



Seattle City Attorney

Peter S. Holmes

February 27, 2015

Rick Garza, Liquor Control Board Director
Washington State Liquor Control Board
3000 Pacific Avenue SE
Olympia, WA 98504-3098

Re: **REQUEST FOR EMERGENCY SUSPENSION**

Fusion Ultra Lounge
d/b/a Fusion Interests Inc.
License #354009
722 NE 45th Street
Seattle, WA 98105-4719

Dear Mr. Garza:

The City of Seattle requests that the Washington State Liquor Control Board issue an emergency suspension pursuant to RCW 66.08.150(4) of the liquor license of Fusion Ultra Lounge, Liquor license #354009, located at 722 NE 45th Street, Seattle, 98105. The City's request is based on recent incidents during which the licensee and his employees allowed minors to frequent the tavern, lounge, or other restricted area; failed to take appropriate measures to prevent illegal activity by their patrons outside the tavern, and demonstrated by their actions a failure to cooperate or comply with the terms of their liquor license and the Board. The Board should immediately suspend the license because the public health, safety and welfare imperatively require emergency action.

Since 2013, Fusion has proven itself to be an emergent public safety hazard. Most recently, two shootings have taken place outside the club, involving club patrons, in the last two months.

Detective Sergeant Gary Nelson, Homicide, and Detective Robert Sevaetasi, Gangs, provided the following information regarding SPD 2015-060218 (sealed at this time). This information was provided based on his observations at the scene, and of the interviews with the victims and a familial witness. The Washington State Liquor Control Board investigator is encouraged to contact Detective Nelson directly at 206-684-5566 and Detective Sevaetasi at 206-615-1052.

2015-060218, 2/22/2015, Assault, Gun, Aggravated:

At approximately 0223 hours, officers responded to numerous reports of shots fired at and near Club Fusion, 722 NE 45th St. Officers arrived and entered the business where they located gunshot victim VA (non-life threatening). VA had been inside the club earlier, went outside where he was shot, then returned to the club where he was located. Officers obtained information and located evidence suggesting that numerous shots were fired from different locations and in several different directions. This evidence was located in the parking lots around Club Fusion.

While patrol was processing the scene, victim TK and victim ERS walked into Providence Hospital in Everett. They reported to Everett Police that they had both been shot outside of Club Fusion. The Homicide Unit was then notified and was requested to respond to Everett. Victim TK was treated and released from the hospital with a minor shoulder injury. Victim ERS was out of surgery and in ICU. Victim ERS was not interviewed at the time. He sustained a gunshot wound to the lower abdomen. Although in serious condition, he is expected to survive his injuries.

Victim TK (15 y/o DOB 1999) stated to family members that both he and victim ERS (16 y/o DOB 1998) had been inside Club Fusion earlier in the evening.

2015-60149, 2/22/2015, Fight, Physical, No Weapons

Police respond to report of fighting outside Fusion. This was prior to the shooting later that evening.

2015-011171, 1/11/2015, Assault, Gun, Aggravated:

North Precinct Patrol Officers responded to a shots fired call at 801 NE 45th St. When they arrived on scene, they saw a group of males gathered around a male on the ground. This male had a gunshot wound, but claimed he did not know who shot him. He believed the shots came from across the street of NE 45th. The three males surrounding him were friends of his. They said that prior to the shooting, they were leaving Club Fusion at 722 NE 45th and saw their friends in an argument with a group of unknown individuals. The witnesses and victim were unable to provide further detail and declined to give statements. Vehicles and businesses nearby were discovered to have bullet holes.

2014-162336, 5/24/14, Assault

Police respond to report of fighting outside Fusion.

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2014-087246, 3/22/2014, Fight, Physical, With Weapons

Approximately 20 people fighting outside Fusion. Suspected gang involvement.

2013-429026, 11/28/2013, Assault, Gun, Aggravated

Club Fusion closed down and several people exited the club into the surrounding parking lots. In the lot south of the club, a disturbance erupted between several people. A dark colored suburban was seen circling the parking lot. An occupant of the suburban discharged pepper spray from the vehicle as it was traveling through the lot. As the suburban was leaving the scene westbound on NE 45th Street, a male with a firearm fired two shots into the air. Several patrol units arrived, but were unable to locate the suspect, the vehicle, or any witnesses or victims to the crime. North Precinct Police Officers had to remain on scene until the parking lots were clear and order was restored.

In addition to the public safety concerns of the City, Fusion has failed a number of recent inspections by one of LCB's own inspectors.

