



MEMORANDUM

TO: Members of the Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
DATE: February 24, 2010
SUBJECT: Liquor Violation Hearing- Troy Marriott/ Shula's

On May 7, 2009, the Troy Police Department conducted underage decoy inspections for liquor licensed establishments in the City of Troy. The team went to Shula's (Troy Marriott), at 200 W. Big Beaver Rd., where the underage minor decoy was served a bottle of beer. The person who served the beer to the minor has pled responsible to the charge of *selling alcohol to a person under 21 years of age*, and was fined \$100 on June 19, 2009.

WHP Hotel LLC, formerly Marriott International, Inc., (the licensee) did not contest the violation before the Michigan Liquor Control Commission (MLCC), and on August 10, 2009, the licensee was required to pay a fine of \$500 or have a 25 day suspension of sales of liquor, and also paid an additional \$72.00 in fees.

WHP Hotel, LLC. has an "on-premises" (B Hotel) liquor license, since alcohol is served to patrons for consumption on the premises. The licensee also has an SDM license, which allows them to sell beer and wine to persons for consumption in another location. The liquor license rules for a SDM license are different than the rules for an on-premises license, and the MLCC allows a revocation of a SDM license only when there are three or more violations in a calendar year. However, since this licensee also possesses an on-premises license, City Council has the ability to take action on the on-premises license. Under MCL 436.1501, on premises liquor licenses are automatically renewed on a yearly basis unless the local legislative body (City Council) objects on or before March 31 of each year. A liquor license violation, such as the *sale of alcohol to a minor*, could serve as a basis for objecting to the automatic renewal of the liquor license, as the possession of an on-premises Class C license is a privilege. However, since the restaurant has made an investment upon the initial grant of the liquor license, each licensee is entitled to a due process hearing, to provide the licensee with the opportunity to challenge the violation. In the due process hearing, the City has the obligation to prove that there was a violation. The liquor violation hearing is scheduled in advance, with notice sent by certified mail to the restaurant and John Carlin, the attorney of record.

Pursuant to a phone call with John Carlin, on behalf of WHP Hotel, LLC, it is my understanding that the licensee is not contesting that the violation occurred, and will waive the due process hearing. This fact should be confirmed by the Mayor prior to opening the hearing. If the hearing is officially waived, then I will make a brief recitation of the facts of the violation, and will also rely on the redacted police incident report and the licensee's record, which are attached to this memo and will be part of the record. After that time, City Council may have questions for the licensee or City Administration.

A resolution confirming the liquor license violation, and requiring additional training for all of the licensee employees that serve alcohol is proposed for your consideration. If City Council is concerned about the past record of the licensee, or is concerned that the licensee has not taken

sufficient precautionary measures to protect against future sales of liquor to minors, then City Council can also pass a resolution objecting to the automatic renewal of the on-premises liquor license, which would be effective as of May 1 (the start of the new license year).

Please let me know if you have any questions.

LCC

Liquor Licensee History

Business name: **Troy Marriott Hotel**

Address: 200 W. Big Beaver (248) 680-9797

Licensee: WHP Hotel, LLC

License type: **B-Hotel** (138655-2009 SS) SDM (138656-2009)

Permits: Sunday Sales, D/E, Official (Food), 8 Bars

Comments: Carlin, Edwards, Brown, & Howe, PLLC – John Carlin, Attorney (248) 816-3210
Michelle Street – General Manager

