



State of Vermont
Department of Liquor Control
13 Green Mountain Drive
Montpelier, VT 05602
liquorcontrol.vermont.gov

[phone] 802-828-2339
[fax] 802-828-1031

Michael J. Hogan, Commissioner

NOTICE OF HEARING

RE: Hearing to consider the suspension or revocation of the First and Third Class Licenses granted to American Legion, J. Claire Carmody Post # 39, Inc., Poultney, Vermont said licenses being granted to sell alcoholic liquor for on-premise consumption.

Please take notice that pursuant to the authority vested in the Vermont Liquor Control Board by Title 7, Section 236, Vermont Statutes Annotated, a hearing will be held before the Liquor Control Board at **the Department of Liquor Control, 13 Green Mountain Drive, Montpelier, Vermont on Wednesday, March 21, 2012 at 9:30 a.m.**

The hearing will be held as a formal hearing and will be held to consider the suspension or revocation of the first and third class licenses granted to **American Legion, J. Claire Carmody Post # 39, Inc.** said licenses being granted to sell alcoholic liquor for on-premise consumption, for alleged violation of General Regulation No. 17 of the regulations duly adopted by the Liquor Control Board, which is set forth and specified below.

General Regulation No. 17: No alcoholic beverages shall be sold or furnished to a person displaying signs of intoxication from alcoholic beverages or other drugs/substances. No alcoholic beverages may be consumed on the licensed premises by any person displaying such signs of intoxication. No person displaying such signs of intoxication shall be allowed to stay on the licensed premises, except under direct personal supervision by a licensee or his or her employees in a segregated non public area when the patron's immediate departure could be expected to pose a risk of bodily injury to the patron or any other person.

It is alleged that on February 4, 2012 you allowed a patron displaying obvious signs of intoxication to be on the premises in a public non-segregated area in violation of General Regulation No. 17

The Liquor Control Board shall determine whether or not such alleged violations did occur as specified herein.

Pursuant to Title 3, Vermont Statutes Annotated, Section 809(d), the said **American Legion, J. Claire Carmody Post # 39, Inc.** shall have an opportunity by themselves or through their attorney to appear at said hearing to present evidence and argument on all issues involved in this case and bring before the Liquor Control Board all pertinent facts that the said licensee believes will have a bearing on the issues involved in this case.

If the decision of the Board is to suspend or revoke said license, you will be required to comply with Title 7, Vermont Statutes Annotated, Section 240(a) and 240(b) which are set forth and specified as follows: Title 7 S 240 Proof of financial responsibility.(a) Any first, second or third class liquor licensee whose license is suspended by the local control Commissioners or suspended or revoked by the liquor control board for selling or furnishing intoxicating liquor to a minor, to a person apparently under the influence of intoxicating liquor, to a person after legal serving hours, or to a person whom it would be reasonable to expect would be intoxicated as a result of the amount of liquor served to that person, shall be required to furnish to the liquor control department a certificate of financial responsibility within 60 days of the commencement of the suspension or revocation or at the time of reinstatement of the licenses, whichever is later. Financial responsibility may be established by any one or a combination of the following: insurance, surety bond or letter of credit. Coverage shall be maintained at not less than \$25,000.00 per occurrence and \$50,000.00 aggregate per occurrence. Proof of financial responsibility shall be required for license renewal for three years following the suspension or revocation.

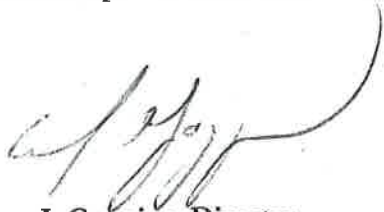


(b) Proof of financial responsibility and completion of the licensee education program established in section 239 of this title shall be conditions to resume operation after a suspension or revocation for any of the reasons in subsection (a) of this section; however, at the discretion of the suspending or revoking authority, the licensee may receive a provisional license prior to the time these conditions are met in order to allow for compliance with the education requirement or to obtain the certificate of financial responsibility. A provisional license may not be issued for a period exceeding 60 days.

The liquor control investigator's report is enclosed.