2/21/15 - Lots of people loitering on the corner of 45th and 8th. We had one patron pour out his alcoholic drink. We witnessed a physical altercation out front (pushing and shoving while yelling, no closed fist punches observed)

2/21/15 - Observed a third violation for food service (equipment unusable) Will be issuing a second violation for unauthorized floor plans.

2/20/15 - Issued Administrative Violation Notice for Food Service and Unauthorized Alterations to floor plan.

2/13/15 - Issued Two Administrative Violations notices: one for Hours of operation and one for Food service unavailable – not enough food items

2/13/15 - Conducted inspection with the "JET" team. Health department, Fire department, license and tax enforcement all had violations.

2/7/15 - Attempted to conduct inspection during "open" hours. Doors were locked and no one answered the knock. Will be issuing a hours of operation administrative violation.

2/6/15 - Conducted inspection. Will be issuing Administrative violation notice for no food service.

On March 4th, 2013, the City objected to the assumption of license #354009 by Daniel Yarbrough. (Attachment A). When that application was withdrawn, on May 6th, 2013 the City objected to Mr. Yarbrough's new request for change of corporate officers/stockholders for license #354009. (Attachment B). On July 11th, 2014, the Board notified Mr. Yarbrough of their intent to deny his application request. The City understands Mr. Yarbrough exercised his right to a hearing and that hearing date is still pending. (Attachment C).

The City also requests the Board perform a full financial investigation into the operations of Fusion Ultra Lounge. Based on a safety plan submitted to the City on January 27th, 2015, by Silvia Smith of Sellzar Interests on behalf of Fusion, Daniel Yarbrough holds himself out to be the Owner/Manager of Fusion. (Attachment D). He has also, during the inspections of LCB Officer Paul Vanderwulp, held himself to be the owner/operator of Fusion Ultra Lounge. This is in direct violation of RCW 66.24.010.

In addition, pursuant to RCW 66.24.600(5) and WAC 314-02-039(1), the City petitions the Washington State Liquor Control Board to impose the following public safety restrictions on any current or future Fusion liquor license:

1. Submittal and Approval of Safety Plan

Licensee shall, at the time of application, submit to, and have approved by the Washington State Liquor Control Board, Licensing Division, a written safety plan that includes:

- a. The number of security personnel hired by the Licensee, what personal security equipment they will be carrying on the licensed premises (e.g. pepper spray), as well as where and when they will be stationed in the establishment when on duty.
- b. The Licensee's on-premises procedures for checking patron identification and ensuring only persons twenty-one years of age or older are sold, served, or in possession of alcohol on the licensed premises.
- c. Procedures for responding to violent, disorderly and/or criminal activity on the licensed premises.
- d. Procedures for crowd control and preventing patronage from exceeding the premises' occupancy limit.
- e. Contact information (phone, email, mailing address) for the designated individual addressing all safety and security issues on the licensed premises.

Failure to submit a security plan or failure to acquire Board approval of a submitted security plan, as required by this restriction, may result in denial of the license application or license renewal. If the Licensee in any way seeks to alter the safety plan after issuance

of the license, the new safety plan must be approved by the Board prior to its implementation.

2. Training for Security Personnel

Licensee shall have all designated security personnel attend and complete a Seattle Police Department (SPD) security seminar or a substantially equivalent training program within 120 days of the issuance of this nightclub license, or the employee's date of hire, whichever is later. This security training requirement may be waived for an employee who provides evidence to the Board that he is a current or retired law enforcement officer in good standing of this State, another State, or with the federal government or military.

a. The content of any security seminar or training program, including all proposed curriculum, training materials, and any examination with an explanation of all examination procedures, must be submitted to and approved by the Board prior to the Licensee's security personnel attendance.

b. The security training requirement may be waived for an employee if SPD, or any other government entity, fails to make a Board-approved security seminar available for that employee within 120 days of the issuance of the nightclub license or the employee's date of hire, whichever is later.

c. Licensee shall maintain, on the premises and available for inspection at all times by the Board and its agents, documentation demonstrating that each member of its security staff, who has been employed for more than 120 days, has met this training requirement. Failure to comply with this requirement may result in suspension or revocation of the license, or a demand for other action, at the discretion of the Board.

3. Proof of Occupancy Limit

Licensee shall submit to the Board the occupancy limit for the licensed premises as established and approved by Seattle's Department of Planning and Development and any required, annual, assembly occupancy permit for the licensed premise, approved and issued by the Seattle Fire Department, at the time of application. Licensee shall inform the Board if the occupancy limits for the licensed premises changes. Confirmation that either the occupancy limit for the licensed premise has changed without report to the Board by the Licensee or that a required assembly occupancy permit has not been renewed in any subsequent year after license issuance may result in denial of the license renewal.