Date	Troy Incident #	Type	Disposition	Date
1/22/90		Council approved license		
10/17/90	90-32277	Sale to minor (compliance test)	Fined \$400	11/26/91
6/17/92	92-17111	Sale to minor (compliance test)	Fined \$200 each count	3/10/93
12/20/92	92-38954	3 counts Allow fights, brawls, etc.; allow intoxicated person to loiter; allow annoying & molesting of customers.		
11/22/93	93-36579	Sale to minor (compliance test)	Fined \$1000 each count 24 hour suspension served	1/24/94 3/4/94
10/2/95	MLCC	Fail to Maintain Records, Sell an interest w/o approval, obtain license in it's name to benefit another, allow corp. whose name doesn't appear on license to derive benefit from license.	Fined \$800.	
6/3/96		Council grants transfer of license to CHC Reit Lessee Corp and Gemcom Lessee, LP.		
3/3/97		Council grants request for PA Troy hospitality Investors, LP to become partner.		
12/18/97	97-45894	Sale to minor (compliance test)	MLCC Fined \$600.	6/10/98
01/02/99	99-00144	Liquor Inspection (Road Patrol)	NO VIOLATIONS	

02/22/99	99-07201	Liquor Inspection (Road Patrol)	NO VIOLATIONS	
06/24/99	99-24029	Compliance Test	PASSED	
11/23/99	none	Compliance Test	PASSED	
01/01/00	MLCC	Sell unlimited qty alcohol at one price	\$300	11/13/00
		Allow unlawful gambling (with raffle tickets)	\$300	11/13/00
		Allow unlawful gambling (raffle tickets)	\$300	11/13/00
		Allow contest with prize > \$250	\$300	11/13/00
			<u>\$1200</u>	
07/28/00	00-27507	Sale to Minor-Compliance Test	DISMISSED	
			witnesses failed to show	
			Hearing was postponed from	
			01/03/01, but we never	
			received a reschedule date!	
08/13/00	00-29766	Liquor Inspection (Road Patrol)	NO VIOLATIONS	
10/25/00	00-39555	Compliance Test	PASSED	
11/17/00	00-42661	Compliance Test	PASSED	
11/30/00	00-44305	Liquor Inspection (Road Patrol)	NO VIOLATIONS	
01/16/01	01-01878	Liquor Inspection (Road Patrol)	NO VIOLATIONS	
02/26/01		Council Show Cause -resolution to require all servers to undergo TIPS/TAM training with proof to PD within 60 days - rec'd 04/25/01		
03/19/01	01-09496	Liquor Inspection (Road Patrol)	NO VIOLATIONS	
04/25/01		Proof of TIPS received		
05/03/01		Compliance Test	PASSED	
06/06/01	01-19813	Liquor Inspection (Road Patrol)	NO VIOLATIONS	
06/20/01	01-21798	Liquor Inspection (Road Patrol)	NO VIOLATIONS	
08/17/01	01-29646	Compliance Test	PASSED	
08/29/01	01-31084	Liquor Inspection (Road Patrol)	NO VIOLATIONS	
10/05/01	01-36171	Compliance Test	PASSED	
10/18/01	01-37638	Liquor Inspection (Road Patrol)	NO VIOLATIONS	
01/04/02	02-00436	Liquor Inspection (Road Patrol)	NO VIOLATIONS	
03/01/02	02-06526	Compliance Test	PASSED	
04/16/02	02-11646	Liquor Inspection (Road Patrol)	NO VIOLATIONS	
06/28/02	02-20760	Compliance Test	PASSED	