All correspondence and documents pertaining to this matter should be sent to the Department of Liquor Control, 13 Green Mountain Drive, Montpelier, Vermont 05602 to my attention.

Dated at Montpelier, Vermont, this 15th day of February 2012.



William J. Goggins, Director
Department of Liquor Control

7010 2780 0000 1854 7527

U.S. Postal Service TM	
CERTIFIED MAIL TM RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
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Street, Apt. No., or PO Box No.	
City, State, ZIP+4	

PS Form 3800, August 2006 See Reverse for Instructions

Handwritten notes: American Express #39 Pauline

STATE OF VERMONT
LIQUOR CONTROL BOARD
SUBPOENA

Attended

To: Any Liquor Control Investigator


You are hereby commanded to serve on: Officer Dale Kerber

this subpoena requiring him/her/them to appear before the LIQUOR CONTROL BOARD at
the Department of Liquor Control, 13 Green Mountain Drive, Montpelier, Vermont on

Wednesday, March 21, 2012 at 9:30 a.m. to testify at the hearing

in the matter of American Legion, J. Claire Carmody Post # 39, Inc., 689 Granville St., Poultney, VT

Signature:


Liquor Control Commissioner

Date: February 15, 2012

RETURN OF SERVICE

On

I served this subpoena upon

by delivering a copy of this subpoena
to him/her at

city/town

county

Signature:

Liquor Control Investigator

FEES:

.51¢ per mile

\$30 for attendance

Each witness subpoenaed should report to the The Department of Liquor Control

DeBonis, Wright & Carris, P.C.
Attorneys at Law

A Professional Corporation
226 Main Street, P.O. Box 133, Poultney, VT 05764
Telephone: 802.287.9110
Telefax: 802.287.2031
Electronic Mail: jadebonis@debonislaw.com

Joseph A. DeBonis, Esq.
William Tracy Carris, Esq.

Richard J. Wright, Esq. (1944-2007)

Joann J. Higgins, Legal Assistant
Meg A. Jones, Legal Assistant
Rebecca M. Ivanovs, Legal Assistant
Cristen Zekus, Legal Assistant
Ashley K. Anderson, Paralegal

March 26, 2012

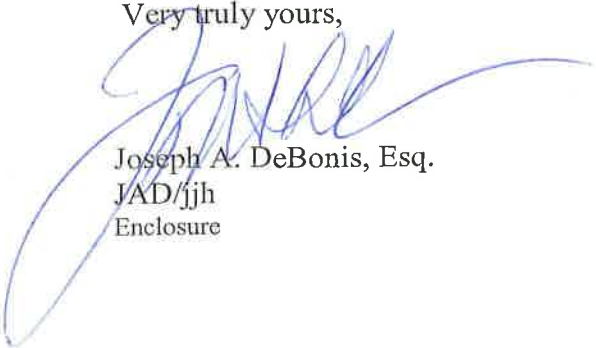
Vermont Department of Liquor Control
13 Green Mountain Drive
Montpelier, VT 05620-4501

Re: American Legion, J. Claire Carmody, Post #39, Poultney, Vermont- Settlement Agreement

Dear Sir/Madam:

Please find enclosed a check made payable to the Vermont Department of Liquor Control in the amount of \$500.00 from the American Legion, J. Claire Carmody House Account, which reflects payment in full regarding the above.

Very truly yours,



Joseph A. DeBonis, Esq.
JAD/jjh
Enclosure

DeBonis, Wright & Carris, P.C.
Attorneys At Law

A Professional Corporation
226 Main Street, P.O. Box 133, Poultney, Vermont 05764
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Meg A. Jones, Legal Assistant
Rebecca M. Ivanova, Legal Assistant
Cristen Zekus, Legal Assistant
Ashley K. Hayward - Anderson, Paralegal

TO: Vermont Department of Liquor Control

FAX NO: 802-828-1031

FROM: Joseph A. DeBonis, Esq.

DATE: 3/26/2012

**SUBJECT: Letter and check regarding American Legion, J. Claire Carmody, Post #39,
Poultney, Vermont- Settlement Agreement**

Number of Pages including Cover sheet: 2

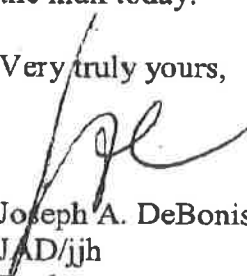
If you don't receive all pages, please call the number above.

