

MINUTES
LICENSE COMMISSION MEETING

6:00 p.m.

Thursday, October 22, 2020

Virtual ZOOM Meeting

Brockton, Massachusetts

The License Commission held its regular monthly meeting on Thursday, October 22, 2020 via ZOOM. Present were Chairman Henry Tartaglia, Commissioners Jeffrey Charnel, David Teixeira, Paul Studenski and Eugene Marrow. Also present were License Agent Paul Bonanca, and Executive Assistant Silvia Carvalho.

1. Approval of the Minutes of the License Commission Meeting of September 30, 2020.

A motion was made by Commissioner Marrow to approve the minutes of the aforesaid meetings which motion was seconded by Commissioner Charnel and made unanimous by vote of the members present.

2. Approval of the following police officers as license agents for the month of October 2020:
Lieuts. Paul Bonanca and David Farrell; Sgts. George Khoury and Christopher McDermott; Dets. Patrick Donahue, Erin Cummings, Jackie Congdon, Eric Clark, Santiago Cirino, Thomas Hyland, Michael Bunker, Nazaire Paul, James Cronshaw and Timothy Stanton.

A motion was made by Commissioner Marrow to approve the license agents as listed for the month of October 2020. The motion was seconded by Commissioner Teixeira and made unanimous by vote of the members present.

3. Hearing on a request from Hanuman Corporation dba Rose's Discount Liquors, Manager Anil Patel makes application for a Change of Stock Interest on an All Alcoholic Beverages Package Store license at 186 Oak Street, Brockton, MA.

Present was Jerrad Patel of 120 Bergeron Way and Attorney Ian Hedges of 480 Turnpike Street, South Easton, MA.

Attorney Hedges stated to the board that he is the attorney on record for his said client. The owner is adding an additional shareholder with significant retail experience, with no other changes to the license.

A motion was made by Commissioner Charnel to approve the change to the license. The motion was seconded by Commissioner Marrow and made unanimous by vote of the members present.

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4. Hearing on a request from Ambe Liquors, Inc., dba Super Value Liquors, Manager-Anil Patel makes application for a Change of Stock Interest on an All Alcoholic Beverages Package Store license at 597 Centre Street, Brockton, MA.

Present was Jerrad Patel of 120 Bergeron Way and Attorney Ian Hedges of 480 Turnpike Street, South Easton, MA.

The owner of the license is the same as the previous agenda item with the same structure. The owner is adding an additional shareholder to the license.

A motion was made by Commissioner Charnel to approve the change to the license. The motion was seconded by Commissioner Marrow and made unanimous by vote of the members present.

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5. Hearing on a request from Ze's Auto Sales, Inc. for a Class II Dealers license located at 65 Court Street, Brockton, MA.

Present was Jose and Daisy Monteiro of 16 Lilly Avenue, Brockton, MA.

Lt. Bonanca informed the board that he inspected the property and found a lot full of dilapidated vehicles. The business is currently operating as a body shop and has limited space for parking, the handicapped spot had a vehicle that was being worked on parked in there. The Lt. also stated that he does not see how a repair shop and a dealership can occupy the same space, there is no room for both. Ms. Monteiro stated that they were told that with a dealer's license they could apply for a repair license with the City Clerk's office. The Lt. will reinspect the location and inform the board if it is conducive for both businesses, at the time of inspection there was no indication as to how many vehicles they would like to put up for sale and no delineation of how the lot will be spaced. Lt. Bonanca stated that he did send photographs to the Commission and inquired whether they had viewed them? Chairman stated that he did view them.

A motion was made by Commissioner Charnel to table the agenda item until the proper adjustments have been made to the property. The motion was seconded by Commissioner Marrow and made unanimous by vote of the members present.

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6. Hearing on a request from Mardom Liquors Inc., dba Haydens West Side Liquors, Manager-Maria S. Veiga makes application for a Transfer of an All Alcoholic Beverages Package Store license and a Change of location from 104 Torrey Street, Brockton, MA to 641-651 Belmont Street, Brockton, MA to Akshar Westside, Inc., Manager-Parth Amin.

Present was Attorney Michelle Prager of 1 Battery Marsh Park, Quincy, MA, Domingos Daveiga of 36 Cosma Road, Easton, MA and Parth Amin of 24 Waterfall Drive, Canton, MA.

