which did not bear a duty stamp, and then left the premises. On 20th December 2013, at approximately 12:45, I visited Commercial Express with PC Sarah Norris. I issued a PACE Code B notice to Kashmir Khaira. Shortly after her husband, Bhratpal Khaira, and son Gursamraj Khaira arrived at the shop. I cautioned Kashmir, Bhratpal and Gursamraj Khaira. I then asked Kashmir Khaira for invoices relating to the purchase of the Smirnoff Vodka, Russian Standard Vodka and Metropolis Vodka which had been seized on 17th December, which she provided, and I subsequently seized. I produce as exhibit LM/1 an invoice headed 'World of Drink' dated 15/11/13. Gursamraj confirmed that this related to the purchase of 2 cases of Russian Standard and 12 cases of Metropolis Vodka, each case containing 12 bottles. The invoice does not give details of the name and address of the supplier, and Gursamraj was only able to identify the supplier as a man called Tom who drives a black car, possibly a Skoda Octavia, and who delivered alcohol to the store about every month. He said that he did not have any contact details for Tom. With regard to the Smirnoff Red Vodka Gursamraj could not provide an invoice for its purchase - he said that he had bought 10 cases, each containing 6 bottles, from a family friend called Gary Sidhu. He said that Mr Sidhu had the Smirnoff left over from a wedding. He bought these on 12th December 2013 and had paid £60 per case. He gave Mr Sidhu's contact number to me. With regard to the Strawberry Smirnoff, this had been purchased from a company called Mr Drinks UK. Only one bottle of this product had been purchased. I produce the invoice as exhibit LM/2. On 13/02/2014 I interviewed Gursamraj Khaira at 7 Civic Centre Rd, Southampton. The interview was conducted in accordance with the Police and

Signature:



Date:

7th APRIL 2014

WITNESS STATEMENT


(Criminal Procedure Rules, Rule 27.1(1);

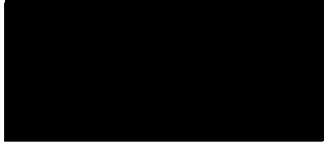
Criminal Justice Act 1967, Section 9; Magistrates Courts Act 1980, Section 5B

Page 2

Statement of: **Lucas David Marshall**

Criminal Evidence Act 1984 and associated Codes of Practice. Gursamraj Khaira identified himself as the director of the company R&J Off-Licences Ltd who trade as Commercial Express. I interviewed him regarding alleged offences relating to the sale of counterfeit Smirnoff Vodka and not keeping records of traceability of alcohol supplied to the shop. I produce a CD copy of the recording as exhibit LM/3. On 17th March 2014 Gursamraj Khaira attended 7 Civic Centre Road to accept simple cautions in relation to offences committed by R&J Off-Licences Ltd and himself, as director, for failing to keep records of traceability for the Russian Standard Vodka and Metropolis Vodka, and offences committed by the company for supplying counterfeit Smirnoff Vodka.



Signature: 

Date: *7th APRIL 2014*



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: **MALCOLM JOHN THORNTON**

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 30th day of March 2014 ^{HST} Signature:

..... being unable to read the statement,
I..... of
.....read it to him/her before he/she signed it.

Dated the day of2013... Signature:

- A I am a Trading Standards Officer employed by Southampton City Council based at One Guildhall Square, Southampton. At about 08.40 on 17th December 2013 I attended, at the request of PC Gail Clarence of Hampshire Constabulary, the premises trading as Commercial
- B Express, 89 Commercial Road, Southampton. This premises is a small grocers/off-licence and I was asked to examine the alcohol for sale in the premises for compliance with relevant legislation. On the shelves behind the counter was a display of various spirits which I examined.
- C Amongst the display was one bottle of Smirnoff Strawberry Vodka which did not bear a UK duty stamp, twelve bottles of Metropolis Vodka which did bear a UK duty stamp number A900000001023 but not apparently any lot code and was priced at £8.99 per bottle, seven
- D bottles Smirnoff Vodka bearing a UK duty stamp priced at £13.99 per bottle and three bottles of Russian Standard Vodka also bearing a UK duty stamp and priced at £13.99. I was joined by my colleague Lucas Marshall and we concluded that the products may have been either
- E counterfeit or non duty paid based on the priced and look of the labels. In a stock room at the back of the shop a further nine cases, twelve bottles in each, of Metropolis vodka, seven cases,