Message:

Dear Sir/Madam:

Please find enclosed a letter regarding the above. The original letter and check are going out in the mail today.

Very truly yours,


Joseph A. DeBonis, Esq.
JAD/jjh
Enclosure

CONFIDENTIALITY NOTICE

The information contained in this telefacsimile message is privileged and confidential, and intended only for the use of the individual(s) and/or entity(ies) named above. If you are not the intended recipient, you are hereby notified that any authorized disclosure, copying, and distribution or taking of any action in reliance on the contents of the telecopied material is strictly prohibited and review by an individual other than the intended recipient shall not constitute waiver of the attorney-client privilege. If you have received this transmission in error, please immediately notify us by telephone (collect) to arrange for the return of the materials. Thank you.

DeBonis, Wright & Carris, P.C.

Attorneys At Law

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Ashley K. Hayward · Anderson, Paralegal

TO: Department of Liquor Control Enforcement Division

FAX NO: 802-828-1031

FROM: Joseph A. DeBonis, Esq.

DATE: March 20, 2012

**SUBJECT: American Legion, J. Clarire Carmody Post #39, Poultney, Vermont
Signed and Dated Settlement Agreement by George Miller**

Number of Pages including Cover sheet: 2

If you don't receive all pages, please call the number above.

Message:

Dear DLC:

Please find enclosed a signed and dated letter of Settlement Agreement regarding the above matter. A check in the amount of \$500.00 will follow by mail, within 5 business days.

Very truly yours,

Joseph A. DeBonis, Esq.
JAD/jjh
Enclosure

cc. Jacob A. Humbert, Assistant Attorney General

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46 JOSEPH H. DE LOUIS LBY
State of Vermont
Liquor Control Board
(Settlement Agreement)

TO: AMERICAN LEGION
J. CLAUDE CARMODY POST #39, INC
POULTNEY, VT.

MARCH 19, 2012

You have been notified of a hearing before the Liquor Control Board (LCB) on MARCH 21, 2012
at MONTPELIER, VT., Vermont, to consider the suspension or revocation of your liquor
license(s).

Reference is made to Notice of Hearing dated FEB. 15, 2012 with investigative report(s)
attached, to DLC ticket dated FEB. 4, 2012

Based upon your inquiry concerning settlement of the violations alleged against you in the Notice of
Hearing, the LCB has agreed to ~~accept a suspension of~~ A LETTER OF
WARNING CONCERNING VIOLATIONS OF GEN. REG. 17 PLUS A \$500 PENALTY.
If you wish to settle and waive your right to a hearing, then sign and date this letter, and fax the signed
and dated letter to:

1. Department of Liquor Control (DLC) Enforcement Division at (802) 828-1031 (fax); and,
2. Jacob A. Humbert, Assistant Attorney General (AAG) at (802) 828-3187 (fax).

Please complete and sign this agreement and fax it to the DLC Enforcement Division no later than two (2)
business days before the date of the hearing, in order to ensure that your hearing can be cancelled in a
timely manner.

By signing and faxing this letter, you have given the DLC authority to accept your facsimile signature as
though it were the original.

If this matter is not settled in the manner set forth, then the settlement offer is null and void and is of no
further consequence. The LCB may, after hearing, impose any available penalty, or none at all,
depending upon the evidence.

If there are any questions, I can be reached during normal business hours at (802) 658-3586 or by fax at
(802) 660-7050.

Very truly yours

R. C. Schmucker

Ronald C. Schmucker, Esq., Attorney to
the Vermont Liquor Control Board

I accept the \$500.00 PENALTY AND A LETTER OF WARNING
days suspension of my liquor license

Dated: MARCH 20, 2012

By: George Miller

AMERICAN LEGION, - POST 39, INC

George Miller

Print Name

Duly Authorized Agent

THIS SETTLEMENT AGREEMENT SHALL ALSO CONSTITUTE
A LETTER OF WARNING CONCERNING VIOLATIONS OF GEN.
REG 17.

