

ORIGINAL

DEAN Y. KAJIOKA, ESQ.
KAJIOKA & ASSOCIATES
Nevada Bar No. 5030
810 S. Casino Center Blvd.
Las Vegas, NV 89101
(702) 366-1528
Attorneys for Respondent
DOMINIC L. LAINO dba CLUB 2100

2009 SEP 15 P 3:38

RECEIVED
CITY CLERK

**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.)
)
DOMINIC L. LAINO dba CLUB 2100,)
)
Respondent.)
)

Date of Hearing: Sept. 21, 2009
Time of Hearing: 1:00 p.m.

**RESPONDENT, DOMINIC L. LAINO dba CLUB 2100, ANSWER
TO COMPLAINT FOR DISCIPLINARY ACTION**

COMES NOW, Respondent, DOMINIC L. LAINO, and hereby submits his response to
Petitioner's Complaint for Disciplinary Action. The instant Response is made and based upon
the attached Memorandum of Points and Authorities, all Exhibits attached hereto, and upon such
oral and documentary evidence as may be presented at the time of Hearing on this matter.

STATEMENT OF FACTS

Respondent, Dominic L. Laino dba Club 2100, holds and maintains Tavern License No.
L16-00302-4-000661; Retail Tobacco License No. C05-02623-1-000662; Coin Operated

Machine License No. C08-01806-3-00662; and Miscellaneous Sales License No. M06-03015-3-000662. Pursuant to said licenses, Respondent owns and operates a Tavern located at 2100 Fremont Street, Las Vegas, Nevada.

Club 2100 was originally granted a temporary license in April 2008. On January 7, 2009, Club 2100 was before the City Council for discussion and action for Review of Conditions of a Tavern License. During this hearing, Dr. DiFiore stated that during the prior 6 month period “the business generated 32 calls for service by Las Vegas Metro, resulting in three citations and two arrests outside of the club.” (See Exhibit “A”). Councilman Reese “acknowledged that the neighborhood is a challenging area and he applauded Mr. Laino for bringing his business to this location.” (See Exhibit “A”). After hearing the discussions, the City Council approved and awarded a conditional permanent license for Club 2100, with a condition permitting live entertainment on Sunday evenings to 2:00 a.m.

COUNT ONE

The City contends that Club 2100 has caused a Public Nuisance for maintaining an environment in which violence occurred. In support of this claim, the City references five (5) specific incidences as illustrative of the existence of a public nuisance. First and foremost, Club 2100 is located at 2100 Fremont Street, located at the East end of Fremont Street. The area is, and has been for several years, a low income, transient, portion of Fremont Street. Absent the daily rentals and thrift stores, there is little, if any, business operating in this area. Notwithstanding these facts, Respondent has injected his time, resources and commitment to operating a viable business establishment in this high risk area. In fact, at the January 7, 2009 City Council hearing, Councilman Reese “applauded Mr. Laino for bringing his business” to this “challenging area”.

1 The City contends and asserts that there has been an "increased number of calls for
2 service" in the last six months "(32 service calls, several citations and 2 arrests)". Contrary to
3 the City's assertion, there has not been an increased number of calls for service since the City
4 Council's approval of Respondent for its tavern license. In fact, at the January 7, 2009, hearing
5 before the City Council, Mr. DiFiore stated "the business generated 32 calls for service by Las
6 Vegas Metro, resulting in three citations and two arrests outside of the club." (See Exhibit "A").
7 While the number of calls did not decrease, more importantly, they did NOT increase. The
8 realities are that these numbers are reflective of the nature of this "challenging" neighborhood.
9