10/18/02	02-34354	Compliance Test	PASSED
11/11/02	02-36829	Liquor Inspection (Road Patrol-Feld)	NO VIOLATIONS
12/10/02	02-39994	Liquor Inspection (Road Patrol-Feld)	NO VIOLATIONS
03/11/03	03-7286	Liquor Inspection (Road Patrol-Feld)	NO VIOLATIONS
04/25/03	03-12391	Compliance Test	PASSED
06/26/03	03-19490	Compliance Test	PASSED
07/11/03	03-21304	Liquor Inspection (Road Patrol-Isham)	NO VIOLATIONS
08/23/03	03-26396	Liquor Inspection (Road Patrol-Isham)	NO VIOLATIONS
10/28/03	03-33322	Compliance Test	PASSED
09/11/03	03-28378	Liquor Inspection (Road Patrol-Isham)	NO VIOLATIONS
01/17/04	04-01711	Liquor Inspection (Road Patrol-Drewek)	NO VIOLATIONS
02/21/04	04-05313	Liquor Inspection (Road Patrol-Drewek)	NO VIOLATIONS
03/12/04	04-07336	Liquor Inspection (Road Patrol-Drewek)	NO VIOLATIONS
03/23/04	04-08559	Compliance Test	PASSED
05/24/04	04-15141	Liquor Inspection (Road Patrol- Warzecha)	NO VIOLATIONS
06/30/04	04-19532	Compliance Test	PASSED
07/12/04	04-20998	Liquor Inspection (Road Patrol- Warzecha)	NO VIOLATIONS
09/24/04	04-30261	Liquor Inspection (Road Patrol- Warzecha)	NO VIOLATIONS
12/12/04	04-39465	Liquor Inspection (Road Patrol- Schehr)	NO VIOLATIONS
01/28/05	05-03220	Liquor Inspection (Road Patrol- Schehr)	NO VIOLATIONS
03/04/05	05-07349	Compliance Test	PASSED
03/20/05	05-09103	Liquor Inspection (Road Patrol- Schehr)	NO VIOLATIONS
05/31/05	05-18226	Liquor Inspection (Road Patrol- Sewell)	NO VIOLATIONS
11/01/05	05-38519	Liquor Inspection (Road Patrol- Sewell)	NO VIOLATIONS
02/02/06	06-4503	Liquor Inspection (Road Patrol- Sewell)	NO VIOLATIONS
07/26/06		Compliance Test	PASSED
08/14/06	06-31428	Liquor Inspection (Road Patrol- Malik)	NO VIOLATIONS
09/04/06	06-34421	Liquor Inspection (Road Patrol- Malik)	NO VIOLATIONS

03/06/07	07-8400	Liquor Inspection (Road Patrol- Barton)	NO VIOLATIONS
03/14/07	07-9555	Liquor Inspection (Road Patrol- Barton)	NO VIOLATIONS
05/10/07	07-17234	Compliance Test	PASSED
06/30/07	07-24480	Liquor Inspection (Road Patrol- N. Pappas)	NO VIOLATIONS
08/13/07	07-30705	Liquor Inspection (Road Patrol- N. Pappas)	NO VIOLATIONS
09/22/07	07-36293	Liquor Inspection (Road Patrol- N. Pappas)	NO VIOLATIONS
10/13/07	07-39062	Liquor Inspection (Road Patrol- Drewek)	NO VIOLATIONS
10/18/07	07-32160	Compliance Test	PASSED
12/06/07	07-45843	Compliance Test	PASSED
01/25/08	08-3121	Liquor Inspection (Road Patrol- Drewek)	NO VIOLATIONS
02/21/08	08-6598	Compliance Test	PASSED
03/21/08	08-10246	Liquor Inspection (Road Patrol- Drewek)	NO VIOLATIONS
04/20/08	08-13928	Liquor Inspection (Road Patrol- Raczka)	NO VIOLATIONS
05/21/08	08-17732	Compliance Test	PASSED
06/01/08	08-19281	Liquor Inspection (Road Patrol-Raczka)	NO VIOLATIONS
09/14/08	08-32213	Liquor Inspection (Road Patrol-Raczka)	NO VIOLATIONS
10/01/08	08-34280	Compliance Test	PASSED
10/26/08	08-37058	Liquor Inspection (Road Patrol- Kramer)	NO VIOLATIONS
12/22/08	08-43663	Liquor Inspection (Road Patrol- Kramer)	NO VIOLATIONS
12/30/08	08-44465	Compliance Test	PASSED
03/01/09	09-6943	Liquor Inspection (Road Patrol- Kramer)	NO VIOLATIONS
05/07/09	09-14317	Compliance Test (DPU) Sale to Minor	VIOLATION
05/24/09	09-16301	Liquor Inspection (Road Patrol- Kramer)	NO VIOLATIONS
07/10/09	09-21811	Liquor Inspection (Road Patrol- Kramer)	NO VIOLATIONS
08/27/09	09-27217	Liquor Inspection (Road Patrol- Kramer)	NO VIOLATIONS
10/28/09	09-33786	Compliance Test	PASSED
11/06/09	09-34930	Liquor Inspection (Road Patrol- Kramer)	NO VIOLATIONS
12/17/09	09-39249	Compliance Test	PASSED