The City also requests the following safety measures be required: No minors allowed on the premises and identification scanners be required.

In the event that the Board denies the City's petition for public safety restrictions, the City requests an administrative hearing pursuant to WAC 314-02-039(2).

This latest incident must be the last. An emergency suspension is appropriate when a licensee fails to maintain order among the patrons waiting to enter and leaving their establishment and permits minors on the premises. RCW 66.08.150(4). Fusion openly allows minors on the premises, cannot manage their customers, and has failed to provide a safe environment for both their patrons and the surrounding community. The on-going violence creates an environment of extreme danger to the public. The Board should immediately protect the public safety by ordering an emergency suspension of Fusion's liquor license pursuant to RCW 66.08.150(4). Under RCW 66.08.010, the Board must liberally construe these laws in favor of protecting the public safety. An emergency suspension will not only protect the public safety of the people of Seattle, but ensure that more people are not victimized as a result of Fusion.

For the reasons set forth above, the City requests that the Board issue an emergency suspension pursuant to RCW 66.08.150(4) and impose additional conditions pursuant to RCW 66.24.600(5) and WAC 314-02-039(1) on the liquor license of Fusion Ultra Lounge, Liquor license #354009, located at 722 NE 45th Street, Seattle, WA 98105.

Very truly yours,



Peter S. Holmes
Seattle City Attorney

cc: CPT. David Emerick, North Precinct Commander, Seattle Police Department
Lt. Jim Arata, North Precinct Operations, Seattle Police Department
Sgt. Dianne Newsom, North Precinct CPT, Seattle Police Department
Brendan Brophy, Precinct Liaison Attorney, City Attorney's Office
Alana Cooper, WA State Liquor Control Board
Captain Jennifer Dzubay, WA State Liquor Control Board
Lt. Susan Blaker, WA State Liquor Control Board
Lt. Woodrow Perkins, WA State Liquor Control Board

ATTACHMENT A



City of Seattle

Seattle Police Department

March 4, 2013

Alan Rathbun, Director
Licensing & Regulation Division
Washington State Liquor Control Board
P.O. Box 43098
Olympia, WA 98504-3098

Re: Library Sports Grill LLC
d/b/a Library Sports Grill
License #354009-2B
722 NE 45th Street
Seattle, WA 98105

Dear Mr. Rathbun:

The City of Seattle opposes the assumption of liquor license #354009 by Daniel Yarbrough and Library Sports Grill LLC from Sellzar Interests Inc (dba Fusion). Mr. Yarbrough is the current manager of Fusion Ultra Lounge located at 722 NE 45th St, Seattle WA 98105. Yarbrough's current management of Fusion and tumultuous history in nightclub ownership raises significant concerns for the City of Seattle. As such, the City of Seattle does not believe that Yarbrough is fit to possess, hold, control or manage a liquor license.

Yarbrough is the former owner of Club El Reventon, previously located in South Seattle at 7047 E. Marginal Way S. In September of 2011, King County initially denied Yarbrough's application for a business license for Reventon due to problems with a previous nightclub, Club Evo/Club Evolucion. Club Evo was formally operated by Alfredo Lopez and was closed after by court ordered injunction from King County Superior Court. (*Attachment A*).

Yarbrough was issued a liquor license on September 14, 2012 for Reventon. The issuance of this license was the subject of public protest that stemmed from Club Evo. Yarbrough responded in a letter to the WSLCB acknowledging the issues, but stated that he will take a different approach with Reventon. He said that it was his goal "to provide a safe, controllable restaurant and lounge for the community." In this letter Yarbrough also stated that his business "is always open to input for the community on how we can better serve them." (*Attachment B*). Yarbrough partnered with Lopez to operate Reventon.

Due to an increase of violence, community complaints, and documented service to minors, the Seattle Police Department declared Reventon a chronic nuisance on June 1, 2012. (*Attachment F*). Several days later the Seattle Police Department formally objected to the renewal of Reventon's liquor license. In the weeks prior to the chronic nuisance declaration and liquor license objection, Yarbrough sold Reventon to Lopez for \$1.00. As if anticipating



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what was to come, Yarbrough stated his reasons for sale were a disinterest in investing more time and money in Reventon and a desire to have someone take over his lease responsibility and reduce his liability. (*Attachment C*).

Shortly after, Yarbrough and Club Reventon were named as Defendants in a civil suit brought by James Dore, the property owner of 7047 E. Marginal Way S. In that suit, Dore alleged that the Defendants had failed to pay past due rent, property taxes and utilities on the property in the amount of \$18,995.99. Dore sought to evict Yarbrough and Reventon from the property for those reasons. In October 2012, King County entered a judgment against Yarbrough and Club El Reventon LLC in the amount of \$24,106.68. (*Attachment D*).