10 As for the specific incidences referenced by the City, of the five (5) calls for service
11 specifically highlighted by the City, two (2) were for domestic violence. Again, these incidences
12 are reflective of the nature of the neighborhood. The City also references a grand larceny auto
13 incident as a basis of its claim of public nuisance. For 2008, the Clark County area was the
14 seventh (7th) highest rate of auto thefts in the country. (As reported by the Rocky Mountain
15 Insurance Information Association, Exhibit "B"). This single incident of auto theft hardly
16 illustrates or supports a claim of nuisance against Club 2100. Finally, the remaining two
17 incidences referenced by the City were for disturbances caused by the customers within the
18 licensed premises. As to these incidences, does the City contend that a business owner should
19 not report disturbances by its customers within its establishment?
20
21

22 Clearly, the assertions of the City should not be deemed nor constitute a public nuisance
23 being caused by Respondent.
24

25 **COUNT TWO**

26 Advertising or engaging in the operation of an erotic dance establishment without a
27 license required by law. Specifically, the City contends and alleges that the entirety of the basis
28

1 its allegation is the posting of photographs and a video on a internet website, and advertisements
2 with females engaged in sexual or suggestive conduct portraying Club 2100 as an adult sexually
3 related or erotic establishment, in violation of LVMC 6.35.170, doing business without a license
4 for erotic dance establishment. Club 2100 specifically denies these allegations.

5 Contrary to the City's contention, Respondent does not advertise or portray itself to be,
6 nor does it operate, an adult sexually related or erotic establishment. The photographs and video
7 upon which the City bases its allegations were not recovered from a Club 2100 website, nor a
8 website sanctioned or approved by Club 2100. Rather, Respondent is informed that the website
9 from which the alleged photographs were obtained were from an independent website operator to
10 whom Respondent has no control. Most importantly, these photographs do not illustrate or
11 support a finding that Club 2100 operates an erotic dance establishment. To the contrary, Club
12 2100 does not conduct business in a manner that could constitute the operation of an "erotic
13 dance establishment".

14 Las Vegas City Code, Section 6.35.030(B), defines "Dancer" as "a person who dances,
15 models, personally solicits drinks or otherwise performs for an erotic dance establishment and
16 who seeks to arouse or excite the patrons' sexual desires."

17 Subsection (E), defines "Erotic Dance Establishment" as a business "which emphasizes
18 and seeks, **through one or more dancers, to arouse or excite the patrons' sexual desires.**"

19 Las Vegas City Code, Section 6.35.040, states "it shall be prima facie evidence that a
20 business is an erotic dance establishment when one or more **dancers** displays or exposes, with
21 less than a full opaque covering, that **portion of the female breast lower than the upper edge**
22 **of the areola**, or entices or persuades a patron to purchase a beverage sold in the establishment."

1 During the summer months, Club 2100 marketed a "pool party" to encourage patronage
2 of the tavern. On occasion, several customers attended the "pool party" in their pool attire, ie.
3 bathing suits. One of these photographs provided by the City, in support of its assertion that
4 Club 2100 is operating an "erotic dance establishment", illustrates two females in their bathing
5 suits and another illustrates a female with a bathing suit top and short pants standing next to a
6 male. As previously stated, this photograph was not posted on a Club 2100 approved website.
7 Rather, the photograph was posted by an independent individual on a social website. More
8 importantly, none of the individuals portrayed in these photographs were employees of Club
9 2100. None of the individuals portrayed in the photographs were "dancers", nor were they
10 employed by Club 2100. Further, none of these individuals danced, modeled or solicited drinks
11 for or on behalf of Club 2100. Rather, these individuals were customers enjoying themselves
12 within the establishment during one of the pool party promotions and, moreover, were properly
13 clothed. Further, none of the customers illustrated in the City's "photographs" display any
14 portion of the female breast as defined in Section 6.35.040.
15

16
17 The City has also provided Respondent with copies of promotional flyers for which the
18 City believes supports its contention that Club 2100 operates what is construed as an alleged
19 "erotic dance establishment". To the contrary, these promotional flyers are not illustrative of the
20 operation of an "erotic dance establishment". One example provided by the City illustrates a
21 female fully clothed in a bathing suit and simply promotes the establishment. The second
22 example provided by the City illustrates a female fully clothed in a dress and simply promotes
23 different genre of music at Club 2100. None of the foregoing supports, nor is evidence, of any
24 violation by Club 2100 to be operating an "erotic dance establishment". To be sure, Respondent
25
26
27
28

1 is adamant that it does not conduct business in a manner that could be construed as an erotic
2 dance establishment.