01/02/10

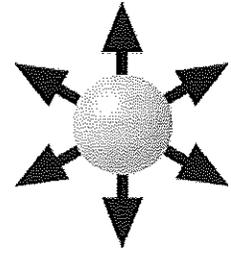
10-179

Liquor Inspection (Road Patrol- Kramer)

NO VIOLATIONS

Case #0900003852

Face Sheet Printed: 1/20/2010 3:32:12 PM
 Case Open Date: 5/8/2009
 Case Close Date: 5/12/2009 3:46:45 PM
 Case Subject: 4171 - Violation of Liquor Control Laws
 Agency: TR - Troy PD



Status:
CLOSED

CR No: 0900003852.1 Status: A - Approved

Involved Entities

Entity Type	Entity Name	Offense
Arrestee	Owens, Terri Beth	Violation of Liquor Control Laws
Property		

Property Type	Property Description	Property Status
Beer 5402	Bottle of Beer	Information Only

Call for Service Information

CFS Number: **090014317**

CFS Date: **5/7/2009**

Time Received: **4:55:36 PM**

Time Arrived: **4:55:37 PM**

Location: **200 W Big Beaver Rd**
 City: **TROY**

Disposition: **Report Taken**

Reported Offense: **C3309 - Liquor Inspection**

Verified Offense: **4171 - Violation of Liquor Control Laws**

Officers: **00201 - Schaufler, John**

Attachment Information

Name: **Narrative Statement / MLCC
 Violation Report / Ticket**

Date: **5/11/2009**

Status: **AP - Approved**

Type: **D - Document/PDF/RTF**

Assignment History

Officer: **00201 - Schaufler, John**

Date Assigned: **5/8/2009 9:20:21 AM**

Date Unassigned: **N/A**

Call For Service

CFS Number: 090014317

Date: 5/7/2009

Call For Service

CFS Number 090014317
Date 5/7/2009
Dispatcher 30638 - Kalef, Sam
Call Source 3 - Field Initiated
Received 4:55:36 PM
Dispatched 4:55:37 PM
Arrived 4:55:37 PM
Cleared 4:56:29 PM
Location 200 W Big Beaver Rd
City, State, Zip TROY, MI 48083
Jurisdiction
Grid
Sector
Map 0 - N/A
X Coordinate 4099856
Y Coordinate 0118759

Complainant
Address 200 W Big Beaver Rd
City, State, Zip TROY, MI 48083
Phone
Call type
Reported Offense C3309 - Liquor Inspection
Verified Offense 4171 - Violation of Liquor Control Laws
Tow Company
Vehicle
Vehicle License
Disposition R - Report Taken
Priority
Classification
Agency TR - Troy PD
Case 0900003852

