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2006 DEC 26 P 2: 59

BEFORE THE CITY COUNCIL
OF THE CITY OF LAS VEGAS, NEVADA

* * *

IN THE MATTER OF:

DEPARTMENT OF FINANCE AND
BUSINESS SERVICES on behalf of the
CITY OF LAS VEGAS,

Petitioner,

vs.

MULUGETA BOUR d/b/a Oakey
DISCOUNT MARKET,

Respondent.

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER REVOKING
BEER/WINE/COOLER OFF-SALE LICENSE NO.
L10-00246-4-001072, CONVENIENCE STORE
LICENSE NO. C15-00321-4-107408, AND RETAIL
TOBACCO LICENSE NO. C05-02325-D-107408**

On December 6, 2006, a meeting of the Las Vegas City Council was held to consider the matter of the Complaint for Disciplinary Action filed against Mulugeta Bour d/b/a Oakey Discount Market, 1616 Las Vegas Boulevard South, Las Vegas, Clark County, Nevada. Mulugeta Bour d/b/a Oakey Discount Market was represented by Rex Bell, Esq. The Department of Finance and Business Services, on behalf of the City of Las Vegas, was represented by William P. Henry, Senior Litigation Counsel for the City of Las Vegas. The City Council considered the evidence presented, testimony of witnesses, representations of counsel, and the provisions of LVMC § 6.88.100, and good cause appearing, hereby issues these findings of fact, conclusions of law, and order revoking Beer/Wine/Cooler Off-Sale License No. L10-00246-4-001072, Convenience Store License No. C15-00321-4-107408, and Retail Tobacco License No. C05-02325-D-107408.

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FINDINGS OF FACT

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2 1. The Respondent, Mulugeta Bour d/b/a Oakey Discount Market, held
3 Beer/Wine/Cooler Off-Sale License No. L10-00246-4-001072, Convenience Store License No.
4 C15-00321-4-107408, and Retail Tobacco License No. C05-02325-D-107408.

5 2. On November 15, 2006, a Complaint for Disciplinary Action was submitted to
6 the Las Vegas City Council by Mark Vincent, the Director of Finance and Business Services
7 for the City of Las Vegas. The City Council approved the Complaint for Disciplinary Action
8 and set the matter for hearing.

9 3. On November 15, 2006, an Order Approving Complaint and Notice of Hearing
10 was signed by Oscar B. Goodman, Mayor of the City of Las Vegas, setting the hearing on the
11 Complaint for December 6, 2006.

12 4. On November 16, 2006, the Complaint for Disciplinary Action and Order
13 Approving Complaint and Notice of Hearing was served on the Respondent.

14 5. The Respondent, Mulugeta Bour d/b/a Oakey Discount Market, never answered
15 the Complaint for Disciplinary Action as required by LVMC § 6.88.100.

16 6. On December 6, 2006, a hearing on the matter was conducted before the Las
17 Vegas City Council.

18 7. The City Council was informed of the provisions of LVMC § 6.88.100 and that
19 the Respondent had not answered the Complaint for Disciplinary Action. The City Council
20 accepted the representations of counsel for the Department of Finance and Business Services as
21 well as counsel for the Respondent Mulugeta Bour d/b/a Oakey Discount Market that no
22 answer had been filed. The City Council deemed as proven, therefore, all of the allegations in
23 the Complaint for Disciplinary Action, a copy of which is attached hereto as Exhibit 1, and
24 made a part hereof, as if fully set forth herein.

25 8. The Respondent, Mulugeta Bour d/b/a Oakey Discount Market, and his counsel,
26 made representations to the City Council in mitigation of discipline. Counsel for the
27 Department of Finance and Business Services, as well as Las Vegas Metropolitan Police
28 Sergeant Damian Walburn, also made representations relevant to the imposition of discipline.

1 9. The City Council considered certain proven allegations in the Complaint for
2 Disciplinary Action.

3 Mulugeta Bour d/b/a Oakey Discount Market had several health card, alcohol
4 awareness card, and employee list violations in 2003.

5 On April 13, 2006, **Mulugeta Bour sold narcotics paraphernalia** to a Metropolitan
6 Police undercover officer. This paraphernalia was **intended to facilitate the smoking of**
7 **crack cocaine**. Mr. Bour was arrested for a felony. During the course of the felony arrest, it
8 was determined that there were in excess of 250 other items of narcotics paraphernalia stored
9 in the cash register, or under the cash register, at Oakey Discount Market.

10 Two weeks later, on April 27, 2006, Mulugeta Bour appeared before the Las Vegas
11 Planning Commission. He was applying for a special use permit to utilize another location,
12 Fourth Street Market, located at 114 North Fourth Street, Las Vegas, Clark County, Nevada,
13 for the sale of beer and wine. He was asked by Commissioner Steinman whether or not he
14 had ever had any problems with Metro at his other place of business, Oakey Discount Market.
15 Mr. Bour told Commissioner Steinman he had never had problems with Metro at his other
16 place of business, Oakey Discount Market. **Mulugeta Bour engaged in deceptive practices**
17 **on the public**, by lying to a Planning Commissioner, during the course of a regularly-
18 scheduled meeting of the Las Vegas Planning Commission.

19 10. The licensee has committed acts constituting state crimes, Possession and Sale
20 of Narcotics Paraphernalia in violation of NRS 453.560. Substantial evidence exists to show
21 that he is dishonest. He engaged in a deceptive practice upon the public when he lied to a
22 Planning Commissioner during the course of a Planning Commission meeting. He conducted
23 the actual business activity of Oakey Discount Market in such a manner that it was a nuisance.

24 11. The City Council considered the complaint on file, the lack of an answer, the
25 representations of counsel and witnesses, as well as the relevant law, and by majority vote
26 voted to immediately revoke Convenience Store License No. C15-00321-4-107408 and Retail
27 Tobacco License No. C05-02325-D-107408. In addition, the City Council voted to revoke
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1 Beer/Wine/Cooler Off-Sale License No. L10-00246-4-001072 effective 3 p.m. December 6,
2 2006.

3 12. If any of these findings of fact should more properly be deemed conclusions of
4 law, they shall be so deemed.

5 **CONCLUSIONS OF LAW**

6 13. Las Vegas Municipal Code (LVMC) § 6.50.010 provides:

7 The City Council declares that this Liquor Control Chapter is an
8 exercise of the regulatory powers delegated to the City Council
9 pursuant to the City Charter and NRS 268.090, inter alia. The
10 regulations contained in this Chapter involve, to the highest
11 degree, the economic, social, physical and moral well-being of
12 the residents and taxpayers of the City. The sale or other
13 disposition of alcoholic beverages is not a matter of right but of
14 privilege, which would otherwise be unlawful if it were not
15 exercised pursuant to a license. This privilege may be denied,
16 revoked, conditioned, suspended or subjected to any other
17 disciplinary action by the City in the exercise of its police powers
18 for the protection of the safety, welfare, health, peace and morals
19 of the residents and taxpayers thereof. Businesses engaged in the
20 sale or other disposition of alcoholic beverages must therefore
21 comply with LVMC Chapter 6.06. Nothing in this Chapter shall
22 be construed to confer any legitimate claim of entitlement to any
23 benefit which might otherwise devolve upon any licensee or any
24 person approved for suitability.

