

**STATE OF VERMONT  
LIQUOR CONTROL BOARD**

**IN RE:           PEFF ENTERPRISES LLC D/B/A  
                  SLIDE BROOK LODGE AND TAVERN  
                  3180 GERMAN FLATS ROAD  
                  WARREN, VERMONT**

**BOARD DECISION AND ORDER**

The Liquor Control Board (“Board”) held proceedings in Montpelier, Vermont on June 1, 2016 to consider proposed sanctions against Licensee, Peff Enterprises LLC d/b/a Slide Brook Lodge and Tavern, holder of First and Third-Class Liquor Licenses, for alleged violations of General Regulations Nos. 16 (1 count) and 17 (5 counts)<sup>1</sup>. Licensee was present and represented by Marjorie Peff, a co-owner. The Department of Liquor Control (“DLC”) was present and represented by Jacob A. Humbert, Esq., Assistant Attorney General. The parties elected not to submit *Proposed Findings of Facts* for the Board’s consideration. The Board finds and rules as follows:

**FINDINGS OF FACT**

1.       DLC alleges that the Licensee violated the following regulations on Friday, February 12, 2016 and Friday, February 26, 2016:
  - a.       General Regulation No. 16: No licensee or licensee employee, or any individual involved in the sale, preparation or furnishing of alcoholic beverages, or sale of tobacco products and/or the enforcement on the premises of the laws, rules and regulations of this State pertaining to the sale or furnishing of alcoholic beverages, or sale of tobacco products, shall consume or display the effects of alcohol or any illegal substance while in the performance of their duties.
  - b.       General Regulation No. 17: No licensee shall sell or furnish alcoholic beverages to any individual displaying signs of intoxication from alcoholic beverages or other drugs / substances. No licensee shall allow alcoholic beverages to be consumed on the licensed premises by any individual displaying such signs of intoxication. No licensee shall allow any individual displaying such signs of intoxication to stay on the licensed premises, except under direct personal

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<sup>1</sup> The Board dismissed an alleged violation of General Regulation No. 42 on DLC’s motion.

supervision by a licensee or licensee employee in a segregated nonpublic area when the patron's immediate departure could be expected to pose a risk of bodily injury to the patron or any other individual.

2. DLC called Investigators Andre Thibault and Kim McLeod to testify. Licensee called its manager, Peter A. "Alex" Peff, as its witness.
3. Licensee conceded all violations on the record, so we will briefly summarize the facts that support that the alleged violations did, in fact, occur:

- a. During the evenings of Friday, February 12, 2016 and Friday, February 26, 2016 Investigators McLeod and Thibault entered the licensed establishment as part of an "undercover detail."
- b. On Friday, February 12, 2016, the investigators observed Alex Peff serve himself a bottle of Budweiser beer from behind the bar and then sit at the bar and consume the beer along with a meal. Afterwards, Mr. Peff was observed serving multiple drinks to patrons from behind the bar. Mr. Peff was on duty at the time he served himself and consumed an alcoholic beverage.
- c. During that night, both investigators observed a patron (Patron 1) who was unsteady on his feet after standing up from his barstool. Patron 1 was stumbling and tried to steady himself on a barstool and then on a wooden support beam that was adjacent to the bar. This patron was served two martinis during the approximately one hour the investigators were there, but was at the licensed establishment both before the investigators arrived and after they left.
- d. Later that night, the investigators observed a male subject that appeared to be in his 20's (Patron 2) who was showing signs of intoxication while consuming alcohol served to him by Licensee.
- e. Two additional patrons entered the licensed establishment at approximately 10:45 P.M. (Patrons 3 and 4) that night. Both patrons had a noticeably difficult time walking into the bar and had very dulled facial expressions with bloodshot and watery eyes. Investigators

overheard these patrons try to order food using very slurred speech. A female bartender appeared to be concerned that Patrons 3 and 4 had arrived at the bar already intoxicated. It appeared that she was trying to make an assessment of their level of intoxication before serving them any alcoholic beverages. Regardless of any perceived concerns she may have had, both patrons were served draft beers. Investigator Thibault noted that, after being served the draft beers, both patrons' speech was so slurred that it was unintelligible. He noted further that one of these patrons was hunched over the food served to him as if he was about to pass out.

f. On February 26, 2016, the investigators returned to the licensed establishment. While at a pub table, the investigators were approached by a male patron (Patron 5). He asked Investigator Thibault whether he had "any weed" on him. The investigator noticed a "strong odor of intoxicants coming from his breath" and that his eyes were bloodshot and watery. He spoke with very slurred speech. He was also swaying while standing next to him. He then went over to Mr. Peff and offered to buy the investigators drinks, which the investigators declined. He had been served alcoholic beverages by the Licensee.