Attorney Prager informed the board that the transaction is a transfer of an existing package store license from Mardom Liquors, Inc. to the applicant. The applicant has significant experience in the package store industry. Chairman Tartaglia asked Attorney Prager if the applicant owns any package stores? She replied no, and if he has experience in the industry? Attorney Prager replied yes, he does as well as, his partners. Chairman Tartaglia asked her if they are TIP Certified as well as their workers? and she replied yes. Commissioner Charnel asked the attorney if this is the first store the applicant is purchasing and what was the extent of their working experience in a package store? She replied that it is his first store and the applicant worked in a package store in New Jersey as a manager for several years.

A motion was made by Commissioner Charnel to approve the Transfer of the license and the Change of Location. The motion was seconded by Commissioner Teixeira and made unanimous by vote of the members present.

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7. Hearing on a request from Mardom Liquors Inc., dba Shanleys Liquor Store, Manager-Maria S. Veiga makes application for a Transfer of an All Alcoholic Package Store license at 429 Belmont Street, Brockton, MA to Akshar Shanley Inc., Manager-Parth Amin.

Present was Attorney Michelle Prager of 1 Battery Marsh Park, Quincy, MA, Domingos Daveiga of 36 Cosma Road, Easton, MA and Parth Amin of 24 Waterfall Drive, Canton, MA.

Attorney Prager informed the board that the same owner is purchasing the license at this location as the previous agenda item. The board informed the new owner to be sure and check ID's.

A motion was made by Commissioner Charnel to approve the Transfer of the license. The motion was seconded by Commissioner Teixeira and made unanimous by vote of the members present.

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8. Hearing on a request from Five-O-Eight, LLC, Manager-Jefry Lopes makes application for an All Alcoholic Beverages Restaurant, Common Victualer, and Entertainment license at 128 Ames Street, Brockton, MA.

Present was Mr. Jefry Lopes of 22 Barry Street, Brockton, MA, Mr. Edgar Lopes and Jose Lopes of 22 Barry Street, Brockton, MA.

Mr. Lopes stated to the board that he is purchasing the old Lithuanian night club in hopes of restoring it into a lounge, bar, and restaurant. The restaurant would offer cultural foods such as Capeverdean and Dominican, and he is applying for the hours of 8:00 a.m. to 12:00 a.m., Monday to Wednesday, Thursday to Sunday 8:00 a.m. to 2:00 a.m. The board asked Mr. Lopes if has any experience working in the restaurant business and he replied, yes at the Texas Roadhouse and DD Mr. Dwayne Jeffers of 15 Arthur Street, Brockton asked to address the board in opposition of the restaurant. He informed the board that the location has been close for the last 5 years and it has been peaceful in the area.

Mr. Lopes assured the board and Mr. Jeffers that he and his family would like to revitalize the area and they are fully committed to enhancing the quality of life for the members of the community. They want to provide the neighbors with a familiar place to get breakfast, lunch, or dinner, which the area has not seen in quite some time, and he completely understands the concerns of the members of his immediate neighbors. Lt. Bonanca informed the board that there is still much work to be done to improve and uplift the appearance of the outdoor and indoors of the building, and he suggests scrutiny of the hours of operation. Regardless of the business the police department gets many calls for 128 Ames Street and a restaurant has no need of a 2:00 a.m. license.

Mr. Lopes informed the board that the city should try and move away from the negativity of the past and allow room for new things and a new mindset to flourish. Commissioner Charnel praised Mr. Lopes for attempting to rehabilitate the area with a new restaurant, especially during a pandemic, his concern is the area is heavily residential and fears the impact that would have on the neighbors and will not

support a 2:00 a.m. license. The hours that Mr. Lopes has requested are aggressive and people need peace. If things do go well with the business, then the board can revisit the operating hours. Mr. Lopes informed the board that the sale of his home is contingent on the approval by the board, he is relying on the sales to purchase the property.

Commissioner Teixeira also echoed the same concern regarding the hours. He is more than happy to see him move into the area; however, he does not support a 2:00 a.m. license. Chairman Tartaglia informed Mr. Lopes that he is unable to support a 2:00 a.m. license at this time, however he can come before the board in 6 months and if there are no complaints the board will reevaluate the hours. Mr. Lopes agreed to a 12:00 Midnight closure and told the board that he wants to work with the city.