ST1(1)HQ Signature

BY **Malcolm John Thornton**

A with six bottles in each, of Smirnoff vodka and one case of six bottles of Russian Standard
Vodka and one bottle of Russian Standard were found and these together with those in the shop
were seized by the Police. On the same day I took one of the Smirnoff Vodka bottles for
submission to the public analyst as a food sample. It was labelled as sample number 001435,
B sealed in a plastic bag with seal number 04978532. It was submitted on the 20th December
2013 to Hampshire Scientific Services at Southsea, Hampshire who were requested to check
the authenticity of the product, its alcoholic strength and the presence of methanol. On 8th
January 2014 I visited the property office of Hampshire Constabulary at their office in Southern
C Road, Southampton and collected the above products. These were placed in secure storage at
7 Civic Centre Road, Southampton. I examined all the Lot codes on the Smirnoff vodka which
appeared to be from the same batch, being L3147CY000. The Russian Standard Vodka bore
three lot codes 080513142214, 0805131422014 and 2800913105213. On the 17th January
D 2014 I was visited by John Fitzpatrick of the International Federation of Spirits Producers (IFSP)
who I had asked to examine the various bottles of spirits. He informed me that in his opinion the
products were duty avoided in all three cases. On 19th February 2014 I received the certificate
of analysis from Hampshire Scientific Services, which confirmed the product was satisfactory in
E respect of the tests applied.

Signature: 

F

G

Witness Statement

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

URN:

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Statement of: John Fitzpatrick

Age if under 18 (if over insert "over 18"): Over 18

Occupation: Security Consultant

This statement (consisting of Pages(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.

Name / Signature:

Date: 30/1/14

Tick if witness evidence is visually recorded: (Supply witness details on last page)

Statement

I am John Fitzpatrick and I am employed as a security consultant by the International Federation of Spirits Producers (IFSP) in the capacity of Country Manager GB and have been so employed for the last 3 years. On behalf of their members IFSP assists law enforcement in the identification of counterfeit spirits. Diageo is a member of IFSP and one of their brands is Smirnoff (Red) vodka.

On Fri 17 Jan 14 I attended the offices of Southampton Trading Standards and viewed a seizure of Smirnoff (Red). The seizure also included Russian Standard vodka and Metropolis vodka.

Having examined the Smirnoff I confirmed that the bottles bore counterfeit rear labels.

A counterfeit label on a bottle of spirits is an offence under the Trade Marks Act as it copies the design of registered trademarks belonging to the legitimate brand owner.

The presence of a counterfeit rear label on a bottle of spirits that in all other respects is a genuine product indicative that the duty payable on such spirits has been avoided. All spirit drink bottles that meet certain criteria should bear a UK duty stamp to show that the necessary duty (tax) has been paid. This UK duty stamp is usually incorporated and forms part of the rear label that is applied to the bottle at production stage. Products that are not intended for sale in the UK and therefore are not liable for the duty to be paid on them, normally would have a different rear label without a duty stamp. Criminal gangs obtain spirit drinks that are not destined to be sold in the UK and as they have not attracted the duty, they are therefore obtained at a much lower price. Having purchased this stock they illegally offer it for sale within the UK at the approximate cost of a UK duty paid product, making a profit on the difference between the 'free of duty' cost and the duty paid cost. Before offering it for sale and In order to avoid detection by the authorities, they will apply to the back of the bottle a counterfeit rear label with a counterfeit duty stamp.

Whilst not one of our brands, I examined the Metropolis vodka and noted the duty stamp serial number. I am aware that this number is incorrect in that the serial number relates to another company and not the producer of Metropolis. Whilst not one of our brands, I also examined the Russian Standard vodka. I noted discolouration of the duty stamp on the bottles and noted that the duty stamp was tacky to touch. This indicates to me that this product may have been subject to duty fraud. Such signs indicate that at one stage the duty stamp has been overlaid with a sticker which is a requirement for such stock going into duty suspension (effectively declaring it is not going to be sold in the UK and not having to pay the duty (tax) on it). The overlaid sticker has been removed and this indicates the product may have been sold on without