LIQUOR CONTROL BOARD
BY Ronald C. Schmucker, Counsel

DLC ENFORCEMENT DIVISION
ADMINISTRATIVE NOTICE OF AGENCY ACTION

Notice

No. 00395



License Number

1032-0022 LK 31-01

Corporation Name

DBA

Physical Mailing Address

County

City

State

Zip Code

Business Phone

Licensee did then and there commit the following acts
in violation of V.S.A. Title 7 Provision, or Liquor Board
Regulation:

WHICH CONSTITUTES A VIOLATION OF:

General Regulation #

TITLE 7 Provision: 7 VSA

☐ Written Warning- No Fines or Penalties
copy of warning placed in licensee file

☐ See Attached Waiver Fine

☐ Administrative Referral

☐ Hearing

If you plead **DENIED** and the state proves the violation, you will forfeit the waiver amount and be subject to an administrative referral.

If you plead **ADMITTED** or **NO CONTEST**, you may pay the waiver amount instead of appearing in court.

WAIVER
AMOUNT → \$ 500

Delivered To: Last

First

MI

Signature:

☐ M ☐ F

Title:

The undersigned complains that the Licensee did violate the above identified V.S.A. Title 7 provision, or Liquor Control Board Regulation on this day of 20 at county.

Investigator Name:

Investigator Signature:

Investigator #:

Date Served:

Time:

☒ Hand ☐ USMail

*Important info about this administrative notice of agency action on reverse side

WHITE: Enforcement; YELLOW: Investigator; PINK: Licensee; Goldenrod: Return with Fine

RETURN WITH
FINE

1-27-50-500-7291
1-27-50-500-7291
1-27-50-500-7291
1-27-50-500-7291
1-27-50-500-7291

17

10 FEB 11 1952

American Legion Post 39
689 Granville Street
Poultney, VT 05764

February 13, 2012

Vermont Department of Liquor Control
13 Green Mountain Drive
Montpelier, VT 05620-4501

Dear Sir/Madam,

Please find enclosed Administrative Notice of Agency Action No. 00395. In which we deny the allegation and request a hearing.

Very truly yours,

George Miller

A handwritten signature in cursive script that reads "George Miller".

Narrative:

On Feb 04, 2012 I conducted an investigation at the American Legion located in Poultney. Just prior, the police were called to respond to a fight in progress. Upon speaking with Officer Dale Kerber he advised a fight had ensued between David Saltis, Matt Garnder, and Nick Gardner. Officer Kerber advised that Dave Saltis was very intoxicated. There was a birthday party hosted at the club.

In speaking with the bartender (Debbie Ballantine) on duty, she advised that the fight had occurred. When asked if the participants were intoxicated she advised they were not. When asked why Officer Kerber would think Dave Saltis was intoxicated, she said, "that is just Dave, he is always that way." The bartender advised that David Saltis had only been at the bar drinking about 1.5 hours and further stated she felt he must have had been drinking before he came. I spoke with the other bartender on duty, Paul Ballantine, who had no observations to offer.

While present at the Club, a patron came up to me and said "they are fighting again out front". I went out and called for backup. I did not observe a fight, but I did observe several people around a car with an intoxicated male in the front passenger seat. From my short interaction I could tell the subject was very intoxicated. The people at the car advised they were all set and just wanted to take the subject away. Since I observed no criminal activity, they left.

The patrons standing at the door advised the subject I saw in the car was Dave Saltis. He had returned to the club asking for his jacket that was left behind.

I again spoke to the two bartenders that were on duty and the off duty manager and explained I was issuing an administrative ticket (00395) for having an intoxicated person on premise, a violation of General Regulation 17.

Narrative:

On February 04, 2012, at approximately 2028 hours, I was dispatched to assist Officer Kerber with a reported fight complaint at the American Legion in Poultney.

Upon my arrival, the parties involved had separated. Officer Kerber was speaking with the two of the subjects involved. The reported instigator, David Saltis, had departed prior to my arrival. All involved subjects had been drinking and there was no serious injury.

The situation was calm and I cleared.

NFA M. Notte 418