In addition to currently managing Fusion, Yarbrough has held himself out to be the owner and night manager of Citrus South Lake Union. (*Attachment B*). Yarbrough described Citrus as "a great, safe location for our customers to dine and drink both day and night." Despite this, Citrus has been plagued with violence that includes three shootings and at least four serious assaults in the past year, the most recent incident occurring on February 22, 2013. Consequently Citrus was declared a chronic nuisance on February 20, 2013. (*Attachment E*)

Fusion appears to be headed in the same direction as Citrus as a source of repeated noise complaints and violent activity. Below is a summary of all the significant incidents that have occurred at Fusion in the last year.

2/23/2013: SPD 13-63313

Police responded to a fight at a gas station one block east of FUsion. Suspects had just left the club as one male grabbed a baseball bat and smashed in a windshield. The windshield exploded and shards of glass impaled a victim in the eye.

2/9/2013: SPD 13-52066

A large fight erupted inside Fusion and suspects were told to leave. As a result approximately 50 patrons spilled onto the street outside the club as the fight resumed. Seattle police officers as well as Washington State Patrol responded to Fusion. Upon arrive police were forced to halt traffic in front of Fusion for five minutes to regain control of the situation.

1/5/2013: SPD 13-4948

Police received a report of shots fired outside Fusion in the parking lot at closing time. Shell casing were retrieved from the area and at least one vehicle was hit. Fusion security reported hearing five – six shots being fired. When police returned to Fusion to further interview club employees the doors were locked and it appeared that all staff had left.

12/15/2012: SPD 12-427295

Fusion patron was ejected due to his extreme intoxication and behavior inside the club. Suspect remained outside of club taunting and harassing security. As another patron left the club to smoke the suspect punched him the face and spat blood on him.

SPD 7/29/2012: SPD 12-246392

Victim was involved in fight with 30 plus people inside Fusion. Victim states he left the club and the fight continued in the parking lot across the street. The victim reported that he was dragged into a nearby garage and assaulted until he lost consciousness. Victim sustained two fractures to his face and a laceration above his eye. The suspects were not apprehended. Fusion security was questioned about the incident and acknowledged that the fight continued in the parking lot but could not provide specific details.

SPD 4/6/2012: SPD 12-96845

A highly intoxicated suspect broke the front glass door of Fusion with a metal stanchion. Fusion security immediately dosed the suspect with pepper spray. The suspect was transported to the hospital due to extreme intoxication and effects of pepper spray. Fusion manager Daniel Yarbrough reported that the door cost \$300.00, and he did not want to go forward with prosecution. The case was ultimately closed.

3/24/2012: SPD 12-88946

A very intoxicated suspect caused a disturbance inside Fusion and refused to leave. After security removed the patron he returned to the club with a six pack of beer. The suspect broke a beer bottle and began to wave it around and threaten the security guards. A Fusion security officer pulled out his .40 caliber hand gun and held the suspect at gun point in front of club until police arrived.

The following is a list of the dates in the past year when police were called to Fusion, but a full report was not written:

3/31/2012

Police were dispatched to a disturbance at the club. Police rendered assistance to control the crowd.

4/1/2012

Patron called police because as he was leaving the club he overheard someone state that there may a shooting in the area. Police located the suspect and ordered him to leave the area.

4/8/2012

Police responded to a noise complaint from a resident who lives near Fusion.

4/15/2012

Police were dispatched to a disturbance at the club. Police rendered assistance to control the crowd and patrons who appeared to be posturing to fight.

4/29/2012

Police responded to a disturbance call around closing time and rendered assistance to control the crowd.

5/6/2012

Police responded to a call that a fight had occurred at Fusion. When police arrived the parties dispersed and no one was willing to cooperate in an investigation.

5/13/2012

Police were dispatched to a disturbance at the club.

5/27/2012

Police were dispatched to a disturbance at the club. Officers noted handling multiple disturbances until the bar closed.

6/1/2012

Police were dispatched to a disturbance at the club.

6/2/2012

Police were dispatched to a disturbance at the club.

7/7/2012

Police were dispatched to a fight between two males at Fusion.

7/8/2012

Victim who had been assaulted at Fusion called police. Fusion security told police that no report was wanted.

7/29/2012

Fusion patron called police to report his vehicle had been damaged while he was inside the club.

8/15/2012

Fusion patron called police to report a hit and run on his vehicle while he was inside the club.

9/1/2012

Police were dispatched to a disturbance at the club.