17 14. LVMC § 6.06.250(A) and (B)(6), (7), and (10) provide:

18 A licensee may be subject to disciplinary action as set
19 forth in Sections 6.02.330 through 6.02.360.

20 A principal approved for suitability may be subject to
21 disciplinary action by the City Council for good cause, which
22 may include, but is not limited to:

22

23 The principal has committed acts which would constitute a
24 crime involving moral turpitude or involving any Federal, State
25 or local law or regulation relating to the same or a similar
26 business;

25 When substantial information exists which tends to show
26 that the principal is dishonest or corrupt;

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28 The principal has engaged in deceptive practices upon the
public

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15. LVMC § 6.02.330(H) provides:

The licensee may be subject to disciplinary action by the City Council for good cause, which may, without limitation, include:

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The actual business activity constitutes a public or private nuisance, or has been or is being conducted in an unlawful, illegal or impermissible manner.

16. LVMC § 6.50.440 provides:

It is unlawful for any of the following to be employed in the retail sales of alcoholic beverages for on or off premises consumption without having in his or her possession a valid work card for alcoholic beverages pursuant to LVMC Chapter 6.86:

(A) A manager;

(B) Any employee who pours or serves alcoholic beverages for on premises consumption; or

(C) Any employee who accepts payment for the sale or delivery of alcoholic beverages for off premises consumption.

17. LVMC § 6.50.570 provides:

The completion card or a copy thereof issued by the instructor of an alcohol awareness training course or refresher course to a person successfully completing the course must be available during the work shift on the premises where the person, as an employee, is serving, selling or distributing alcoholic beverages for inspection by Metro, City or other governmental personnel.

18. LVMC § 6.02.350 provides:

A licensee under this Chapter shall be subject to disciplinary action not only for acts or omissions done by such licensee but also for acts and omissions done by the principals, managers, agents, representatives, servants or employees of such licensee.

19. Nevada Revised Statute (NRS) 453.560 provides:

Unless a greater penalty is provided in NRS 212.160, a person who delivers or sells, possesses with the intent to deliver or sell, or manufactures with the intent to deliver or sell any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, prepare, test, analyze, pack, repack, store, contain,

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conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter is guilty of a category E felony and shall be punished as provided in NRS 193.130.

20. NRS 453.554(11)(a) and (b) provides:

As used in NRS 453.554 to 453.566, inclusive, unless the context otherwise requires, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this chapter. The term includes, but is not limited to:

. . . .

Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

Water pipes

21. LVMC § 6.88.090 provides:

(A) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted.

(B) The respondent shall have the right to call and examine witnesses on his own behalf, cross-examine opposing witnesses, introduce exhibits and evidence relevant to the issues of the case, and offer rebuttal evidence.

(C) The respondent may be called and examined by the City.

(D) The Clerk shall have the power to issue subpoenas for witnesses to appear to give testimony.

22. LVMC § 6.88.100 provides:

Failure to timely file his answer or failure of a respondent or his counsel to appear at the hearing shall constitute an admission of all matters and facts contained in the complaint filed

1 with respect to such respondent. In such cases the City Council
2 may take action based upon such admission or upon any other
3 evidence, including affidavits, and without any further notices
4 whatever to respondent. In such cases the City Council shall
5 indicate by appropriate findings of fact and conclusions of law in
6 the record the evidence upon which its action was based.

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14 23. LVMC § 6.02.360 provides:

15 Upon a showing of good cause and in the discretion of the
16 City Council, disciplinary action against a holder may take the
17 form of cancellation, revocation, refusal to renew, suspension,
18 imposition of conditions or restrictions or civil fine in an amount
19 not to exceed one thousand dollars for each day that the violation
20 which forms the subject matter of the complaint that recommends
21 such disciplinary action is demonstrated to have been in
22 existence, or any combination of such actions, as the particular
23 situation may require. The Council may also impose against the
24 licensee the actual costs incurred, and a reasonable amount for
25 attorney's fees, resulting from the imposition of disciplinary
26 action. The disciplinary actions available in this Section shall be
27 in addition to, and not exclusive of, any other civil or criminal
28 remedy which otherwise might be available.

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239 (A) After the hearing of a contested matter, the City
240 Council shall render a decision on the merits, which shall include
241 findings of fact and conclusions of law and the penalty to be
242 imposed, if any. The penalty may include, without limitation, the
243 following, or any combination thereof:

244 (1) The suspension or revocation of the respondent's
245 license, approval for suitability or work card, as the case may be;

246 (2) The imposition of conditions upon the license,
247 approval for suitability or work card in question; or

248 (3) The imposition of a civil fine in an amount not to
249 exceed one thousand dollars for each day that the violation which
250 forms the subject matter of the complaint is demonstrated to have
251 been in existence.

252 (B) The City Council shall make and enter an order in its
253 minutes in conformity to such decision. The decision of the City
254 Council shall be served on the parties personally or shall be sent
255 to them by registered or certified mail. The decision shall become
256 and remain effective upon such service unless the City Council
257 shall otherwise order.

258 25. The hearing was not conducted according to technical rules relating to evidence
259 and witnesses, but all relevant evidence was admitted. Further, the Respondent was allowed

1 the opportunity to call and examine witnesses on its own behalf, introduce exhibits and
2 evidence relevant to the issues of the case, and offer rebuttal evidence.

3 26. *Kochendorfer v. Board of County Commissioners of Douglas County*, 93 Nev.
4 419, 566 P.2d 1131 (1977), provides relevantly that a business owner subject to a disciplinary
5 hearing by his licensing authority is entitled to due process. Due process is defined as notice
6 and hearing appropriate to the case. The Respondent, Mulugeta Bour d/b/a Oakey Discount
7 Market, was provided notice and hearing appropriate to the case.

8 27. If any of these conclusions of law should more properly be deemed findings of
9 fact, they shall be so deemed.

10 **ORDER**

11 IT IS HEREBY ORDERED that Beer/Wine/Cooler Off-Sale License No. L10-00246-4-
12 001072, Convenience Store License No. C15-00321-4-107408, and Retail Tobacco License No.
13 C05-02325-D-107408 held by Respondent Mulugeta Bour d/b/a Oakey Discount Market are
14 revoked, as set forth in Paragraph 11 of this order.

15 DATED this 21st day of December, 2006.

16 THE CITY COUNCIL OF THE
17 CITY OF LAS VEGAS, NEVADA

18 By: 
19 OSCAR B. GOODMAN
Mayor

20 ATTEST:

21 
22 BARBARA JO RONEMUS, City Clerk

23 APPROVED AS TO LEGAL FORM:

24 
25 WILLIAM P. HENRY
26 Senior Litigation Counsel

27 18 DEC 06
28 Date

EXHIBIT 1

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BEFORE THE CITY COUNCIL
OF THE CITY OF LAS VEGAS, NEVADA

* * *

IN THE MATTER OF:

DEPARTMENT OF FINANCE AND
BUSINESS SERVICES on behalf of the
CITY OF LAS VEGAS, NEVADA,

Petitioner,

vs.