A motion was made by Commissioner Charnel to approve the license with the stipulations that Lt. Bonanca reinspect the exterior and interior prior to the issuance of the license, and approvals of the inspections by the city. Max capacity 100 people 80 seats and 20 at the bar, with operating sprinkler system. The motion was seconded by Commissioner Marrow and made unanimous by vote of the members present.

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9. Hearing on a request from A.M. Randall, Inc. dba Dylan's Bar & Grill, Manager-Annette M. Randall holder of an All Alcoholic Beverages Restaurant license at 787 Centre Street, Brockton, MA makes application to transfer the said license to Fuhs Enterprises, Inc. dba Dylan's Bar & Grill, Manager-Paul J. Fuhs.

Present was Attorney Jon Aieta of 28 State Street, Suite 802, Boston, MA. and Ms. Annette Randall of 164 Bellevue Avenue, Brockton, MA and Paul Fuhs of 33 Loring Street, Brockton, MA.

Attorney Aieta informed the board that his client Mr. Fuhs, which the board knows well is making an application to transfer the license back to him. He has been in the restaurant business for over 15 years. They were before the board back in February for the initial transfer to Ms. Randall, and at that time a pledge of the license was approved to Fuhs, Enterprises Inc. and there were discussions at that time that should there be a transfer or change of ownership back to Mr. Fuhs, we would be back in front of the board. It happened a lot sooner than either party expected. Mr. Fuhs did have a secured interest in that license, and they are making application to transfer back to Fuhs Enterprises, Inc. Mr. Fuhs would be 100% owner, as well as the manager on record.

Chairman Tartaglia interjected to have Commissioner Marrow read a letter into record from Ms. Randall and the Chairman asked Attorney Aieta if he heard all that was in the letter? Attorney Aieta replied that he heard but, would have appreciated a copy himself. Chairman Tartaglia told the attorney that what bothers him is that when he came before the board, they had given him a suspension and a cut down of hours, so we gave him a break and we let him transfer the license to Ms. Randall's name. Mr. Fuhs swore that he had nothing to do with the business or would have nothing to do with the business, and there would be a new manager it would be up to Ms. Randall to put one in. She is the only one that can run it, because you cannot lease a liquor license.

He also informed the attorney that the board gave Mr. Fuhs a break and did not follow through with the 45-day, closure or the 11:00 p.m. closing and feels like it was a scam. Mr. Fuhs kept ownership of the property, and asked how can you bar someone from the property whose license is on the property? And

from what he heard Ms. Randall was barred from even entering the property, and the license is in her name. God forbid there was an accident they would sue her, not him. She is the holder of the liquor license not him. Attorney Aieta asked to respond and wanted to make a point of clarification.

He told the Chairman that he said the board gave Mr. Fuhs a break, but the reality is he did have his license hours rolled back to midnight and served that for over 9 months, before the license was transferred. As for the 45-day closure, Mr. Fuhs voluntarily closed the business for quite some time and that was still under appeal. They agreed not to pursue the appeal, so the license could be transferred. The license was in Ms. Randall's name, and for her to claim that she could not go there and did not operate it seems strange. Her daughters and boyfriend worked there and that is the reality of things. Chairman Tartaglia said they were all fired on the same day the license was taken away. The attorney replied yes, there would be no work to be done and that was Ms. Randall's choosing. Chairman Tartaglia stated that before the license was taken off the wall they had been fired. The attorney stated that he had no knowledge of that, nor does he know the timing of it, and would have loved to have some facts in front of him.

Commissioner Charnel asked Lt. Bonanca to speak on what happened when he redeemed the licenses. Lt. Bonanca stated on 6/24/19 there was a shooting, involving a victim on the exterior of the business. He was part of an investigation and obviously they expect cooperation with the owner. He met with Mr. Fuhs on the 20th two days ago and he stated to him that there was a judgement against him in November and he stated to him that he let a management company or manager run the business for him. Regardless, the license was in his name, so when their detective attempted to get information, such as video or statements, they were met with obstruction.