10/13/2012

Police were dispatched to a fight at the club.

11/11/2012

Fusion patron called police to report that her car had been prowled.

11/18/2012

Police were dispatched to Fusion to look for a suspicious person.

12/8/2012

Police were dispatched to an assault after victim reported that her male friend was very intoxicated and shoved her inside the club.

12/8/2012

Police were dispatched to a public safety threat outside Fusion. Caller reported that a very intoxicated patron left the club, stumbled around the parking lot and laid down between two parked cars.

12/14/2012

Police responded to a noise complaint from a resident who lives near Fusion. Officers contacted the security guard and manager and told them to turn the music down.

12/15/2012

Police were dispatched to a disturbance at the club.

12/29/2012

Police responded to report of a violation of a no contact order. Victim was inside Fusion stated her boyfriend had broken her arm the week prior and was just dropped off at the club. Police were unable to locate the suspect.

1/31/2013

Police responded to a call of 4 males fighting in front of the Fusion. Parties dispersed when police arrived.

As demonstrated above, Fusion requires significant attention from the Seattle Police Department and considerably more attention than any other club in the North Precinct. Due to its high call volume and potential for danger Seattle Police has mandated that four officers and a sergeant monitor Fusion every Friday and Saturday night. Additionally, all patrol officers have been instructed to supplement police efforts at closing time. Despite this, issues at the club persist.

To address the application itself, it is somewhat curious that Yarbrough plans to rename Fusion - Library Sports Grill. Traditionally a sports grill is a place for sports fans to sit and watch games on televisions throughout the day. Sports grills tend to open mid to late morning to accommodate events that may begin earlier or on the East Coast. This is not the case with Library Sports Grill. Yarbrough stated that he plans to open the venue at 4p.m. For a sports grill, this is an exceptionally late start time. Additionally, Yarbrough failed to affirmatively answer the question as to whether he was going to have any entertainment, and if so, what that entertainment may be. By answering "maybe" it appears that Yarbrough is unclear as to the vision of this establishment. Based on his previous venues and styles, it is more likely than not, this new venture will resume the old style of a night club.

Yarbrough also notes that minors will be allowed in, as they are now. In fact, Fusion likes to advertise that it does not require ID. (*Attachment G*). Finally, of serious concern to the City is that Yarbrough will not be paying any monetary amount for the transfer of ownership because he will be assuming a debt with the landlord. Based on his past history of failure to pay rent, utilities, eviction and civil judgments, it appears a lofty undertaking for Yarbrough. Further, Yarbrough failed to provide any dollar amount, but simply stated "license fees" and noted that this money would be coming from his personal account. The lack of information and vague responses to the WSLCB interview raises concerns and leaves

a variety of unanswered questions. Consequently, there is little proof that Library Sports Grill will be different from Fusion in anyway but name.

Yarbrough's history with Reventon, Citrus and Fusion demonstrate that he tolerates an unsafe nightlife environment. For these reasons the City of Seattle believes that Yarbrough is unfit to possess, hold, control or manage a liquor license. The City of Seattle objects to the Washington State Liquor Control Board granting Yarbrough a liquor license and requests that the change of corporate ownership be denied.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Sanford".

Assistant Chief Michael Sanford
Seattle Police Department

Attachments (7)

cc: Dean Lau, Washington State Liquor Control Board
Bill Reddy, Code Compliance Team
Captain Robin Clark, North Precinct Commander
Jana Jorgensen, North Precinct Liaison Attorney

ATTACHMENT B



City of Seattle

Seattle Police Department

May 6, 2013

Alan Rathbun, Director
Licensing & Regulation Division
Washington State Liquor Control Board
P.O. Box 43098
Olympia, WA 98504-3098

Re: Fusion
License #354009-2B
UBI #602-762-001-0001
722 NE 45th Street
Seattle, WA 98105

Dear Mr. Rathbun:

The City of Seattle opposes the request for a change of corporate officers/stockholders application of liquor license #354009 to Daniel Yarbrough. Mr. Yarbrough is the current manager of Fusion Ultra Lounge located at 722 NE 45th St, Seattle WA 98105. Yarbrough's current management of Fusion and tumultuous history in nightclub ownership raises significant concerns for the City of Seattle. As such, the City of Seattle does not believe that Yarbrough is fit to possess, hold, control or manage a liquor license.