4. Licensee declined to cross-examine either investigator on the merits of their allegations, indicating that there was no dispute with their testimony.
5. Mr. Peff testified that he did not dispute the allegations, but that they traditionally take steps to protect their patrons, including offering anyone unable to drive a ride home.

### **CONCLUSIONS OF LAW**

1. The Board is established as the paramount authority in the administration of Vermont's liquor statutes and regulations. *See Verrill, Jr. v. Daley, Jr.*, 126 Vt. 444, 446 (1967).
2. When passing upon the question of whether the license shall be revoked or suspended for the violation of a liquor statute or regulation, the Board sits as a tribunal with a judicial function to perform and has statutory authority under 7 V.S.A. §236 to suspend or revoke any license for

violating the provisions of Title 7 or any regulation. *See In Re: Wakefield*, 107 Vt. 180, 190 (1935).

3. Licensee holds First and Third-Class Liquor Licenses as defined by 7 V.S.A. §2(10) and §(22) and is, therefore, subject to this Board's jurisdiction.
4. Licensee was properly notified of its alleged violations and of its right to appear at a hearing to respond to these alleged violations consistent with 3 V.S.A. §809(a)-(c). The Hearing was held and the evidence closed on June 1, 2016.
5. DLC must prove all alleged violations by a preponderance of the evidence. If any violations are found, then the Board has concluded that DLC has met its burden. Notably, Licensee does not contest the alleged violations.
6. Consistent with the above *Findings of Fact*, the Board concludes that Licensee did violate General Regulations Nos. 16 (one count, because the Licensee's employee consumed an alcoholic beverage while in performance of his duties) and 17 (five counts, because the Licensee allowed alcoholic beverages to be consumed on the licensed premises by several individuals displaying such signs of intoxication. Further, licensee allowed individuals displaying such signs of intoxication to stay on the licensed premises in violation of that regulation).
7. The Board notes that Licensee could have been cited for a violation of General Regulation No. 49a given that there was no evidence that Mr. Peff paid for the beer that he served himself.
8. The Board takes notice of the Licensee's enforcement history and incorporates it by reference as if set forth at length herein.
9. The Board concludes that a suspension is warranted given the number of violations found, but limits it to three days given the lack of any significant violations or pattern of misconduct during the approximately ten years that that Licensee has held Vermont liquor licenses.

10. The Board also concludes that all owners and employees of the Licensee must undergo in-person DLC training within 60 days of this Order.

**ORDER**

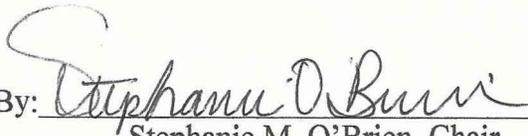
Based on the foregoing *Findings of Fact* and *Conclusions of Law*, Licensee, Peff Enterprises LLC d/b/a Slide Brook Lodge and Tavern has violated General Regulations Nos. 16 (1 count) and 17 (5 counts) and the Board hereby **ORDERS** that:

- Licensee's First and Third Class Licenses be **SUSPENDED** for three (3) days beginning at the start of business on Friday, June 24, 2016 through to and ending at the close of business on Sunday, June 26, 2016; and
- All employees and owners of the Licensee shall undergo and satisfactorily complete in-person DLC training within 60 days of the date of this Order.

  
DATED at ~~Montpelier~~, Vermont this 2<sup>nd</sup> day of June 2016.

So. Burlington,

**VERMONT LIQUOR CONTROL BOARD**

By:   
Stephanie M. O'Brien, Chair

**RIGHT TO APPEAL**

Within 30 days after copies of this Order have been served, either party may appeal to the Vermont Supreme Court by filing a Notice of Appeal with the Department of Liquor Control and paying the requisite filing fee. See 3 V.S.A. § 815(a); V.R.A.P. 4 and 13(a).