Name / Signature:

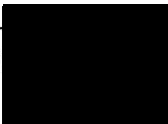
Signature Witnessed by:



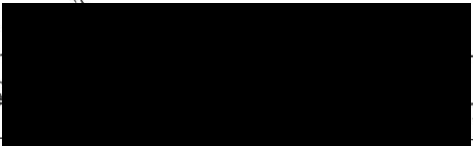
Witness Statement

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005 , Rule 27.1

the duty being paid



Name / Signature



Signature Witnessed by:

SALES INVOICE **MR DRINKS UK**
The Choice of a New Generation

TO: RAJ
 COMMERCIAL ROAD
 SOUTHAMPTON
 SO15 1GH

QTY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
1	1	Smirnoff Iced Cake 70cl	25.00	25.00
1	1	Smirnoff Grape 70cl	22.00	22.00
1	1	Ciroc Amaretto 70cl	40.00	40.00
1	1	Luc Belaire Rose	27.00	27.00
1	1	Ciroc Peach 70cl	35.00	35.00
1	1	Smirnoff Pineapple 70cl	22.00	22.00
1	1	Smirnoff Strawberry 70cl	22.00	22.00



Trading Standards Service

Incident reference
 13/01684/TMA

Exhibit reference
 LM/2

Description of article
 INVOICE FROM 'MR
 DRINKS UK LTD
 DATED 24/9/13

SUBTOTAL	193.00
SHIPPING	14.00
VAT	included
TOTAL	207.00

Signature of person originally identifying



Name of person originally identifying (block letters)

LUCAS MARSHALL

Mr Drinks UK Ltd 6 Mitre Passage, Greenwich Peninsula, London SE10 0EF

Telephone 0203 440 7035 Email info@mrdrinksuk.co.uk www.mrdrinksuk.co.uk

UK Registered Company 07772679 VAT: 22297608712

TRADE MARKS
REGISTRY



*Registration
Certificate*

Trade Marks Act 1938 of Great Britain and Northern Ireland

SMIRNOFF

The Mark shown above has been registered in Part A of the Register under No. 1295657 as of the date 16.12.1986 in Class 33 in respect of:

Vodka included in Class 33.

In the name of:

Heublein, Inc. (United States of America,
Connecticut)

Sealed this day at my direction

TRADE MARKS
REGISTRY



*Renewal
Certificate*

Trade Marks Act 1938 of Great Britain and Northern Ireland

The Trade Mark No. 1295657 in Class(es) :-

33

registered in the name of Heublein Inc.
(United States of America, Connecticut)
Incorporated in United States of America , CONNECTICUT
has been renewed for a period of 14 years from the 16 December 1993
and was advertised as renewed in Trade Mark Journal 6009.

Scaled this day at my direction

P. R. S. HARTNACK, REGISTRAR
18 November 1993
DATE



Trade Marks Registry Renewal Certificate

The Trade Mark No. 1295657 in Class(es) :-

33

registered in the name of Diageo North America, Inc.
Incorporated in United States of America, Connecticut
has been renewed for a period of 10 years from the 16 December 2007
and was advertised as renewed in Trade Mark Journal 6704.

Sealed this day at my direction

Comptroller General of Patents, Designs and Trade Marks United Kingdom Intellectual Property Office
Date 10 September 2007



Caution

OUR CASE REFERENCE: 13/01684/TMA
CRW CASE REFERENCE:
COMPANY NAME: R & J Off-Licences Ltd
COMPANY REGISTERED ADDRESS: 89 Commercial Road, Southampton, SO15 1GH
COMPANY REGISTERED NUMBER 07442447

DATE OF OFFENCE: 17th & 20th December 2013
PLACE OF OFFENCE: Commercial Express, 89 Commercial Road, Southampton, SO15 1GH