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In addition to Fusion, Yarbrough is a leasee of Citrus Lake Union along with Troy Selland, one half of the other corporate officer Sellzar Inc. of Fusion. (*Attachment F*). Citrus Lake Union is located at 1001 Fairview Ave. N. #2000 Seattle, WA 98109. Selland and Yarbrough have also held themselves out to be the club's general managers. Like Reventon, Citrus has been plagued with violence and crime. Citrus experienced three shootings and at least four serious assaults in the past year, the most recent incident occurring on February 22, 2013. As a result of these incidents and public outcry from the surrounding neighbors Citrus was declared a chronic nuisance on February 20, 2013. (*Attachment G*). Despite this, Yarbrough described Citrus as "a great, safe location for our customers to dine and drink both day and night." (*Attachment B*).

With seemingly identical business plans and owners, Fusion appears to be headed in the same direction as Citrus as a source of repeated complaints and violent activity. Below is a summary of all the significant incidents that have occurred at Fusion in the last year.

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Police were dispatched to a disturbance at the club.

12/29/2012

Police responded to report of a violation of a no contact order. Victim was inside Fusion stated her boyfriend had broken her arm the week prior and was just dropped off at the club. Police were unable to locate the suspect.

1/31/2013

Police responded to a call of 4 males fighting in front of the Fusion. Parties dispersed when police arrived.

As demonstrated above, Fusion requires significant attention from the Seattle Police Department and considerably more attention than any other club in the North Precinct. Due to its high call volume and potential for danger Seattle Police has mandated that four officers and a sergeant monitor Fusion every Friday and Saturday night. Additionally, all patrol officers have been instructed to supplement police efforts at closing time. Despite this, issues at the club persist. The final note of concern is Fusion advertisement that it does not require ID. (*Attachment H*).

Yarbrough's history with Reventon, Citrus and Fusion demonstrate that he tolerates an unsafe nightlife environment. For these reasons the City of Seattle believes that Yarbrough is unfit to possess, hold, control or manage a liquor license. The City of Seattle objects to the Washington State Liquor Control Board granting Yarbrough a liquor license and requests that the change of corporate ownership be denied.

Sincerely,

Michael Sanford

5/8/2013

Assistant Chief Michael Sanford
Seattle Police Department

Attachments (8)

cc: Dean Lau, Washington State Liquor Control Board
Bill Reddy, Code Compliance Team
Captain Robin Clark, North Precinct Commander
Jana Jorgensen, North Precinct Liaison Attorney



NOTICE OF LIQUOR LICENSE APPLICATION

RETURN TO: WASHINGTON STATE LIQUOR CONTROL BOARD
License Division - 3000 Pacific, P.O. Box 43075
Olympia, WA 98504-9075
Customer Service: (360) 664-1600
Fax: (360) 753-2710
Website: www.liq.wa.gov
DATE: 4/24/13

DRL

TO: CITY OF SEATTLE
RE: CHANGE OF CORPORATE OFFICERS/STOCKHOLDERS APPLICATION

UBI: 002-782-072-001-0001

License: 864009 - 2B County: 17

Tradename: FUSION

Address: 722 NE 45TH ST
SEATTLE

WA 98106-4719

APPLICANTS:

SELLER INTERESTS INC

YARBROUGH, DANIEL PAUL
1982-06-27

Phone No: 206-920-8780 DANIEL YARBROUGH

Privileges Applied For:
SPIRITS/BB/WH REST LOUNGE +

As required by RCW 66.24.010(8), the Liquor Control Board is notifying you that the above has applied for a liquor license. You have 20 days from the date of this notice to give your input on this application. If we do not receive this notice back within 20 days, we will assume you have no objection to the issuance of the license. If you need additional time to respond, you must submit a written request for an extension of up to 20 days, with the reason(s) you need more time. If you need information on SSN, contact our CHRI Desk at (360) 664-1724.

- | | YES | NO |
|---|--------------------------|-------------------------------------|
| 1. Do you approve of applicant ? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Do you approve of location ? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. If you disapprove and the Board contemplates issuing a license, do you wish to request an adjudicative hearing before final action is taken? | <input type="checkbox"/> | <input type="checkbox"/> |
| (See WAC 314-09-010 for information about this process) | | |
| 4. If you disapprove, per RCW 66.24.010(8) you MUST attach a letter to the Board detailing the reason(s) for the objection and a statement of all facts on which your objection(s) are based. | | |

5/9/2013
DATE

Michael S. Sandoval
SIGNATURE OF MAYOR, CITY MANAGER, COUNTY COMMISSIONERS OR DESIGNEE

ATTACHMENT C



**Washington State
Liquor Control Board**

July 11, 2014

Daniel P Yarbrough
Sellzar Interests, Inc
Fusion
722 NE 45th St
Seattle WA 98105

RE: License #354009, Change of Corporate Officer
UBI # 602 762 072 001 0001
Trade Name: Fusion
LCB No. L-25,226

Dear Daniel P Yarbrough:

Enclosed for service upon you is the Statement of Intent to Deny Liquor License Application, and a Request for Hearing related to your application for a Change of Corporate Officer

If you wish to request a hearing, you must complete the enclosed Request for Hearing Form. We must receive it no later than **July 31, 2014**, twenty (20) calendar days from the date this notice was mailed to you. If you request a hearing within the time limit, you will be notified at least seven (7) days before the hearing of the time and place.