MULUGETA BOUR d/b/a OAKY
DISCOUNT MARKET,

Respondent.

**COMPLAINT FOR
DISCIPLINARY ACTION**

The DEPARTMENT OF FINANCE AND BUSINESS SERVICES, on behalf of the CITY OF LAS VEGAS, NEVADA (Department), Petitioner, brings this Complaint for Disciplinary Action against MULUGETA BOUR d/b/a OAKY DISCOUNT MARKET, 1616 Las Vegas Boulevard South, Las Vegas, Clark County, Nevada, Respondent, and states:

Respondent MULUGETA BOUR d/b/a OAKY DISCOUNT MARKET, holds Beer/Wine/Cooler Off-Sale License No. L10-00246-4-001072, Convenience Store License No. C15-00321-4-107408, and Retail Tobacco License No. C05-02325-D-107408.

SUMMARY OF ALLEGATIONS

Mulugeta Bour is the sole proprietor of Oakey Discount Market. Starting in March 2003, he was granted a number of temporary Beer/Wine/Cooler Off-Sale licenses by the Las Vegas City Council. Finally, in June 2004, he was granted a permanent license. Between May 2003 and April 2006 Mr. Bour was cited and arrested by the Las Vegas Metropolitan Police Department for Failure to Possess a Health Card, Failure to Possess an Alcohol

1 Awareness Card, Failure to Maintain an Employee List, and Sale of Narcotics
2 Paraphernalia, a felony.

3 On April 27, 2006, Mr. Bour appeared before the Las Vegas Planning Commission
4 seeking a special use permit to sell beer and wine at Fourth Street Market, 113 North Fourth
5 Street, Las Vegas, Clark County, Nevada. Mr. Bour told Commissioner Steinman he had
6 never had problems with Metro at his other place of business, Oakey Discount Market. He
7 lied. In truth and fact, Mr. Bour had been arrested by the Las Vegas Metropolitan Police
8 Department April 13, 2006, at Oakey Discount Market for a felony, Sale of Narcotics
9 Paraphernalia to an undercover officer.

10 Mulugeta Bour violated the law in the operation of his business. Substantial
11 information exists to believe that he is dishonest and corrupt. He engaged in a deceptive
12 practice upon the public when he lied to a public body, the Las Vegas Planning Commission.

13 **PROCEDURAL HISTORY**

14 The Las Vegas City Council issued a temporary license for beer/wine/cooler off-sale to
15 Mulugeta Bour on March 5, 2003. The license provided for a six-month review of Oakey
16 Discount Market. On September 3, 2003, a six-month review was conducted before the City
17 Council. The Council was informed that warning notices had been written to Mr. Bour for
18 selling single containers of beer. Mr. Bour admitted that he had engaged in this conduct on
19 one occasion. He also admitted not posting an employee list, but told the City Council that he
20 had one. He also admitted to not having a valid health card in his possession when Metro
21 Special Investigations detectives asked to inspect it, but stated that he had left it in his wallet in
22 his car. He apologized. The City Council granted an extension to the temporary license.

23 The matter appeared on the March 3, 2004-agenda but was abeyed to March 17, 2004,
24 when a second extension to the temporary license was granted.

25 On June 16, 2004, the City Council granted a permanent license to sell beer and wine,
26 including single containers.

27

28

VIOLATIONS OF LAW

1
2 **On May 29, 2003**, officers of the Las Vegas Metropolitan Police Department
3 determined that Mulugeta Bour did not possess a health card, an alcohol awareness card, or an
4 employee list.

5 **On June 12, 2003**, officers of the Las Vegas Metropolitan Police Department
6 determined that Nuriden Shifa, an employee at Oakey Discount Market, did not possess a
7 work card. They also determined that Mr. Bour did not have a completed work card list with
8 employees' work card numbers. Finally, it was noted that he had not posted his business
9 license.

10 **On August 21, 2003**, officers of the Las Vegas Metropolitan Police Department
11 determined that Mr. Bour did not have an employee list.

12 **On April 13, 2006**, an officer of the Las Vegas Metropolitan Police Department acting
13 in an undercover capacity purchased narcotics' paraphernalia from Mulugeta Bour at Oakey
14 Discount Market. The officer purchased a "set up," specifically a three-inch galls tube
15 containing a plastic rose and a chor boy brillo pad placed in a brown paper bag. Thereafter,
16 Mr. Bour was arrested for **felony Sale of Narcotics Paraphernalia**. During the course of the
17 arrest he showed officers that he stored the chor boys in the bathroom, and the glass pipes
18 under the cash register. Two hundred and eighty-eight (228) glass pipes were found in a box
19 under the cash register, with an additional thirty (30) pipes in the cash register. Officers noted
20 a sign in the store which read "If you don't see what you want, ask for it."

21 The officer involved formed an opinion, based on his training and experience, and
22 from a consideration of all the circumstances, that the "set ups" being sold by Mulugeta
23 Bour were narcotics paraphernalia intended to facilitate smoking crack cocaine. One of
24 the circumstances considered by the officer was that Sergeant Wally of the Downtown Area
25 Command had warned Mulugeta Bour four months earlier that the sale of narcotics
26 paraphernalia was a crime.

27 **On April 27, 2006**, Mulugeta Bour appeared before the Las Vegas Planning
28 Commission on Agenda Item No. 25, an application for special use permit to utilize Fourth

1 Street Market, located at 113 North Fourth Street, Las Vegas, Clark County, Nevada, for
2 the sale of beer and wine. During the course of the hearing Mr. Bour entered into
3 conversation with Commissioner Steinman. He told Commissioner Steinman that he had
4 never had problems with Metro at his other place of business, Oakey Discount Market, located
5 at 1616 Las Vegas Boulevard South, Las Vegas, Clark County, Nevada. This was a lie. Mr.
6 Bour had been arrested two weeks earlier on April 13, 2006, by officers of the Las Vegas
7 Metropolitan Police Department. They arrested him for felony Sale of Narcotics
8 Paraphernalia, "set ups" intended to facilitate smoking crack cocaine.

9 **THE LAW**

10 LAS VEGAS MUNICIPAL CODE (LVMC) § 6.06.250(A) and (B)(6), (7), and (10)

11 provide:

12 A licensee may be subject to disciplinary action as set
13 forth in Sections 6.02.330 through 6.02.360.

14 A principal approved for suitability may be subject to
15 disciplinary action by the City Council for good cause, which
16 may include, but is not limited to:

17

18 The principal has committed acts which would
19 constitute a crime involving moral turpitude or involving any
20 Federal, State or local law or regulation relating to the same or a
21 similar business;

22 When substantial information exists which tends to show
23 that the principal is dishonest or corrupt;

24

25 The principal has engaged in deceptive practices upon the
26 public [Emphasis added.]

27 LVMC § 6.02.330(H) provides:

28 The licensee may be subject to disciplinary action by the
29 City Council for good cause, which may, without limitation,
30 include:

31

32 The actual business activity constitutes a public or private
33 nuisance, or has been or is being conducted in an unlawful,
34 illegal or impermissible manner. [Emphasis added.]

