## STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS DEPARTMENT OF BUSINESS REGULATION JOHN O. PASTORE COMPLEX 1511 PONTIAC AVENUE CRANSTON, R.I. 02920

ATO, Inc. d/b/a Skarr, Appellant,
<b>v.</b>
City of Providence Board of Licenses,

Appellee.

**DBR No.: 14LQ031** 

## **ORDER OF REMAND**

This matter arose out of an appeal filed by ATO, Inc. d/b/a Skarr ("Appellant") with the Department of Business Regulation ("Department") appealing the decision ("Decision") on June 5, 2014 by the Providence Board of Licenses ("Board") to impose various administrative penalties on the Appellant. The Appellant seeks a stay of the Board's Decision. This matter came before the undersigned in her capacity as Hearing Officer delegated by the Director of the Department.

The Department has jurisdiction over this matter pursuant to R.I. Gen. § 3-5-1 *et seq.*, R.I. Gen. Laws § 3-7-1 *et seq.*, R.I. Gen. Laws § 42-14-1 *et seq.*, and R.I. Gen. Laws § 42-35-1 *et seq.* The Department's jurisdiction is limited to appeals of liquor licensing as set forth in R.I. Gen. § 3-5-1 *et seq.* and R.I. Gen. Laws § 3-7-1 *et seq.*<sup>1</sup>

<sup>&</sup>lt;sup>1</sup> So for example, the Department does not have subject matter jurisdiction over entertainment or victualing licenses. *Ada's Creations, Inc. v. City of Providence Board of Licenses,* DBR No. 13LQ056 (June 6, 2013) (Department lacked jurisdiction over that appellant's separate entertainment license); *Pedro's Western Grill, Inc. d/b/a All American Bar & Grill v. Town of North Kingstown Board of License Commissioners,* LCA-NK-98-06 (March 16, 1999) (Department did not have jurisdiction over a penalty imposed by a town for violation of town ordinance). See also *El Nido v. Goldstein,* 626 A.2d 239 (R.I. 1993) (victualing license is a separate and distinct license from a liquor license).

At hearing, the parties agree that the Board's penalties implicated the Appellant's liquor license in that the Board found that the Appellant had violated R.I. Gen. Laws § 3-5-23. However, the penalties in the Decision are unclear as to how they are apportioned to Appellant's licenses (liquor, entertainment, etc.)

Therefore, in order to clarify the matters on appeal, this matter is hereby remanded to the Board in order for the Board to clarify to which license the penalties imposed on the Appellant in said Decision attach.

As recommended by:

Date: 6/12/14

Catherine R. Warren Hearing Officer

I have read the Hearing Officer's recommendation and I hereby ADOPT/REJECT the recommendation of the Hearing Officer in the above-entitled Order of Dismissal.

Date: 13/2014

Paul McGreevy

Entered as an Administrative Order No.:  $14-\frac{34}{2}$  this  $\frac{16}{2}$  day of June, 2014.

## **NOTICE OF APPELLATE RIGHTS**

THIS DECISION CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF **PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS** DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.

## **CERTIFICATION**

I hereby certify on this 1/6 day of June, 2014 that a copy of the within Decision was sent by first class mail, postage prepaid to Peter Petrarca, Esquire, Petrarca & Petrarca, 330 Silver Spring Street, Providence, RI 02904 and Sergio Spaziano, Esquire, City of Providence Law Department, 444 Westminster Street, Suite 220, Providence, RI 02903 and by hand delivery to Maria D'Allesandro, Deputy Director, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Bldg, 68-69, Cranston, RI 029/0.

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