Officers

00201 - Schaufler, John
Notes - C3309 LIQUOR INSPECT

Troy PD Arrest Report

Case No. 0900003852
Report No. 0900003852.1
Report Date: 5/7/2009

Troy PD
500 W Big Beaver
Troy, MI 48084
248 524-3477

1

Page 1 of 4

Subject: **4171 - Violation of Liquor Control Laws**

Case Report Status	A - Approved	Entered On	5/8/2009 9:30:40 AM	Reporting Officer	
Agency County	63 - Oakland	Entered By	00201 - Schaufler, John	Reporting Officer	00201 - Schaufler, John
Agency City/Township	84 - Troy	Verified On	5/12/2009 3:44:08 PM	Assisted By	
Occurred On	5/7/2009 5:55:00 PM	Verified By	00569 - Snell, Rebecca	Assisted By	
Or Between		Approved On	5/12/2009 3:44:13 PM	Agency Assisted	
Business Name	Troy Marriott - Shula	Approved By	00569 - Snell, Rebecca	Agency Assisted	
Location	200 W BIG BEAVER RD	Related Cases		Agency Assisted	
CSZ	Troy, MI 48083	Disposition	Arrest	Agency Assisted	
Census/Geo Code		Excp. Clear Reason		Agency Assisted	
Jurisdiction		Excp. Clear Date		Agency Assisted	
Grid		Reporting Agency	Troy PD	Call for Service #	090014317
Sector		Report Type	Arrest Report	Call for Service #	090014317
Map		Division	Patrol	Call for Service #	090014317
Call Source	Field Initiated	Notified		Call for Service #	090014317
Vehicle Activity		Related Cases		Call for Service #	090014317
Dir. Veh. Traveling				Call for Service #	090014317
Cross Street				Call for Service #	090014317
Means				Call for Service #	090014317
Motive				Call for Service #	090014317

Report Narrative **09-14317**

On listed date and time, I was performing LCC inspections with minor decoy, [REDACTED]. I transported [REDACTED] to the Troy Marriott hotel.

[REDACTED] went to the hotel bar and asked the bartender, later identified as Terri Owens, for a bottle of Bud Light beer. Owens served [REDACTED] the beer without checking her identification or verifying her age. [REDACTED] called me on my telephone and advised that she had been served (see [REDACTED] attached statement).

I went into the establishment and advised Owens that she had served a minor. I obtained Owens' identification and the hotel's liquor license. Owens was issued citation 736083 for furnish alcoholic beverage to a minor. The LCC violation form was also completed.

Offense Detail: 4171 - Violation of Liquor Control Laws

Offense Description	4171 - Violation of Liquor Control Laws	Location Type	14 - Hotel/Motel/Etc.	No. Prem. Entered	
IBR Code	90G - Liquor Law Violations	Offense Completed?	Yes	Entry Method	
IBR Group	B	Hate/Bias	00 - None (No Bias)	Type Security	
Crime Against	SO	Domestic Violence	No	Tools Used	
Offense File Class	41001 - LIQUOR LICENSE -ESTABLISHMENT				
PACC					
Local Code					
Using					
Criminal Activity					
Force Level					
Weapons					

Arrestee A1: Owens, Terri Beth

Troy PD Arrest Report

Case No. 0900003852
Report No. 0900003852.1
Report Date: 5/7/2009

Troy PD
500 W Big Beaver
Troy, MI 48084
248 524-3477

2

Page 2 of 4

Arrestee Number **A1**
Name **Owens, Terri Beth**
Aliases
Alert(s)

DOB [REDACTED]
Age **47**
Sex **F - Female**
Race **W - White**
Ethnicity **O - Other**
Ethnicity/National Origin

Place of Birth
SSN [REDACTED]
DLN [REDACTED]
DL State **MI - Michigan**
DL Country

Address [REDACTED]
CSZ [REDACTED]
MO
Attire
Habitual Offender Status

Ht.
Wt.
Eye Color
Hair Color
Hair Style
Hair Length
Facial Hair

Occupation/Grade
Employer/School
Employer Address
Employer CSZ
Res. County
Res. Country
Resident Status

S - Resides in the State but not the county or community where the offense occurred

Complexion
Build
Teeth

Phone/Email Type
CE - Cell Phone #1

Description
[REDACTED]

Supplemental IDs ID Type	ID Number	ID Issuer	Name
--------------------------	-----------	-----------	------

Physical Characteristics Type	Descriptor	Description
-------------------------------	------------	-------------

Arrest No. **736083**
Arrest Type **S - Summoned/Cited**
FBI No.
Criminal Tracking Number CTN
Transaction Control Number TCN
Person Control Number PCN
State No.
Armed With **01 - Unarmed**
Multi. Clearance **N - Not Applicable**
Multi. Clearance Offense
Prev. Suspect No.
Notified Name

Arrested For **4171 - Violation of Liquor Control Laws**
Count
Fingerprints
Photos
Miranda Read
Miranda Waived
Number of Warrants
Juvenile Disposition
Adult Present
Detention Name