3 **COUNT THREE**

4
5 The City contends that Respondent failed to require its employees to acquire, maintain
6 and report work cards. The City references two specific individuals who had not possessed the
7 appropriate work cards, Ana Zelaya and Kristin Carter. At the time of the discovery of the lack
8 of appropriate work cards, these two individual ceased being employed at Respondent's
9 establishment. Since this information was brought to light in June 2009, Respondent has
10 improved its procedures and requirements for employees to provide the necessary and
11 appropriate work cards and related requirements for employment at Club 2100.
12

13 Club 2100 currently employs approximately 12 individuals in various positions. With the
14 current unemployment rate in Nevada reaching fourteen (14%), it is probable that these
15 individuals would not be gainfully employed absent Respondent's business establishment. As
16 stated herein, Respondent has and continues its efforts to work with the City and Las Vegas
17 Metro to conduct business in these challenging economic times, not to mention the challenging
18 physical environment of its business location.
19
20

21 **CONCLUSION**

22 WHEREFORE, Respondent, DOMINIC L. LAINO dba CLUB 2100, for the reasons
23 stated herein, respectfully requests the City Council deny Petitioner's requests, and issue a
24 finding that Respondent has not maintained a nuisance, and has not violated any provisions
25
26
27
28

1 regarding the operation of an erotic dance establishment.

2 Dated: September 15, 2009

Respectfully submitted,

3
4 

5 Dean Y. Kajioka, Esq.
6 Kajioka & Associates
7 Nevada Bar No. 5030
8 810 S. Casino Center Blvd.
9 Las Vegas, NV 89101
10 (702) 366-1528
11 Attorneys for Respondent
12 DOMINIC L. LAINO dba CLUB 2100
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “A”

AGENDA SUMMARY PAGE
CITY COUNCIL MEETING OF: JANUARY 7, 2009

DEPARTMENT: FINANCE AND BUSINESS SERVICES

DIRECTOR: CANDACE FALDER, ACTING

☐ Consent ☒ Discussion

SUBJECT:

Discussion and possible action regarding a Review of Conditions of a Tavern License, Dominic L. Laino, dba Club 2100, 2100 Fremont Street, Dominic L. Laino, Owner, 100% - Ward 3 (Reese)

Fiscal Impact

☒ No Impact

☐ Augmentation Required

☐ Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

Discussion and possible action regarding a Review of Conditions of a Tavern License.

RECOMMENDATION:

Recommendation to be provided following the discussion of this item at the City Council Meeting.

BACKUP DOCUMENTATION:

None

Motion made by GARY REESE to Approve the permanent license subject to conditions and adding the following conditions as read for the record:

- A. Live entertainment is limited to Sunday nights only.
- B. A review of the license at the completion of the investigation of the proposed new owner.

Passed For: 7; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

RICKI Y. BARLOW, LOIS TARKANIAN, STEVE WOLFSON, OSCAR B. GOODMAN, GARY REESE, STEVEN D. ROSS, DAVID W. STEINMAN; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

JIM DiFIORE, Business Licensing Manager, stated this was the final review for this business and the Council would be considering approval of a permanent license. He added that a condition had been changed during the last review to allow live entertainment on Sunday nights rather than Saturday nights.

CITY COUNCIL MEETING OF: JANUARY 7, 2009

MR. DiFIORE noted that, over the last six months, the business had generated 32 calls for service by the Las Vegas Metropolitan Police Department (Metro), resulting in three citations and two arrests outside of the club. He expressed concern with that ongoing activity at the business. He stated that applicant was attempting to sell the business to an individual who had come forward for lender suitability, and recommended approval of the permanent license with a review at the completion of that investigation.