1 LVMC § 6.50.440 provides:

2 It is unlawful for any of the following to be employed in
3 the retail sales of alcoholic beverages for on or off premises
4 consumption without having in his or her possession a valid **work**
5 **card** for alcoholic beverages pursuant to LVMC Chapter 6.86:

6 (A) A manager;

7 (B) Any employee who pours or serves alcoholic
8 beverages for on premises consumption; or

9 (C) Any employee who accepts payment for the sale or
10 delivery of alcoholic beverages for off premises consumption.
11 [Emphasis added.]

12 LVMC § 6.50.570 provides:

13 The **completion card** or a copy thereof issued by the
14 instructor of an **alcohol awareness training course** or refresher
15 course to a person successfully completing the course must be
16 available during the work shift on the premises where the person,
17 as an employee, is serving, selling or distributing alcoholic
18 beverages for inspection by Metro, City or other governmental
19 personnel. [Emphasis added.]

20 LVMC § 6.02.350 provides:

21 A licensee under this Chapter shall be subject to
22 **disciplinary action not only for acts or omissions done by such**
23 **licensee but also for acts and omissions done by the principals,**
24 **managers, agents, representatives, servants or employees of such**
25 **licensee.** [Emphasis added.]

26 Nevada Revised Statute (NRS) 453.560 provides:

27 Unless a greater penalty is provided in NRS 212.160, a
28 person who delivers or sells, possesses with the intent to deliver
or sell, or manufactures with the intent to deliver or sell any
drug paraphernalia, knowing, or under circumstances where
one reasonably should know, that it will be used to plant,
propagate, cultivate, grow, harvest, manufacture, compound,
convert, produce, prepare, test, analyze, pack, repack, store,
contain, conceal, inject, ingest, inhale or otherwise introduce into
the human body a controlled substance in violation of this chapter
is guilty of a **category E felony** and shall be punished as
provided in NRS 193.130. [Emphasis added.]

29 NRS 453.554(11)(a) and (b) provides:

30 As used in NRS 453.554 to 453.566, inclusive, unless the
31 context otherwise requires, "**drug paraphernalia**" means all
32 equipment, products and materials of any kind which are used,
33 intended for use, or designed for use in planting, propagating,
34 cultivating, growing, harvesting, manufacturing, compounding,

1 converting, producing, preparing, testing, analyzing, packaging,
2 repackaging, storing, containing, concealing, injecting, ingesting,
3 inhaling or otherwise introducing into the human body a
4 controlled substance in violation of this chapter. The term
5 includes, but is not limited to:

6

7 **Objects used, intended for use, or designed for use in**
8 **ingesting, inhaling or otherwise introducing marijuana, cocaine,**
9 **hashish or hashish oil into the human body, such as:**

10 Metal, wooden, acrylic, glass, stone, plastic or ceramic
11 pipes with or without screens, permanent screens, hashish heads
12 or punctured metal bowls;

13 Water pipes [Emphasis added.]

14 **EVIDENCE**

15 LVMC § 6.88.090 provides:

16 (A) **The hearing need not be conducted according to**
17 **technical rules relating to evidence and witnesses. Any relevant**
18 **evidence may be admitted.**

19 (B) The respondent shall have the right to call and
20 examine witnesses on his own behalf, cross-examine opposing
21 witnesses, introduce exhibits and evidence relevant to the issues
22 of the case, and offer rebuttal evidence.

23 (C) The respondent may be called and examined by the
24 City.

25 (D) The Clerk shall have the power to issue subpoenas for
26 witnesses to appear to give testimony. [Emphasis added.]

27 **PENALTY**

28 LVMC § 6.02.360 provides:

Upon a showing of good cause and in the discretion of the
City Council, disciplinary action against a holder may take the
form of cancellation, **revocation**, refusal to renew, **suspension**,
imposition of conditions or restrictions or **civil fine** in an amount
not to exceed one thousand dollars for each day that the violation
which forms the subject matter of the complaint that recommends
such disciplinary action is demonstrated to have been in
existence, or any combination of such actions, as the particular
situation may require. The Council may also impose against the
licensee the actual costs incurred, and a reasonable amount for
attorney's fees, resulting from the imposition of disciplinary
action. The disciplinary actions available in this Section shall be

1 in addition to, and not exclusive of, any other civil or criminal
2 remedy which otherwise might be available. [Emphasis added.]

3 **ALLEGATION**

4 It is alleged that between May 29, 2003, and April 13, 2006, Mulugeta Bour d/b/a
5 Oakey Discount Market operated the business so that the actual business activity constituted a
6 public or private nuisance, and was conducted in an unlawful, illegal or impermissible manner.
7 It is further alleged that Mulugeta Bour committed acts which constitute crimes under state and
8 local law. Mulugeta Bour has demonstrated that he is dishonest and corrupt by lying to the
9 Las Vegas Planning Commission. Further, he engaged in a deceptive practice upon the public
10 when he lied to members that public body.

11 WHEREFORE, the Petitioner respectfully requests the City Council to:

- 12 A. Approve the Complaint for Disciplinary Action and order a disciplinary hearing
13 at which the Respondent shall appear and show cause why the licenses that are the subject of
14 this Complaint should not be suspended or revoked, or other disciplinary action taken; or
15 B. Grant such other and further relief as the Council deems appropriate.

16 DATED this 8th day of November, 2006.

17 RESPECTFULLY SUBMITTED:

18
19 By: 

20 MARK R. VINCENT, Director
Finance and Business Services

21 BRADFORD R. JERBIC
22 City Attorney

23 By: 

24 WILLIAM P. HENRY
25 Senior Litigation Counsel
26 Nevada Bar No. 101
400 Stewart Avenue, Ninth Floor
Las Vegas, NV 89101
Attorneys for CITY OF LAS VEGAS

ORIGINAL

RECEIVED
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2006 DEC 27 P 3: 17

BEFORE THE CITY COUNCIL

OF THE CITY OF LAS VEGAS, NEVADA

* * *

IN THE MATTER OF:

DEPARTMENT OF FINANCE AND
BUSINESS SERVICES on behalf of the
CITY OF LAS VEGAS,

Petitioner,

vs.

MULUGETA BOUR d/b/a OAKY
DISCOUNT MARKET,

Respondent.

**NOTICE OF ENTRY OF FINDINGS
OF FACT, CONCLUSIONS OF LAW
AND ORDER REVOKING BEER/
WINE/COOLER OFF-SALE
LICENSE NO. L10-00246-4-001072,
CONVENIENCE STORE LICENSE
NO. C15-00321-4-107408,
AND RETAIL TOBACCO
LICENSE NO. C05-02325-D-107408**

TO: MULUGETA BOUR d/b/a OAKY DISCOUNT MARKET, Respondent; and

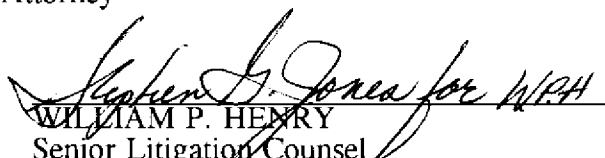
TO: REX BELL, ESQ., their attorney:

PLEASE TAKE NOTICE that the Findings of Fact, Conclusions of Law and Order Revoking Beer/Wine/Cooler Off-Sale License No. L10-00246-4-001072, Convenience Store License No. C15-00321-4-107408, and Retail Tobacco License No. C05-02325-D-107408 was filed in the above-entitled matter on December 26, 2006. A copy of said document is attached hereto.