BRIEF CIRCUMSTANCES OF OFFENCE:-

On 17th December 2013 178 bottles of vodka were seized from R&J Off-Licences Ltd, trading as Commercial Express, 89 Commercial Road, Southampton, SO15 1GH. Gursamraj Khaira is a Director of that Company. On 20th December 2013 Trading Standards Officer Lucas Marshall requested documentation relating to the delivery of products seized from Commercial Express, namely 47 bottles of Smirnoff Vodka, 120 bottles of Metropolis Vodka and 10 bottles of Russian Standard Vodka. Article 18(2) of EC178/2002 requires a food business to be able to identify any person from whom they have been supplied with a food. Regulation 4(c) of the General Food Regulations 2004 makes it an offence to contravene this provision. It is alleged that the Company, R&J Off-Licences Ltd has committed offences under Regulation 4(c) of the General Food Regulations 2004, for failing to comply with Article 18(2) of EC178/2002, in that there was insufficient traceability relating to the Russian Standard Vodka and Metropolis Vodka, in that a name and address of the supplier could not be provided, and that there were no records of traceability relating to the Smirnoff Vodka.

With regard to the 47 bottles of Smirnoff Vodka seized on 17th December 2013 these were found to bear counterfeit rear labels, thereby constituting offences under Section 92(1)(c) of the Trade Marks Act 1994, for having in possession for sale goods which bear a sign likely to be mistaken for a registered trade mark.

LEGISLATION

Regulation 4(c) General Food Regulations 2004

Section 92(1)c Trade Marks Act 1994

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

GURSAMRAJ KHAIRA

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) GURSAMRAJ KHAIRA

SIGNED 

POSITION WITH THE COMPANY DIRECTOR

DATED THIS 17th DAY of MARCH 2014

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 17th DAY of MARCH 2014

Caution

OUR CASE REFERENCE: 13/01684/TMA

CRW CASE REFERENCE:

OFFENDER'S SURNAME: Khaira

FORNAMES: Gursamraj

OCCUPATION: Director

HOME ADDRESS: [REDACTED]

DATE OF BIRTH: [REDACTED]

BUSINESS NAME: R&J Off-Licences Ltd T/A Commercial Express

OFFICER: Lucas Marshall

DATE OF OFFENCE: 20th December 2013

PLACE OF OFFENCE: Commercial Express, 89 Commercial Road, Southampton, SO15 1GH

BRIEF CIRCUMSTANCES OF OFFENCE:-

On 17th December 2013 178 bottles of vodka were seized from R&J Off-Licences Ltd, trading as Commercial Express, 89 Commercial Road, Southampton, SO15 1GH. Gursamraj Khaira is a Director of that Company. On 20th December 2013 Trading Standards Officer Lucas Marshall requested documentation relating to the delivery of products seized from Commercial Express, namely 47 bottles of Smirnoff Vodka, 120 bottles of Metropolis Vodka and 10 bottles of Russian Standard Vodka. Article 18(2) of EC178/2002 requires a food business to be able to identify any person from whom they have been supplied with a food. Regulation 4(c) of the General Food Regulations 2004 makes it an offence to contravene this provision. It is alleged that the Company, R&J Off-Licences Ltd, and thereby director Gursamraj Khaira due to his negligence (by virtue of Section 36(1)(a) Food Safety Act 1990), have committed offences under Regulation 4(c) of the General Food Regulations 2004, for failing to comply with Article 18(2) of EC178/2002, in that there was insufficient traceability relating to the Russian Standard Vodka and Metropolis Vodka, in that a name and address of the supplier could not be provided, and that there were no records of traceability relating to the Smirnoff Vodka.

LEGISLATION

Regulation 4(c) General Food Regulations 2004

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 GURSAMBAS KHAIRA Signed 

(Block Capitals)

Dated this 17 day March 2014

Name C. M. Russell Signed 

Authorised on behalf of Southampton City Council

Dated this 17th day March 2014



Hampshire Constabulary



Station : **SC** Area : **Western**
Department : **Licensing** Date : **15th April, 2014**

Subject : **Review application for Premier/Commercial Express**

SCC - Licensing Department

Dear Sir/Madam

I write in support of the Trading Standards application for review of premises licence for Premier/Commercial Express, Southampton on the grounds that they recently failed to support the Licensing Objectives to prevent Crime and Disorder and to protect children from harm by contravening sections 92(1)(c) of the Trade Marks Act 1994 and Section 144 of the Licensing Act 2003.

Trading Standards and the Police share responsibility in the enforcement of the Licensing Act 2003 with regard to Licensing Objectives. On 20th December 2013 PC 21071 Norris accompanied by Lucas Marshall from Trading Standards were present when a Section 8 PACE Warrant was executed at the above premises following an exercise that took place a few days prior which identified possible illegal alcohol on the premises.