Booked On
Booked Location
Released Location
Released On
Released By
Release Reason
Held For
Date/Time Arrested **5/7/2009 6:56:00 PM**
Arrest Location

Arrest Notes

Troy PD Arrest Report

Case No. 0900003852
Report No. 0900003852.1
Report Date: 5/7/2009

Troy PD
500 W Big Beaver
Troy, MI 48084
248 524-3477

3

Page 3 of 4

Other Entity: O1 -- Frye, Michelle

Entity No.	O1	DOB	[REDACTED]	Place of Birth	
Entity Type	X - Miscellaneous	Age	19	SSN	
Name	[REDACTED]	Sex	F - Female	DLN	
AKA	[REDACTED]	Race	W - White	DLN State	
Alert(s)		Ethnicity		DLN Country	
Address	500 W BIG BEAVER RD	Ht.		Occupation/Grade	
CSZ	Troy, MI 48083	Wt.		Employer/School	
Complexion		Eye Color		Employer Address	
Attire		Hair Color		Employer CSZ	
		Facial Hair		Res. County	
				Res. Country	
				Resident Status	

Phone/Email
Type Description

Supplemental IDs
ID Type ID Number ID Issuer Name

Entity Notes **Minor Decoy**

Property Description Item 1: 1200 - Beer 5402 - Bottle of Beer

Item No.	1
Property Category	1200 - Beer 5402
Property Class	02
IBR Type	02 - Alcohol
UCR Type	I - Consumable Goods
Status	I - Information Only
Count	1
Value	
Manufacturer	Bud Light
Model	
Serial No.	
License No.	
Color	
Description	Bottle of Beer
Vehicle Year	
Body Style	
State	
License Year	
Recovered Date/Time	
Owner	
Disposition	
Evidence Tag	
Alert(s)	
Evidence Recovered By	
Evidence Recovered From	
Evidence Location	
Drug Type	

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee
B. Received by (Printed Name) *John Carlin*
C. Date of Delivery *02/10*
D. Is delivery address different from item 1? Yes
if YES, enter delivery address below: No

3. Service Type
 Certified Mail
 Registered
 Insured Mail
 Express Mail
 Return Receipt for Merchandise
 C.O.D.
4. Restricted Delivery? (Extra Fee) Yes

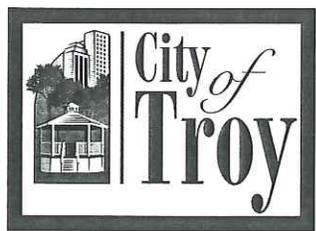
SENDER: COMPLETE THIS SECTION

1. Article Addressed to:
Michael Street, Manager
Marriott International, Inc.
Troy Marriott
200 W. Big Beaver
Troy, Michigan 48084

2. Article Number (Transfer from service label)
7008 3230 0000 0414 3681
PS Form 3811, August 2001

Domestic Return Receipt
102595-02-M-1540

City of Tomorrow...



...Today

Hotel, LLC

ING - Liquor License Violation

and before the Council of the City of Troy at City Hall, on **March 1, 2010 at 7:30 PM**, or as soon thereafter determine whether the City Council should recommend to the City Council the suspension, the renewal or non-renewal of licenses for the assumption of alcoholic beverage, for the following

License Type: B Hotel / SDM
License Number: 138655-2009 SS / 138656-2009
Violation : SALE TO MINOR (DPU) (Compliance Test)
Violation Date(s): May 7, 2009

You will be given an opportunity to be heard and present evidence at the public hearing and legal counsel may represent you. If you have questions regarding the procedure or the facts and circumstances surrounding your violation(s), you may contact the City Attorney's office at 248-524-3320.

Sincerely,

Barbara A. Pallotta, CMC
Deputy City Clerk

c: John Carlin
Carlin, Edwards, Brown & Howe. PLLC
2855 Coolidge Hwy. - Suite 203
Troy, 48084