DATED this 26th day of December, 2006.

BRADFORD R. JERBIC
City Attorney

By:


WILLIAM P. HENRY
Senior Litigation Counsel
Nevada Bar No. 101
400 Stewart Avenue, Ninth Floor
Las Vegas, NV 89101
Attorneys for CITY OF LAS VEGAS

1 CERTIFICATE OF SERVICE

2 I hereby certify that on December 27, 2006, I served by certified mail, return receipt
3 requested, a true and correct copy of the foregoing NOTICE OF ENTRY OF FINDINGS OF
4 FACT, CONCLUSIONS OF LAW AND ORDER REVOKING BEER/WINE/COOLER OFF-
5 SALE LICENSE NO. L10-00246-4-001072, CONVENIENCE STORE LICENSE NO. C15-
6 00321-4-107408, AND RETAIL TOBACCO LICENSE NO. C05-02325-D-107408 by
7 depositing the same in the United States Mail at Las Vegas, Nevada, postage fully prepaid and
8 addressed to:

9 Mulugeta Bour
10 d/b/a OAKY DISCOUNT MARKET
11 1401 Via Savona Drive
Henderson, NV 89052-3090

Mulugeta Bour
d/b/a OAKY DISCOUNT MARKET
1616 Las Vegas Boulevard South
Las Vegas, NV 89104

12 Rex Bell, Esq.
13 625 South Eighth Street
Las Vegas, NV 89101

14 
15 AN EMPLOYEE OF THE CITY OF LAS VEGAS
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2006 DEC 26 P 2:59

BEFORE THE CITY COUNCIL
OF THE CITY OF LAS VEGAS, NEVADA

* * *

IN THE MATTER OF:

DEPARTMENT OF FINANCE AND
BUSINESS SERVICES on behalf of the
CITY OF LAS VEGAS,

Petitioner,

vs.

MULUGETA BOUR d/b/a OAKLEY
DISCOUNT MARKET,

Respondent.

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER REVOKING
BEER/WINE/COOLER OFF-SALE LICENSE NO.
L10-00246-4-001072, CONVENIENCE STORE
LICENSE NO. C15-00321-4-107408, AND RETAIL
TOBACCO LICENSE NO. C05-02325-D-107408**

On December 6, 2006, a meeting of the Las Vegas City Council was held to consider the matter of the Complaint for Disciplinary Action filed against Mulugeta Bour d/b/a Oakey Discount Market, 1616 Las Vegas Boulevard South, Las Vegas, Clark County, Nevada. Mulugeta Bour d/b/a Oakey Discount Market was represented by Rex Bell, Esq. The Department of Finance and Business Services, on behalf of the City of Las Vegas, was represented by William P. Henry, Senior Litigation Counsel for the City of Las Vegas. The City Council considered the evidence presented, testimony of witnesses, representations of counsel, and the provisions of LVMC § 6.88.100, and good cause appearing, hereby issues these findings of fact, conclusions of law, and order revoking Beer/Wine/Cooler Off-Sale License No. L10-00246-4-001072, Convenience Store License No. C15-00321-4-107408, and Retail Tobacco License No. C05-02325-D-107408.

.....

.....

FINDINGS OF FACT

1
2 1. The Respondent, Mulugeta Bour d/b/a Oakey Discount Market, held
3 Beer/Wine/Cooler Off-Sale License No. L10-00246-4-001072, Convenience Store License No.
4 C15-00321-4-107408, and Retail Tobacco License No. C05-02325-D-107408.

5 2. On November 15, 2006, a Complaint for Disciplinary Action was submitted to
6 the Las Vegas City Council by Mark Vincent, the Director of Finance and Business Services
7 for the City of Las Vegas. The City Council approved the Complaint for Disciplinary Action
8 and set the matter for hearing.

9 3. On November 15, 2006, an Order Approving Complaint and Notice of Hearing
10 was signed by Oscar B. Goodman, Mayor of the City of Las Vegas, setting the hearing on the
11 Complaint for December 6, 2006.

12 4. On November 16, 2006, the Complaint for Disciplinary Action and Order
13 Approving Complaint and Notice of Hearing was served on the Respondent.

14 5. The Respondent, Mulugeta Bour d/b/a Oakey Discount Market, never answered
15 the Complaint for Disciplinary Action as required by LVMC § 6.88.100.

16 6. On December 6, 2006, a hearing on the matter was conducted before the Las
17 Vegas City Council.

18 7. The City Council was informed of the provisions of LVMC § 6.88.100 and that
19 the Respondent had not answered the Complaint for Disciplinary Action. The City Council
20 accepted the representations of counsel for the Department of Finance and Business Services as
21 well as counsel for the Respondent Mulugeta Bour d/b/a Oakey Discount Market that no
22 answer had been filed. The City Council deemed as proven, therefore, all of the allegations in
23 the Complaint for Disciplinary Action, a copy of which is attached hereto as Exhibit 1, and
24 made a part hereof, as if fully set forth herein.

25 8. The Respondent, Mulugeta Bour d/b/a Oakey Discount Market, and his counsel,
26 made representations to the City Council in mitigation of discipline. Counsel for the
27 Department of Finance and Business Services, as well as Las Vegas Metropolitan Police
28 Sergeant Damian Walburn, also made representations relevant to the imposition of discipline.

1 9. The City Council considered certain proven allegations in the Complaint for
2 Disciplinary Action.

3 Mulugeta Bour d/b/a Oakey Discount Market had several health card, alcohol
4 awareness card, and employee list violations in 2003.

5 On April 13, 2006, **Mulugeta Bour sold narcotics paraphernalia** to a Metropolitan
6 Police undercover officer. This paraphernalia was **intended to facilitate the smoking of**
7 **crack cocaine**. Mr. Bour was arrested for a felony. During the course of the felony arrest, it
8 was determined that there were in excess of 250 other items of narcotics paraphernalia stored
9 in the cash register, or under the cash register, at Oakey Discount Market.

10 Two weeks later, on April 27, 2006, Mulugeta Bour appeared before the Las Vegas
11 Planning Commission. He was applying for a special use permit to utilize another location,
12 Fourth Street Market, located at 114 North Fourth Street, Las Vegas, Clark County, Nevada,
13 for the sale of beer and wine. He was asked by Commissioner Steinman whether or not he
14 had ever had any problems with Metro at his other place of business, Oakey Discount Market.
15 Mr. Bour told Commissioner Steinman he had never had problems with Metro at his other
16 place of business, Oakey Discount Market. **Mulugeta Bour engaged in deceptive practices**
17 **on the public**, by lying to a Planning Commissioner, during the course of a regularly-
18 scheduled meeting of the Las Vegas Planning Commission.