I have read the statements of Lucas Marshall and Malcolm Thornton who had attended the premises on the 17th December, 2013 which initiated the request for a warrant to be obtained. It concerns us considerably that the premises are selling various brands of Vodka with counterfeit stamp duty labels applied to make them appear legal. There is insufficient traceability relating to the supply of this alcohol. The Premises Licence Holder, Designated Premises Supervisor and Director of the Company should have taken into account the low purchase price and the manner in which the alcohol was supplied to the premises (from the back of a car) when ascertaining whether it was likely to be legal, but neglected to do so; Hampshire Constabulary is concerned that by conducting their business in this manner fails to uphold the Licensing Objectives in relation to the Prevention of Crime and Disorder and Protection of Children from harm.

Owing to the concerns raised by the Trading Standards and that previous imposed conditions by the Licensing Authority are not being adhered to we also propose that the committee seriously consider suspending the licence for a period of 3 months as a deterrent, this will also allow the premises sufficient time to make sure all conditions, existing and new are put in place and adhered to correctly and responsibly which will demonstrate that they are working to support their licensing objectives.



The conditions not being adhered to:

CCTV at the premises will be of sufficient quality to be produced as evidence in a court of law. It also should be able to record for a minimum of 28 days, following a recent spring clean visit their CCTV was only recording for approx 8 days although the DPS was signing to say that everything was correct with the system.

The premises were to ensure that alcohol on sale was not visible through the front window; the alcohol was still visible on our visit.

Records were to be kept that detail the identification produced by persons receiving alcohol. This record shall be maintained and shall be produced to Police upon request back dating to a period of no less than six months. These records will remain on the premise at all times and available for inspection by Hampshire Constabulary on request. Recent delivery information is recorded on a blackberry which was not available or on the premises at the time of the visit.

Incident book not apparent, refusal book states that there has been no refusals on deliveries.

Additional conditions we propose that will aid the premises to demonstrate that they are supporting the Licensing Objectives.

Incident book

This will be provided and maintained at the premises. It will remain on the premises at all times and will be available to police for inspection upon request.

Any incidents that include physical altercation or disorder, physical ejection, injury, id seizure or drug misuse will be recorded in the incident book. The entry is to include an account of the incident and the identity of all person(s) involved (or descriptions of those involved if identity is not known). Should there be any physical interaction by members of staff and the public the entry will include what physical action occurred between each party. The entry shall be timed, dated and signed by the author.

If the member of staff creating the entry has difficulties reading or writing then the entry may be written by another staff member. This should however be read back to the person creating the entry and counter signed by the person who wrote the entry.

At the close of business on each day the incident book will be checked by the manager on duty where any entries will be reviewed and signed. If incidents have occurred the duty manager will de-brief door staff at the close of business. Should there be no incidents then this will also be recorded at the close of business in the incident book.

Refusals book

A written log shall be kept of all refusals including refusals to sell alcohol. The Premises Licence Holder shall ensure that the refusals log is checked, signed and dated on a weekly basis by the store manager/manageress.



The refusals log will be kept and maintained at the premises and will be available for inspection immediately upon request by Hampshire Constabulary and any responsible authority.

The record of refusals will be retained for 12 months.

Training

The removal of their current training wording of "The licence holder will maintain at the premises a record of all staff training undertaken and a record of those staff authorised by the DPS to sell alcohol" to be replaced with:

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 records are to be kept of this refresher training which should be signed and dated by the member of staff who received that training.

In addition to their training a written test related to the training given will be conducted before the staff member is permitted to sell or authorise alcohol. The test will consist of a minimum of ten questions of which the pass rate is 80%. Anyone who fails to reach the prescribed pass rate will be retrained and re-tested. Anyone not attaining the pass rate will not be permitted to sell or authorise the sale of alcohol until the pass rate is attained. There will be a minimum of two sets of questions to be used in the training which will be rotated upon each subsequent six month training session.

All training records will be made immediately available for inspection by Hampshire Constabulary and any responsible Authority upon request. Training records will be kept for a minimum period of two years. Training records will be kept on the licensed premises to which they relate to.

PC 24272 Cherry
Licensing