DOMINIC LAINO was present and thanked Mr. DiFIORE for his help. He stated he that he was working on providing security outside of the business as well as working with Metro.

COUNCILMAN REESE acknowledged that the neighborhood is a challenging area and he applauded MR. LAINO for bringing his business to this location. He expressed his hope that MR. LAINO could work with staff to make this area a success.

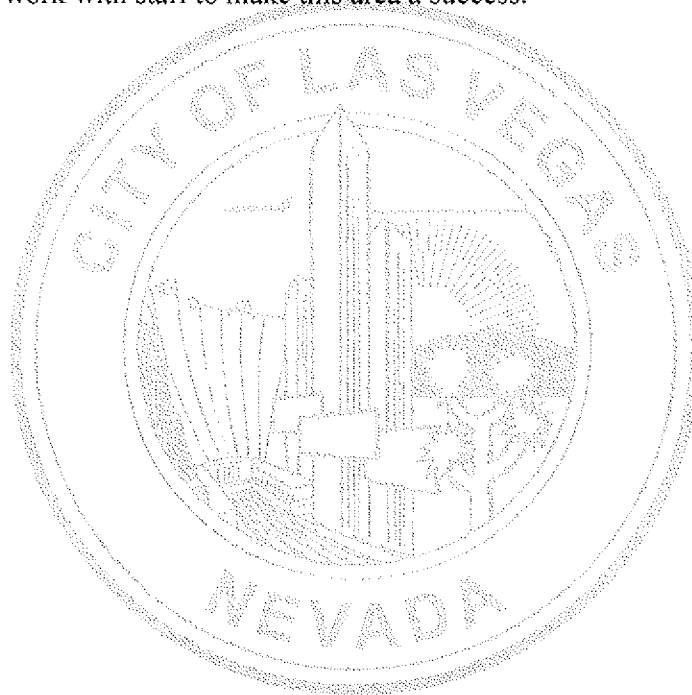
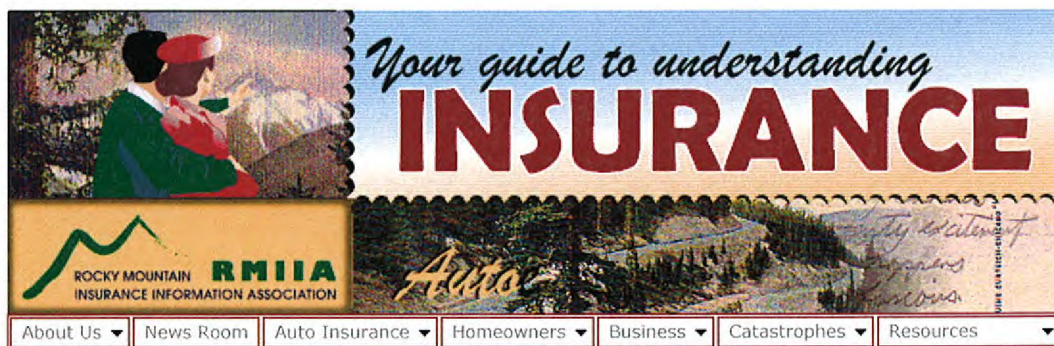


EXHIBIT “B”



RMIIA
ROCKY MOUNTAIN
INSURANCE INFORMATION ASSOCIATION

Auto

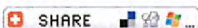
About Us ▾ News Room ▾ Auto Insurance ▾ Homeowners ▾ Business ▾ Catastrophes ▾ Resources ▾

 Google Search

- ☒ This Site
☐ Web


[Contact Us](#)

NEWS BRIEF



Selecting a Contractor and Settling Your Insurance Claim

Many Coloradans are still working through the process of getting their roofs repaired or replaced after a series of summer hail and wind storms pummeled thousands of homes. Unfortunately, insurance customers continue to report a large number of disreputable roofers flooding into impacted areas and preying on homeowners. Here's some advice for selecting a contractor and settling your insurance claim. [More...](#)

Video:

RMIIA's Carole Walker offers [storm claim filing advice](#).