If you do not request a hearing within the time limit, you will lose your right to a hearing and a decision will be implemented without input from you. In addition, if the Board reaffirms the denial, you may not be allowed to apply for a liquor license for one year from the date of the Board's Final Order. Any application submitted prior to the one year timeline will not be processed.

If you have questions concerning these documents, please contact Dora Duval, Licensing Manager, at (360) 664-9839. The Liquor Control Board recognizes that this is a very serious matter, and will consider any information you provide.

Sincerely,

Alan E. Rathbun, Director
Licensing and Regulation Division
Washington State Liquor Control Board
Post Office Box 43098
Olympia, WA 98504-3098

Enclosures: Statement of Intent to Deny
Request for Hearing Form

cc: Teresa Eidem, Seattle City Attorney
Attorney General's Office, Government Compliance & Enforcement
Kevin McCarroll, WSLCB Adjudicative Proceedings Coordinator
Dora Duval, License Manager, WSLCB Licensing and Regulation Division
Nathan Reynolds WSLCB Liquor Enforcement Officer

- 1.7 On April 22, 2013, Mr. Yarbrough's request to withdraw this assumption application was processed.
- 1.8 A Change of Corporate Officers/Shareholders application for Sellzar Interests, Inc. Tradename: Fusion was submitted by Mr. Yarbrough on April 18, 2013, naming himself as President and 100% owner of the stock.
- 1.9 A request for financial documents, which included two years of bank statements for all accounts on which Mr. Yarbrough has signature authority, was sent to him on May 6, 2013. A second request for these documents was sent on July 8, 2013. None of the requested documents were submitted by Mr. Yarbrough
- 1.10 The City of Seattle objected to this application on May 9, 2013, citing the same reasons they objected to Mr. Yarbrough's assumption application---his "tumultuous history in nightclub ownership" and their belief that he "is not fit to possess, hold, control or manage a liquor license".
- 1.11 The WSLCB Enforcement Division requested denial of this Change of Corporate Officers/Shareholders application on September 25, 2013 due to Mr. Yarbrough's failure to submit requested financial documents, and his administrative violation history.

2. SUMMARY OF RELEVANT FACTS

- 2.1 As a member of **Viva Events Center LLC, Tradename: Cathedral Events Center (#360353)**, Respondent Yarbrough applied for a Sports Entertainment Facility license on September 28, 2012. On February 1, 2013, it was switched to a Nightclub application.
- 2.2 The City of Tukwila submitted a Letter of Objection on February 15, 2013, stating that the applicant did not have a City of Tukwila business license. Restrictions to address public safety and crime prevention were requested, and the applicant notified.
- 2.3 On August 16, 2013, the application was denied due to administrative violation history and a pattern of disregard for the law. However, before the "Intent to Deny" document had been signed by the Board, the application was withdrawn.

- 2.7 Respondent Yarbrough accumulated the following liquor administrative violation history with Troy Selland at #354894 (**TGD Investments, Inc. Tradename: Vela Pizzeria and Lounge**) while licensed as a Spirits, Beer and Wine Restaurant from 10/2009 to 10/2011:

5/15/11: AVN #2N1135A – Hours of Service: Sales, service, removal or consumption of alcohol between the hours of 2:00 a.m. and 6:00 a.m.

11/21/09: Verbal Warning #2C9325A---Substituting, Tampering, Improper Labeling, unlawful removal, possession, or unauthorized sale of liquor.

- 2.8 Respondent Yarbrough accumulated the following liquor administrative violation history while licensed at #355787 (**Reventon Interests, Inc. Tradename: Reventon**) as a Spirits, Beer and Wine Restaurant from 10/2011 to 5/2013:

5/06/12: AVN #2B2126A- Food Service: Required Food Service Not Available. In violation of WAC 314-02-035(6)

5/6/12: AVN #2B2126A- Food Service: Required Food Service Not Available. In violation of WAC 314-02-035 (9)

5/6/12: AVN #2B2126A- Lewd Conduct: Engaging in or Permitting Conduct in Violation of WAC 314-11-050.

5/06/2012: Written Warning #2B2126A--WAC 314-11-055 Lighting: Inadequate Lighting.