19 10. The licensee has committed acts constituting state crimes, Possession and Sale
20 of Narcotics Paraphernalia in violation of NRS 453.560. Substantial evidence exists to show
21 that he is dishonest. He engaged in a deceptive practice upon the public when he lied to a
22 Planning Commissioner during the course of a Planning Commission meeting. He conducted
23 the actual business activity of Oakey Discount Market in such a manner that it was a nuisance.

24 11. The City Council considered the complaint on file, the lack of an answer, the
25 representations of counsel and witnesses, as well as the relevant law, and by majority vote
26 voted to immediately revoke Convenience Store License No. C15-00321-4-107408 and Retail
27 Tobacco License No. C05-02325-D-107408. In addition, the City Council voted to revoke
28

1 Beer/Wine/Cooler Off-Sale License No. L10-00246-4-001072 effective 3 p.m. December 6,
2 2006.

3 12. If any of these findings of fact should more properly be deemed conclusions of
4 law, they shall be so deemed.

5 **CONCLUSIONS OF LAW**

6 13. Las Vegas Municipal Code (LVMC) § 6.50.010 provides:

7 The City Council declares that this Liquor Control Chapter is an
8 exercise of the regulatory powers delegated to the City Council
9 pursuant to the City Charter and NRS 268.090, inter alia. The
10 regulations contained in this Chapter involve, to the highest
11 degree, the economic, social, physical and moral well-being of
12 the residents and taxpayers of the City. The sale or other
13 disposition of alcoholic beverages is not a matter of right but of
14 privilege, which would otherwise be unlawful if it were not
15 exercised pursuant to a license. This privilege may be denied,
16 revoked, conditioned, suspended or subjected to any other
17 disciplinary action by the City in the exercise of its police powers
18 for the protection of the safety, welfare, health, peace and morals
19 of the residents and taxpayers thereof. Businesses engaged in the
20 sale or other disposition of alcoholic beverages must therefore
21 comply with LVMC Chapter 6.06. Nothing in this Chapter shall
22 be construed to confer any legitimate claim of entitlement to any
23 benefit which might otherwise devolve upon any licensee or any
24 person approved for suitability.

17 14. LVMC § 6.06.250(A) and (B)(6), (7), and (10) provide:

18 A licensee may be subject to disciplinary action as set
19 forth in Sections 6.02.330 through 6.02.360.

20 A principal approved for suitability may be subject to
21 disciplinary action by the City Council for good cause, which
22 may include, but is not limited to:

23

24 The principal has committed acts which would constitute a
25 crime involving moral turpitude or involving any Federal, State
26 or local law or regulation relating to the same or a similar
27 business;

28 When substantial information exists which tends to show
that the principal is dishonest or corrupt;

. . . .

The principal has engaged in deceptive practices upon the
public

1 15. LVMC § 6.02.330(H) provides:

2 The licensee may be subject to disciplinary action by the
3 City Council for good cause, which may, without limitation,
4 include:

5

6 The actual business activity constitutes a public or private
7 nuisance, or has been or is being conducted in an unlawful,
8 illegal or impermissible manner.

9 16. LVMC § 6.50.440 provides:

10 It is unlawful for any of the following to be employed in
11 the retail sales of alcoholic beverages for on or off premises
12 consumption without having in his or her possession a valid work
13 card for alcoholic beverages pursuant to LVMC Chapter 6.86:

14 (A) A manager;

15 (B) Any employee who pours or serves alcoholic
16 beverages for on premises consumption; or

17 (C) Any employee who accepts payment for the sale or
18 delivery of alcoholic beverages for off premises consumption.

19 17. LVMC § 6.50.570 provides:

20 The completion card or a copy thereof issued by the
21 instructor of an alcohol awareness training course or refresher
22 course to a person successfully completing the course must be
23 available during the work shift on the premises where the person,
24 as an employee, is serving, selling or distributing alcoholic
25 beverages for inspection by Metro, City or other governmental
26 personnel.

27 18. LVMC § 6.02.350 provides:

28 A licensee under this Chapter shall be subject to
disciplinary action not only for acts or omissions done by such
licensee but also for acts and omissions done by the principals,
managers, agents, representatives, servants or employees of such
licensee.

19. Nevada Revised Statute (NRS) 453.560 provides:

Unless a greater penalty is provided in NRS 212.160, a
person who delivers or sells, possesses with the intent to deliver
or sell, or manufactures with the intent to deliver or sell any drug
paraphernalia, knowing, or under circumstances where one
reasonably should know, that it will be used to plant, propagate,
cultivate, grow, harvest, manufacture, compound, convert,
produce, prepare, test, analyze, pack, repack, store, contain,

1 conceal, inject, ingest, inhale or otherwise introduce into the
2 human body a controlled substance in violation of this chapter is
3 guilty of a category E felony and shall be punished as provided in
4 NRS 193.130.

5 20. NRS 453.554(11)(a) and (b) provides:

6 As used in NRS 453.554 to 453.566, inclusive, unless the
7 context otherwise requires, "drug paraphernalia" means all
8 equipment, products and materials of any kind which are used,
9 intended for use, or designed for use in planting, propagating,
10 cultivating, growing, harvesting, manufacturing, compounding,
11 converting, producing, preparing, testing, analyzing, packaging,
12 repackaging, storing, containing, concealing, injecting, ingesting,
13 inhaling or otherwise introducing into the human body a
14 controlled substance in violation of this chapter. The term
15 includes, but is not limited to:

16

17 Objects used, intended for use, or designed for use in
18 ingesting, inhaling or otherwise introducing marijuana, cocaine,
19 hashish or hashish oil into the human body, such as:

20 Metal, wooden, acrylic, glass, stone, plastic or ceramic
21 pipes with or without screens, permanent screens, hashish heads
22 or punctured metal bowls;

23 Water pipes

24 21. LVMC § 6.88.090 provides:

25 (A) The hearing need not be conducted according to
26 technical rules relating to evidence and witnesses. Any relevant
27 evidence may be admitted.

28 (B) The respondent shall have the right to call and
examine witnesses on his own behalf, cross-examine opposing
witnesses, introduce exhibits and evidence relevant to the issues
of the case, and offer rebuttal evidence.

(C) The respondent may be called and examined by the
City.

(D) The Clerk shall have the power to issue subpoenas for
witnesses to appear to give testimony.

22. LVMC § 6.88.100 provides:

Failure to timely file his answer or failure of a respondent
or his counsel to appear at the hearing shall constitute an
admission of all matters and facts contained in the complaint filed

1 with respect to such respondent. In such cases the City Council
2 may take action based upon such admission or upon any other
3 evidence, including affidavits, and without any further notices
4 whatever to respondent. In such cases the City Council shall
5 indicate by appropriate findings of fact and conclusions of law in
6 the record the evidence upon which its action was based.

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14 23. LVMC § 6.02.360 provides:

15 Upon a showing of good cause and in the discretion of the
16 City Council, disciplinary action against a holder may take the
17 form of cancellation, revocation, refusal to renew, suspension,
18 imposition of conditions or restrictions or civil fine in an amount
19 not to exceed one thousand dollars for each day that the violation
20 which forms the subject matter of the complaint that recommends
21 such disciplinary action is demonstrated to have been in
22 existence, or any combination of such actions, as the particular
23 situation may require. The Council may also impose against the
24 licensee the actual costs incurred, and a reasonable amount for
25 attorney's fees, resulting from the imposition of disciplinary
26 action. The disciplinary actions available in this Section shall be
27 in addition to, and not exclusive of, any other civil or criminal
28 remedy which otherwise might be available.