Lt. Bonanca stated that he had to do something which he has never had to do in his 25 years and charge the employee with obstruction of justice and interference with police. Now in terms of Mr. Fuhs we requested video from him, which is standard for all bars in terms of having a liquor license in the city, through his agent and did not receive one, which was for an hour which happened to be a crucial hour that we needed for the investigation. Although Mr. Fuhs tried to disassociate himself with perhaps a management company or a promoter, regardless the license was in his name. The police personally requested the video from him which was delayed.

They did finally receive it, but after a delay. Thereby causing a judgement against him which led to a suspension and a rollback of his hours. The suspension did not last, and the license was transferred to Ms. Randall and he was to have no connection with the bar whatsoever. Yet the facts appear to show that he did have a connection with the business, which violates the tenants of the transfer of the license. He is not sure what recommendation or what the commission would like, but obviously if the license is to be transferred back, that those conditions remain, and the judgement held against him from November. What he finds troubling is that there could be a transfer of a license in order, to have relief from those conditions. There was a connection with Mr. Fuhs and the property in order, to relieve the business of having those restraints, and that is a violation of the license transfer.

Attorney Aieta asked to respond and stated that was adjudicated and the sentence was served. The roll back of hours lasted 9 months and they gave up their right to appeal and to transfer the license. Mr. Fuhs is the landlord of the property and what your hearing is more of a landlord tenant dispute. There are issues on both sides and both parties have agreed to transfer this, so they can move on. There are

legal obligations both under the note and pledge, and that is part of the business transaction. He has rights to the license and understands there are questions and concerns. Mr. Fuhs is on the call as well and can certainly address them if the board is inclined to transfer the license.

Commissioner Charnel asked to speak and stated that during the hearing he asked personally if Mr. Fuhs was going to be involved in this business and he said no and that he had nothing to do with the business. During, that meeting I had Silvia put into the meeting minutes that If this license were to revert to Mr. Fuhs, that he would hold all the sanctions, not the self-imposed, but the ones the city and the board agreed upon prior to the transfer. The reason being that it did not seem ok that with all that has gone on at the establishment and feels Mr. Fuhs is playing games with the commission. His council can argue the fact for his client and that is what he is paid to do.

The 45 day that was not adjudicated because we had a stay and it went to Boston, and for him it is still in play. Rolling the hours back to 11:00 p.m. is something he would be in favor of. Mr. Fuhs needs to understand that doing this is not ok. The purpose of the board is to decide on a transfer. If Mr. Fuhs wants his license back, so be it, but it will be at the discretion of the board to limit his hours and make sure the penalties he got are served and not his self-imposed closure. What the commission has posed to him is warranted and if need be, he can go back to Boston and fight whatever sanctions he thinks are unjust. Attorney Aieta asked to speak. He stated that Mr. Fuhs was not in attendance at the meeting for the transfer of the license to Ms. Randall, so could not have made any statements or otherwise.

Commissioner Charnel stated that Mr. Fuhs was there, and he remembers him being there. Attorney Aieta stated that Mr. Fuhs is on the call tonight and can attest to that. He stated that they did have a vote on the pledge of the license and does recall the board stating that Mr. Fuhs would have to be back before the board, to get the license back. There was no mention to continue with the 45-day suspension. Commissioner Charnel stated that if we went back to the minutes it would state that if it reverted to him, he would face the same sanctions, he did not care if it were 5,7, or 10 years. He knew that Mr. Fuhs would be back before the board again.

Attorney Aieta stated that he does not believe he said that he just does not believe it was a condition of the transfer. The transfer of the two parties has nothing to do with the city's position on the license. The board is not privied to everything they discussed on their end and how it was written up. Attorney Aieta informed the board that the board speak to Mr. Fuhs about the hours and how to operate. Mr. Fuhs did not want to be in a situation where he let others run the business and when you are an absentee landlord and not there every day, he knows there can be problems. He would be the first one to tell you he did not want to be back here and prefer to be the landlord alone, and not have to run the day- to-day operations, however here we are, and he certainly wants to be successful.

Chairman Tartaglia asked if there were any persons on the call either for or against the transfer? Councilor Jeffrey Thompson asked to address the board on behalf of the transfer. He stated that Dylan's is an important bar and restaurant on the east side of Brockton, and he is hoping that we can all work together tonight to keep the business open. He has confidence that Mr. Fuhs will operate this bar properly and safely and supports any recommendations of the Commission. He hopes they can move forward and get them back open so it can provide to the residents of ward 5, and hopefully tonight. Ms. Randall was asked if she would speak and she responded yes. Ms. Randall thanked Hank for allowing her letter to be read. She stated that she has worked hard to get Dylan's to where it is today.

