

**CITY OF MINNEAPOLIS  
CITY COUNCIL  
PUBLIC SAFETY & REGULATORY SERVICE COMMITTEE**

In the Matter of the On-Sale Liquor License,  
Held by WAS, LLC  
dba Nochee

**FINDINGS OF FACT,  
CONCLUSIONS, AND  
RECOMMENDATIONS**

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This matter came on for a Licensing Settlement Conference (“LSC”) meeting on Thursday August 10, 2006 at 9:00 a.m. in Room 1 of City Hall, 350 South Fifth Street, Minneapolis, MN 55415. The LSC meeting was held to discuss issues related to the operation of WAS LLC, dba Nochee, located at 500 Washington Avenue South, Minneapolis, Minnesota 55415 pursuant to a Notice to Appear, dated July 31<sup>st</sup>, 2006. Present at the LSC meeting were the following representatives of Nochee: Dwight Bonewell (Owner), Adam Smith (Owner) and Fabrizio Ciccone (Owner). Also present were the following representatives of the City of Minneapolis: Ricardo Cervantes (Deputy Director of Licenses and Consumer Services), Lieutenant Travis Glampe (Minneapolis Police License Investigation Division), and Joel Fussy (Assistant City Attorney).

Based upon the agreement between the parties and all files and records contained herein, the following recommendation is issued:

## **FINDINGS OF FACT**

1. The Minneapolis Police Department License Investigation Division conducts youth alcohol compliance checks in an effort to assure liquor license holders are not serving alcohol to persons under the age of 21.

2. On April 21, 2005 the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at Nochee. Two-20 year males were sent into the business where they went to the bar. The decoys ordered beers from the bartender. Without asking for the decoys' identification, the bartender served the two underage decoys the beers they requested. This constituted Nochee's first alcohol compliance check failure. An administrative citation was issued to the Nochee in the amount of \$500.00 as detailed in a City Council resolution for sale of alcohol to a minor-first offense. Nochee paid this fine on May 5, 2005. A follow up youth alcohol compliance check was completed on September 9, 2005. The Nochee employee properly identified the underage police decoys and refused them access to alcohol.

3. On July 14, 2006 the Minneapolis Police License Investigation Division conducted a youth alcohol compliance check at Nochee. A 19 year old female decoy and an 18 year old male decoy were sent into the business where they were escorted to the outdoor patio by the host. A server from Nochee came to their table and the decoys ordered two bottles of beer. Without asking for the decoys' identification, the employee served the decoys the requested beer. This constituted Nochee's second alcohol compliance failure. As a result of the failure, an administrative citation was issued to Nochee in the amount of \$1000.00 as detailed in a City Council resolution for sale of alcohol to a minor-second offense.

4. . The two alcohol compliance violations have resulted in a criminal conviction of one of the applicable Nochee employees. Criminal charges are pending as a result of the July 14, 2006 failure.

### **CONCLUSIONS**

1. On two separate occasions employees of Nochee provided alcohol to persons under the age of 21, in violation of Minneapolis City Ordinance 370.10, Minnesota Statute 340A.503 subd. 2(1), and the established compliance check policy and procedures of the City of Minneapolis. These compliance failures all occurred in a period of less than fifteen months.

2. Management and/or Ownership have been present at the establishment during the compliance failures. They have taken a strong role in the operation of the business and in attempting to correct the deficiencies that may have led to the above failures.

3. Nochee has presented alcohol server training to its employees in 2004 and 2005. On August 12, 2006 Nochee conducted another alcohol server training for its employees, inviting a member of the Minneapolis Police License Investigation Division to speak to the employees as well.

4. Nochee has created and refined existing written business policies dealing with alcohol service.

### **RECOMMENDATIONS**

That the On-Sale Liquor License, issued to Nochee shall be subject to adverse license action up to and including revocation, with the commencement of such adverse license action stayed through and including April 21, 2007 subject to full compliance with the following conditions:

1. It is strongly suggested that Nochee require all customers who purchase alcohol to produce identification as listed in Minnesota Statute Section 340A.503, subdivision 6. Nochee has full knowledge of the consequences regarding any future incidents involving the sale of alcohol to minors and understands that such incidents could lead to a revocation of their On Sale Liquor License. Nochee agrees to take any necessary steps to assure persons under the age of 21 are properly identified when alcohol purchases are made. This includes, but is not limited to, purchase and utilization of an electronic identification card reading device.
2. A financial penalty of \$3,000 will be levied against Nochee. \$500 of this penalty will be imposed and has been received in the offices of the Minneapolis Police Department License Investigation Division. The imposition of the remaining \$2,500 will be stayed through April 21, 2007, provided that no further incidents of sale of alcohol to a minor, as defined by Minnesota State Statute 340A.503 subdivision 1 (2) or Minneapolis City Ordinance 370.10, occur. A criminal conviction for said violation against any Nochee employee, or any finding against Nochee for an administrative citation issued as a result of sale of alcohol to minor shall constitute proof of sale of alcohol to a minor.
3. The On-Sale Liquor License of Nochee is suspended for a period of 30 days. Imposition of 30 days of suspension will be stayed through April 21, 2007 provided that no further incidents of sale of alcohol to a minor, as defined by Minnesota State Statute 340A.503 subdivision 1 (2) or Minneapolis City Ordinance 370.10, occur. A criminal conviction for said violation against any

Nochee employee, or any finding against Nochee for an administrative citation for sale of alcohol to minor shall constitute proof of sale of alcohol to a minor.

4. Should the licensee violate any provision of this Agreement while it is in effect it shall be subject to additional adverse license action, including but not limited to the imposition of the stayed license suspension period, the stayed financial penalty as well as the potential commencement of license revocation proceedings.
5. All Nochee employees, managers, and owners involved in the daily operations of the business will attend professionally-presented alcohol server training. This training shall occur on a yearly basis. All employees, managers or owners hired or brought into the business after this initial training must attend a training class within thirty days of hire or approval as business owner.
6. A properly trained manager or owner must be on-site during business hours at all times.
7. This Agreement does not alter or preclude any previously imposed license conditions that may exist.
8. The licensee is aware that it will be subject to additional compliance checks during the term of this Agreement. As is the policy of the City of Minneapolis, the decoys will at all times respond truthfully to any questions asked of them by employees or sales clerks of the licensee and, if asked, will present their actual duly-issued age identification.
9. This Agreement shall not preclude any other adverse license action, including but not limited to suspension or revocation, for subsequent violations of this

Agreement, or for subsequent violations or subsequently-discovered violations of any federal, state or local laws, ordinances, or regulations.

10. Term of Agreement. This Agreement shall remain in effect through and including April 21, 2007. It is understood between the parties that this Agreement shall bind only the present licensee and will not bind any subsequent, unrelated person or persons should the business be sold and a new license approved.
11. "Date of Agreement" shall be defined as the date that the licensee signs or otherwise executes this Agreement. This Agreement is subject to approval by the Minneapolis City Council, however should such approval be obtained after the execution of this Agreement the approval shall be retroactive to the date of execution.

**Nochee**

By: \_\_\_\_\_

Owner Dwight Bonewell

Date: \_\_\_\_\_

**Minneapolis Police Department**

By: \_\_\_\_\_

Lt. Travis Glampe  
Commander, License Division

Date:

**City of Minneapolis Office of  
Licenses and Consumer Services**

By: \_\_\_\_\_

Ricardo Cervantes  
Deputy Director of Consumer  
Services

Date: \_\_\_\_\_