14 24. LVMC § 6.88.120 provides:

15 (A) After the hearing of a contested matter, the City
16 Council shall render a decision on the merits, which shall include
17 findings of fact and conclusions of law and the penalty to be
18 imposed, if any. The penalty may include, without limitation, the
19 following, or any combination thereof:

18 (1) The suspension or revocation of the respondent's
19 license, approval for suitability or work card, as the case may be;

19 (2) The imposition of conditions upon the license,
20 approval for suitability or work card in question; or

21 (3) The imposition of a civil fine in an amount not to
22 exceed one thousand dollars for each day that the violation which
23 forms the subject matter of the complaint is demonstrated to have
24 been in existence.

24 (B) The City Council shall make and enter an order in its
25 minutes in conformity to such decision. The decision of the City
26 Council shall be served on the parties personally or shall be sent
27 to them by registered or certified mail. The decision shall become
28 and remain effective upon such service unless the City Council
shall otherwise order.

25 25. The hearing was not conducted according to technical rules relating to evidence
26 and witnesses, but all relevant evidence was admitted. Further, the Respondent was allowed

1 the opportunity to call and examine witnesses on its own behalf, introduce exhibits and
2 evidence relevant to the issues of the case, and offer rebuttal evidence.

3 26. *Kochendorfer v. Board of County Commissioners of Douglas County*, 93 Nev.
4 419, 566 P.2d 1131 (1977), provides relevantly that a business owner subject to a disciplinary
5 hearing by his licensing authority is entitled to due process. Due process is defined as notice
6 and hearing appropriate to the case. The Respondent, Mulugeta Bour d/b/a Oakey Discount
7 Market, was provided notice and hearing appropriate to the case.

8 27. If any of these conclusions of law should more properly be deemed findings of
9 fact, they shall be so deemed.

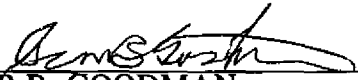
10 **ORDER**

11 IT IS HEREBY ORDERED that Beer/Wine/Cooler Off-Sale License No. L10-00246-4-
12 001072, Convenience Store License No. C15-00321-4-107408, and Retail Tobacco License No.
13 C05-02325-D-107408 held by Respondent Mulugeta Bour d/b/a Oakey Discount Market are
14 revoked, as set forth in Paragraph 11 of this order.

15 DATED this 21st day of December, 2006.

16 THE CITY COUNCIL OF THE
17 CITY OF LAS VEGAS, NEVADA


18 By:


19 OSCAR B. GOODMAN
Mayor

20 ATTEST:

21 
22 BARBARA JO RONEMUS, City Clerk

23 APPROVED AS TO LEGAL FORM:

24 
25 WILLIAM P. HENRY
26 Senior Litigation Counsel

27 18 DEC 06
28 Date

EXHIBIT 1

1 Awareness Card, Failure to Maintain an Employee List, and Sale of Narcotics
2 Paraphernalia, a felony.

3 On April 27, 2006, Mr. Bour appeared before the Las Vegas Planning Commission
4 seeking a special use permit to sell beer and wine at Fourth Street Market, 113 North Fourth
5 Street, Las Vegas, Clark County, Nevada. Mr. Bour told Commissioner Steinman he had
6 never had problems with Metro at his other place of business, Oakey Discount Market. He
7 lied. In truth and fact, Mr. Bour had been arrested by the Las Vegas Metropolitan Police
8 Department April 13, 2006, at Oakey Discount Market for a felony, Sale of Narcotics
9 Paraphernalia to an undercover officer.

10 Mulugeta Bour violated the law in the operation of his business. Substantial
11 information exists to believe that he is dishonest and corrupt. He engaged in a deceptive
12 practice upon the public when he lied to a public body, the Las Vegas Planning Commission.

13 **PROCEDURAL HISTORY**

14 The Las Vegas City Council issued a temporary license for beer/wine/cooler off-sale to
15 Mulugeta Bour on March 5, 2003. The license provided for a six-month review of Oakey
16 Discount Market. On September 3, 2003, a six-month review was conducted before the City
17 Council. The Council was informed that warning notices had been written to Mr. Bour for
18 selling single containers of beer. Mr. Bour admitted that he had engaged in this conduct on
19 one occasion. He also admitted not posting an employee list, but told the City Council that he
20 had one. He also admitted to not having a valid health card in his possession when Metro
21 Special Investigations detectives asked to inspect it, but stated that he had left it in his wallet in
22 his car. He apologized. The City Council granted an extension to the temporary license.

23 The matter appeared on the March 3, 2004-agenda but was abeyed to March 17, 2004,
24 when a second extension to the temporary license was granted.

25 On June 16, 2004, the City Council granted a permanent license to sell beer and wine,
26 including single containers.

27

28

VIOLATIONS OF LAW

1
2 **On May 29, 2003**, officers of the Las Vegas Metropolitan Police Department
3 determined that Mulugeta Bour did not possess a health card, an alcohol awareness card, or an
4 employee list.

5 **On June 12, 2003**, officers of the Las Vegas Metropolitan Police Department
6 determined that Nuriden Shifa, an employee at Oakey Discount Market, did not possess a
7 work card. They also determined that Mr. Bour did not have a completed work card list with
8 employees' work card numbers. Finally, it was noted that he had not posted his business
9 license.

10 **On August 21, 2003**, officers of the Las Vegas Metropolitan Police Department
11 determined that Mr. Bour did not have an employee list.

12 **On April 13, 2006**, an officer of the Las Vegas Metropolitan Police Department acting
13 in an undercover capacity purchased narcotics' paraphernalia from Mulugeta Bour at Oakey
14 Discount Market. The officer purchased a "set up," specifically a three-inch galls tube
15 containing a plastic rose and a chor boy brillo pad placed in a brown paper bag. Thereafter,
16 Mr. Bour was arrested for **felony Sale of Narcotics Paraphernalia**. During the course of the
17 arrest he showed officers that he stored the chor boys in the bathroom, and the glass pipes
18 under the cash register. Two hundred and eighty-eight (228) glass pipes were found in a box
19 under the cash register, with an additional thirty (30) pipes in the cash register. Officers noted
20 a sign in the store which read "If you don't see what you want, ask for it."

21 The officer involved formed an opinion, based on his training and experience, and
22 from a consideration of all the circumstances, that the "set ups" being sold by Mulugeta
23 Bour were narcotics paraphernalia intended to facilitate smoking crack cocaine. One of
24 the circumstances considered by the officer was that Sergeant Wally of the Downtown Area
25 Command had warned Mulugeta Bour four months earlier that the sale of narcotics
26 paraphernalia was a crime.