Dylan's has great potential and the people who go there are good people. The crowd that was going there is gone. The only big concern she has is she hopes Paul deserves his license back and she wants to see that happen. She wants to see Dylan's continue the way it has been going. She informed the board that she cannot afford an attorney and does not want all those taxes owed or the bounced checks. She will leave the accounts open and she has a copy of all the emails she sent to the attorney. Ms. Randall informed the board that she did not know what happened, she knows she worked hard taking care of that place, and yes, she needed help. What bothered her was Paul hired a manager without discussing it with her, and he had no right to do so.

She does not want to see Paul lose his license and wants to see the bar open. All she wants is to be in the clear of owing any bills that is her goal. Chairman Tartaglia asked if any of the Commissioners had questions for Ms. Randall? Commissioner Charnel stated that he did, and asked Ms. Randall if during her time at Dylan's as owner of the restaurant was Paul present during her everyday operations or was, he there once a week and what was Paul's engagement with the restaurant? Was he there just to fix things? Ms. Randall replied yes, if she needed something done Paul was there to fix things. He did utilize the office because he did his other business when he was there. A lot of the time he was in Florida and she wished he still were, so she can run the bar, but it is what it is. Chairman Tartaglia stated that to be honest with you, he should have had nothing to do with the bar, because the license was in her name.

The Chairman asked if the Commissioners had any other questions and Commissioner Teixeira replied yes, he did and asked Attorney Aieta if the license does go back to Mr. Fuhs will he be spending most of his time in Florida like Ms. Randall stated? If the Commission gives him his license will he be here running the business or will he be in Florida. Attorney Aieta stated that hopefully Paul can unmute himself to answer the question himself but can assure them that Paul will be here to run the business and is not going back to Florida. Chairman Tartaglia asked Mr. Fuhs if he will be here to run the business and he replied yes that he will be here to run the business.

Chairman Tartaglia asked Mr. Fuhs if he understands that what he did was wrong? and he replied yes, sir and he told him that if he does get the chance and if the board agrees to give him back his license, it will be with conditions. If he puts a manager in the board must approve it. Commissioner Charnel asked to speak and noted that he does not see a manger listed, and he knows Ms. Randall said he hired a manager, and with this applicant this is the issue. He has been on the board for 3 ½ years and he has had four encounters with Mr. Fuhs. This business has had so many entanglements, not only does the transfer seem illegitimate, but the shootings and putting in managers without approval. These are reasons why people typically lose their licenses in the city.

Again, he is willing to move past this and would love to see the restaurant open and be successful in that corridor of the city in ward 5, and just like the councilor said the restaurant is a vital part of that area. All that said he feels the 45-day closure must take place and all sanctions placed prior to the transfer must be in line. Because that is what is fair. If another applicant were to come before the board, we would treat them that way. This has been what they call a dumpster fire and that is not good. He wants the restaurant to be successful and the attorney as well, but the 45-day closure and the 1:00 p.m. closing is not suitable currently. He feels an 11:00 p.m. is a suitable time for Mr. Fuhs. If he keeps his nose clean and the board thinks he deserves it, he will support that.

Chairman Tartaglia recommends that the board transfer the license with a 12:00 midnight closure. Without the 45-day closure because he has already been closed for 2-3 weeks, and by the time it goes

through Boston, that will be another month. So, it will be almost 60 days by the time he reopens. Commissioner Teixeira suggested the board transfer the license with an 11:00 p.m. closing, that seems fair. Give him 6 months to see how it works and he can come before the board and the board can revisit. He has been on the board for 4 ½ years and Mr. Fuhs has been before the board 4 times. So, an 11:00 p.m. is fair. Commissioner Charnel stated he would support waiving the 45-day closure in support of the business succeeding during COVID-19.