Pueblo Hailstorm Damage to Homes and Cars Estimated at \$105.8 Million in Insured Losses

Damage from last Wednesday's hailstorm is estimated at \$105.8 million in insured losses to homes and vehicles from approximately 22,000 claims. Golf ball-sized hail battered homes and pounded vehicles across Pueblo and tennis ball-sized hail hammered areas southeast of the city. [More...](#)

National and Rocky Mountain Region Auto Theft Statistics

[National Auto Theft Statistics](#)
[Does it Matter Where I Live?](#)
[Colorado Auto Theft Statistics](#)
[New Mexico Auto Theft Statistics](#)
[Utah Auto Theft Statistics](#)
[Wyoming Auto Theft Statistics](#)
[Most Popular Stolen Vehicles](#)
[Prevention Tips](#)
[Security Discounts](#)
[Reporting Auto Theft & Fraud](#)
[Check Your Vehicle's VIN](#)

National Auto Theft Statistics

The [National Insurance Crime Bureau](#) (NICB) reports that 2008 marked the nation's fifth consecutive year of declining vehicle thefts in the United States.

Preliminary 2008 crime data released by the FBI in January indicates that 2008 will post a double-digit decline in vehicle theft when final numbers are released in the fall. If the preliminary figure of -12.6% holds, it will be the largest single year percent drop in thefts since 1999.

U.S. motor vehicle thefts fell 8.1 percent in 2007 from 2006, according to the FBI's Uniform Crime Reports. In 2007, 1,095,769 motor vehicles were reported stolen, with Western states representing 35.7% of motor vehicle thefts.

Using the FBI's average valuation of \$6,755 per stolen vehicle, the 1.09 million vehicles stolen during 2007 caused estimated property losses of \$7.4 billion.

Only 12.6% of thefts were cleared by arrests in 2007 ([Insurance Information Institute](#)). The NICB is finding that technology, such as license plate readers, owner-installed theft-deterrent devices, and tracking/recovery systems, is aiding the recovery of stolen vehicles.

Every 28.8 seconds a motor vehicle is stolen in the United States.

Auto theft is covered by the optional "comprehensive" coverage on your auto policy. The average comprehensive insurance premium in the U.S. fell 3.3% from \$145.16 in 2005 to \$140.38 in 2006 (the most recent data available), according to the National Association of Insurance Commissioners. ([Insurance Information Institute](#))

Carjacking accounts for 3.0% of all motor vehicle thefts nationwide, and occurs most frequently in urban areas.

A survey of American drivers conducted in April 2007 on behalf of the [National Insurance Crime Bureau](#) and [LoJack](#), a manufacturer of an electronic vehicle tracking and recovery system, found:

- 79% always lock their vehicles.
- 93% never leave spare keys in their vehicle.

However, the survey also found:

Insurance Pop Quiz

Does your landlord's insurance cover your furniture and stuff?

- ☐ Yes
☐ No

[View Stats](#)

[Renters Insurance](#)

How Medical Bills are Paid After an Auto Accident

When you buy auto insurance you need to think about what actually happens when you're in an accident and need to use it...

[\[more\]](#)

- One-third admit they have left their car while it was running, which makes the vehicle an easy target for theft.
- 47% don't always park in a well-lit area.
- 40% don't hide their valuables. In fact, nearly half leave mail in their vehicle, a quarter have left a purse or wallet, and almost a third have left bank statements, all of which can put them at risk for identity theft.

Although 75% of respondents know that there are costs associated with vehicle theft in addition to paying the insurance deductible and the cost of replacing the vehicle that are not covered by insurance, virtually none knew that there are additional costs such as insurance premium increases, the cost of time spent dealing with police, vehicle rental costs, and the cost of time off from work. The survey was conducted by Opinion Research Corporation.