4/19/12 Written Warning #2K2110A-- WAC 314-02-130 for Unauthorized Alterations, Change of Trade Name or Added Activities.

4/13/12 Verbal Warning # 2B2104B--Lewd Conduct: Engaging in or Permitting Conduct in Violation of WAC 314-11-050.

3/29/12: Verbal Warning #2Y2089B-- Signs: Failure to Post Required Signs in violation of WAC 314-11-060(2) and Signs: Failure to Post Required Signs in violation of WAC 314-11-060 (3).

2/17/12: Verbal Warning # 2K2048A—WAC 314-17-005 for Employee Under Legal Age or Without Required Mandatory Alcohol Server Training Permit and WAC 34-02-035 Food Service: Required Food Service Not Available.

And based on those materials, having concluded as set forth above, seeks the denial of the Change of Corporate Officer of Fusion.

DATED this 11th day of July, 2014.



Alan E. Rathbun, Director
Licensing & Regulation Division

The Washington State Liquor Control Board has a policy of providing equal access to its services.

This document was mailed to the following people:

Daniel P Yarbrough Sellzar Interests, Inc Fusion 722 NE 45 th St Seattle WA 98105	Teresa Eidem Seattle City Attorney Seattle City Attorney's Office PO Box 94769 Seattle, WA 98124-4769
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Washington State Liquor Control Board at the above address. All hearing requests must be **RECEIVED** no later than twenty (20) calendar days after service upon you. A document is "served" on the date it is deposited by the Washington State Liquor Control Board in the U.S. mail, or the date it is hand delivered to you. If you timely submit a hearing request, this matter will be referred to the Office of Administrative Hearings to conduct a hearing pursuant to the Administrative Procedure Act (Chapter 34.05 RCW).

If you fail to request a hearing within the twenty (20) day period, you will lose your right to a hearing.

3. REQUEST FOR HEARING

INSTRUCTIONS: If you would like to request a hearing, please mark the box below and return this form within the twenty (20) day period.

☐ We request an administrative hearing in this matter.

4. INTERPRETER REQUEST

INSTRUCTIONS: You may request an interpreter for a primary language other than English and/or for a hearing or speech impairment. To request an interpreter complete the information below and one will be appointed at no cost to you.

☐ We request that a qualified interpreter be appointed to interpret for us or for our witness(es). The primary language is _____.

☐ We request that a qualified interpreter be appointed to interpret for us or for our witness(es). The hearing or speech impairment requires an interpreter able to communicate in the following language/manner: _____.

Please sign and date this document.

DATED this ____ day of _____, 2014.

Name (Print)

Daniel P Yarbrough Signature
President

The Washington State Liquor Control Board has a policy of providing equal access to its services.
If you need special accommodation, please call (360) 664-1602.

ATTACHMENT D

2015 Safety Plan

Sellzar Interests Inc

UBI: 602 762 072

Fusion Ultra Lounge
722 NE 45th St
Seattle, WA 98105
206-420-4165

FusionUltraLounge@gmail.com

Daniel Yarbrough
Owner/Manager
206-920-6780
DanielYarbrough@gmail.com

Security Positions:

Seattle Police Department offers a security training program to nightlife employees
Fusion's Head of Security attended that class and shows the other security how to properly manage the duties that need to be performed.

Main Entrance:

ID Security- Keeps the guests in line out front of the building and properly checks IDs and gives the specific mark depending if there over 21 or over 18. Over 21 guests get the code for the night on there right wrist in a black light marker. Only the Security and manager on duty know the code for the night. This insures that when they try to obtain entrance to the bar the checkpoint security can flash the black light and make sure they have the correct code for the night. Over 18 guests receive a black x on there right wrist. All guests that pass through the front door person after they went to ID Security and Pat down Security will receive an entrance stamp on top of either there black x or the black light code. This shows the staff that they have been in the doors.

Pat down Security- Is posted at the front door as well with the ID Security. He works hand and hand with the ID Security. After the guests properly get there ID checked Pat Down security makes sure there in compliance with dress code and checks any bags or purses. The male guests will get a pat down search and a metal detector wand while the females just get the metal detector wand.

Checkpoint Security- is posted in between the bar and the rest of the venue. He insures that all guests that enter the bar are over 21 with the correct black light code for the night. And then when every guests leaves he makes sure that all beverages stay in the bar area.

Back Door Security- Is posted at the backdoor by the office. He will watch over the crowd and make sure that the back door does not get used. It will only be used to exit the venue.

Roaming Security- Will walk around the venue checking on all the areas to make sure everything is in compliance with the head of security.