Commissioner Marrow stated that he would like to see the conditions are met that Ms. Randall will not be responsible for any financial ongoings, that she had no control of and asked Attorney Aieta if the books were all clear? Attorney Aieta replied that Ms. Randall has the ability, to check all those things. He also stated that they were able to provide the DOR and DUA, which would indicate that everything is paid and up to date. Ms. Randall did send him outstanding invoices that Paul was helping her with, and he informed her that the liquor license cannot be transferred unless the vendors are paid and made assurances to her that if there were outstanding invoices, he would make sure they are paid, and this issue is between the parties.

Attorney Aieta stated that it seems as though the city would like to put Mr. Fuhs in a situation worse than when it was determined that there was a violation, and a 12:00 midnight closure, with some discussion about 11:00 p.m. closure. He also noted that the city was willing to remove the 45-day suspension to allow the transfer to happen. It is a give and take on both ends of it. He does not want Paul to suffer with an 11:00 p.m. closing, which is worse than the violation. Chairman Tartaglia stated that Mr. Fuhs put himself in this situation, by operating the place without a license, and in her name, which is illegal. Attorney Aieta stated that he had not adjudicated this and in all fairness, they have not had the chance to put together witnesses and would rather not get into that.

The Chairman told Attorney Aieta that it is common sense. How do you bar someone from entering the building and then run the business under her license. Attorney Aieta stated that Ms. Randall can hire people and she indicated that she asked Paul for help. Commissioner Charnel asked to move to the motion. He disagrees with council that he is in a worse position. He feels like the board is giving him a chance to reestablish his business. Commissioner Charnel made a motion that the board transfer the license to Mr. Fuhs and that he be listed as the manager. If Paul were to hire a manager, he must come before the commission to be approved. A letter should also be placed in his file.

Councilor Thompson asked if he could speak and stated that if an 11:00 p.m. closure is the recommendation of the board he hopes that they can cut down the time frame in which this matter can be reviewed. It is his understanding that the 11:00 p.m. closing would be reviewed in 6 months and asked if he can recommend that if they give an 11:00 p.m. closure and make his business worse off than prior to the transfer, we review in a 3-month, time frame. M. Randall asked to speak and stated that the city has an 11:00 p.m. curfew, the kitchen and bar are open till 11:00 p.m. that would mean the kitchen and bar would have to close sooner and everyone would have to be out by 11:00 p.m. and that is not fair. The city is in the red right now and it will be a while before we get out of curfew.

Commissioner Charnel appreciates Councilor Thompson sticking up for his constituents and he would do the same. He thinks the board is being more than fair. If Mr. Fuhs turns this around and the board sees progress, he is not opposed to him coming back a little sooner, but three months is too short to gauge, especially this business. The multiple acts of violence, people hindering prosecutions, people charged with interfering with police investigations does not warrant the boards forgiveness on some matters.

The board is not opposing the 45-day closure and Mr. Fuhs does not have to adjudicate this in Boston. So, again the board has been more than fair on this matter.

A motion was made by Commissioner Charnel to transfer the license to Fuhs, Enterprises, Inc. with an 11:00 p.m. closure, with a review in 6 months. Managers must be approved by the board. Lt. Bonanca to give a report of the establishment after the transfer. The motion was seconded by Commissioner Marrow and made unanimous by vote of the members present.

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A motion was made by Commissioner Charnel to transfer the Common Victualer, Entertainment and Automatic Amusement Devices licenses to Fuhs Enterprises, Inc. The motion was seconded by Commissioner Marrow and made unanimous by vote of the members present.

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A motion was made by Commissioner Marrow to adjourn the meeting. The motion was seconded by Commissioner Charnel and made unanimous by vote of the members present.

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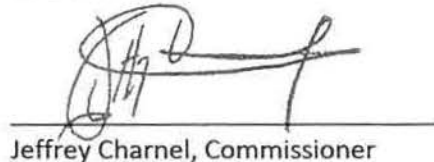
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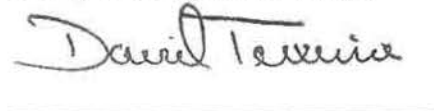
Chairman

Henry Tartaglia, Chairman

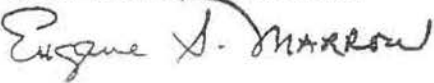
APPROVED



Jeffrey Charnel, Commissioner



David Teixeira, Commissioner



Eugene Marrow, Commissioner



Paul Studenski, Commissioner