[Back to Top](#)

Does it Matter Where I Live?

Living in urban and higher crime areas has an impact on your risk of being a victim of auto theft. Port and border cities continue to be boomtowns for the auto theft business. Of the top 25 metro areas in the nation for vehicle theft, nearly half are ports or communities with easy access to borders (*[National Insurance Crime Bureau](#), or NICB). The NICB study compares the auto theft rates per 100,000 population in 361 metro areas.

The top 10 metro areas with highest auto theft rates in 2008:

1. Modesto, CA
2. Laredo, TX
3. Yakima, WA
4. San Diego/Carlsbad/San Marcos, CA
5. Bakersfield, CA
6. Stockton, CA
7. Las Vegas/Paradise, NV
8. Albuquerque, NM
9. San Francisco/Oakland/Fremont, CA
10. Fresno, CA

The top 10 states ranked by number of auto thefts in 2006:

1. California
2. Texas
3. Florida
4. Arizona
5. Michigan
6. Washington
7. Georgia
8. Illinois
9. Ohio
10. New York

City-by-city differences in auto buying habits are reflected in the preferences of auto thieves. For example, American vehicles tend to be the auto thief's vehicles of choice in Detroit and Chicago; pickups are popular in Albuquerque, Phoenix and Houston; and Japanese models lead the most commonly stolen list in Los Angeles.

Reporting Auto Theft & Fraud

Report fraud and vehicle theft to your local law enforcement, as well as the [National Insurance Crime Bureau](#) at 1-800-TEL-NICB (1-800-835-6422). Your call to NICB can be anonymous and you may be eligible for a reward.

[Back to top](#)

Updated: February 28, 2007 1:52 PM
© Copyright [Rocky Mountain Insurance Information Association](#)
7951 E. Maplewood Avenue, Suite 130 • Greenwood Village, Colorado 80111 USA
(303) 790-0216 or Toll Free (800) 355-9524
[Legal notice, Disclaimer & Terms of Use](#)

[Contact Us](#)

ORIGINAL

1 **ROC**

2 DEAN Y. KAJIOKA, ESQ.,
3 Nevada Bar No. 005030
4 KAJIOKA & ASSOCIATES
5 810 South Casino Center Blvd.
6 Las Vegas, Nevada 89101
(702) 366-1528
Attorneys for
Dominic Laino dba Club 2100

2009 SEP 15 P 3:37

RECEIVED
CITY CLERK

7 **CITY OF LAS VEGAS**

8 **CITY COUNCIL**

9 IN THE MATTER OF:)

10)
11 DEPARTMENT OF FINANCE AND)
12 BUSINESS SERVICES on behalf of the)
CITY OF LAS VEGAS, NEVADA)

Date of Hearing: Sept. 21, 2009

Time of Hearing: 1:00 p.m.

13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)
Petitioner,

v.

DOMINIC L. LAINO dba CLUB 2100,

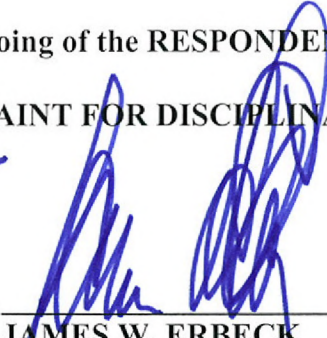
Respondent.

19 **RECEIPT OF COPY**

20 **RECEIPT OF COPY of the foregoing of the RESPONDENT, DOMINIC L.**

21 **LAINO dba CLUB 2100 ANSWER TO COMPLAINT FOR DISCIPLINARY ACTION is hereby**

22 acknowledged on this 15th September day of September, 2009.

23
24
25 
26 **JAMES W. ERBECK**
27 Chief Deputy City Attorney
28 Senior Litigation Counsel
400 Stewart Avenue
Las Vegas, Nevada 89101