27 **On April 27, 2006**, Mulugeta Bour appeared before the Las Vegas Planning
28 Commission on Agenda Item No. 25, an application for special use permit to utilize Fourth

1 **Street Market**, located at 113 North Fourth Street, Las Vegas, Clark County, Nevada, for
2 **the sale of beer and wine**. During the course of the hearing Mr. Bour entered into
3 conversation with Commissioner Steinman. He told Commissioner Steinman that he had
4 never had problems with Metro at his other place of business, Oakey Discount Market, located
5 at 1616 Las Vegas Boulevard South, Las Vegas, Clark County, Nevada. This was a lie. Mr.
6 Bour had been arrested two weeks earlier on April 13, 2006, by officers of the Las Vegas
7 Metropolitan Police Department. They arrested him for felony Sale of Narcotics
8 Paraphernalia, "set ups" intended to facilitate smoking crack cocaine.

9 **THE LAW**

10 LAS VEGAS MUNICIPAL CODE (LVMC) § 6.06.250(A) and (B)(6), (7), and (10)
11 provide:

12 A licensee may be subject to disciplinary action as set
13 forth in Sections 6.02.330 through 6.02.360.

14 A principal approved for suitability may be subject to
15 disciplinary action by the City Council for good cause, which
16 may include, but is not limited to:

17

18 **The principal has committed acts which would
19 constitute a crime involving moral turpitude or involving any
20 Federal, State or local law or regulation relating to the same or a
21 similar business;**

22 **When substantial information exists which tends to show
23 that the principal is dishonest or corrupt;**

24

25 **The principal has engaged in deceptive practices upon the
26 public [Emphasis added.]**

27 LVMC § 6.02.330(H) provides:

28 **The licensee may be subject to disciplinary action by the
City Council for good cause, which may, without limitation,
include:**

. . . .

**The actual business activity constitutes a public or private
nuisance, or has been or is being conducted in an unlawful,
illegal or impermissible manner. [Emphasis added.]**

1 LVMC § 6.50.440 provides:

2 It is unlawful for any of the following to be employed in
3 the retail sales of alcoholic beverages for on or off premises
4 consumption without having in his or her possession a valid work
5 card for alcoholic beverages pursuant to LVMC Chapter 6.86:

6 (A) A manager;

7 (B) Any employee who pours or serves alcoholic
8 beverages for on premises consumption; or

9 (C) Any employee who accepts payment for the sale or
10 delivery of alcoholic beverages for off premises consumption.
11 [Emphasis added.]

12 LVMC § 6.50.570 provides:

13 The completion card or a copy thereof issued by the
14 instructor of an alcohol awareness training course or refresher
15 course to a person successfully completing the course must be
16 available during the work shift on the premises where the person,
17 as an employee, is serving, selling or distributing alcoholic
18 beverages for inspection by Metro, City or other governmental
19 personnel. [Emphasis added.]

20 LVMC § 6.02.350 provides:

21 A licensee under this Chapter shall be subject to
22 disciplinary action not only for acts or omissions done by such
23 licensee but also for acts and omissions done by the principals,
24 managers, agents, representatives, servants or employees of such
25 licensee. [Emphasis added.]

26 Nevada Revised Statute (NRS) 453.560 provides:

27 Unless a greater penalty is provided in NRS 212.160, a
28 person who delivers or sells, possesses with the intent to deliver
or sell, or manufactures with the intent to deliver or sell any
drug paraphernalia, knowing, or under circumstances where
one reasonably should know, that it will be used to plant,
propagate, cultivate, grow, harvest, manufacture, compound,
convert, produce, prepare, test, analyze, pack, repack, store,
contain, conceal, inject, ingest, inhale or otherwise introduce into
the human body a controlled substance in violation of this chapter
is guilty of a category E felony and shall be punished as
provided in NRS 193.130. [Emphasis added.]

29 NRS 453.554(11)(a) and (b) provides:

30 As used in NRS 453.554 to 453.566, inclusive, unless the
31 context otherwise requires, "drug paraphernalia" means all
32 equipment, products and materials of any kind which are used,
33 intended for use, or designed for use in planting, propagating,
34 cultivating, growing, harvesting, manufacturing, compounding,

1 converting, producing, preparing, testing, analyzing, packaging,
2 repackaging, storing, containing, concealing, injecting, ingesting,
3 inhaling or otherwise introducing into the human body a
4 controlled substance in violation of this chapter. The term
5 includes, but is not limited to:

6
7 **Objects used, intended for use, or designed for use in**
8 **ingesting, inhaling or otherwise introducing marijuana, cocaine,**
9 **hashish or hashish oil into the human body, such as:**

10 Metal, wooden, acrylic, glass, stone, plastic or ceramic
11 pipes with or without screens, permanent screens, hashish heads
12 or punctured metal bowls;

13 Water pipes [Emphasis added.]

14 **EVIDENCE**

15 LVMC § 6.88.090 provides:

16 (A) **The hearing need not be conducted according to**
17 **technical rules relating to evidence and witnesses. Any relevant**
18 **evidence may be admitted.**

19 (B) **The respondent shall have the right to call and**
20 **examine witnesses on his own behalf, cross-examine opposing**
21 **witnesses, introduce exhibits and evidence relevant to the issues**
22 **of the case, and offer rebuttal evidence.**

23 (C) **The respondent may be called and examined by the**
24 **City.**

25 (D) **The Clerk shall have the power to issue subpoenas for**
26 **witnesses to appear to give testimony. [Emphasis added.]**

27 **PENALTY**

28 LVMC § 6.02.360 provides:

Upon a showing of good cause and in the discretion of the
City Council, disciplinary action against a holder may take the
form of cancellation, revocation, refusal to renew, suspension,
imposition of conditions or restrictions or civil fine in an amount
not to exceed one thousand dollars for each day that the violation
which forms the subject matter of the complaint that recommends
such disciplinary action is demonstrated to have been in
existence, or any combination of such actions, as the particular
situation may require. The Council may also impose against the
licensee the actual costs incurred, and a reasonable amount for
attorney's fees, resulting from the imposition of disciplinary
action. The disciplinary actions available in this Section shall be

1 in addition to, and not exclusive of, any other civil or criminal
2 remedy which otherwise might be available. [Emphasis added.]

3 **ALLEGATION**

4 It is alleged that between May 29, 2003, and April 13, 2006, Mulugeta Bour d/b/a
5 Oakey Discount Market operated the business so that the actual business activity constituted a
6 public or private nuisance, and was conducted in an unlawful, illegal or impermissible manner.
7 It is further alleged that Mulugeta Bour committed acts which constitute crimes under state and
8 local law. Mulugeta Bour has demonstrated that he is dishonest and corrupt by lying to the
9 Las Vegas Planning Commission. Further, he engaged in a deceptive practice upon the public
10 when he lied to members that public body.

11 WHEREFORE, the Petitioner respectfully requests the City Council to:

12 A. Approve the Complaint for Disciplinary Action and order a disciplinary hearing
13 at which the Respondent shall appear and show cause why the licenses that are the subject of
14 this Complaint should not be suspended or revoked, or other disciplinary action taken; or

15 B. Grant such other and further relief as the Council deems appropriate.

16 DATED this 8th day of November, 2006.


17 RESPECTFULLY SUBMITTED:

18
19 By:


20 MARK R. VINCENT, Director
Finance and Business Services

21 BRADFORD R. JERBIC
22 City Attorney

23 By:


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