



State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA OLIVER
Lt. Governor

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
P.O. BOX 087
TRENTON, NJ 08625-0087
Phone: (609) 984-2830 Fax: (609) 633-6078
[HTTP://WWW.NJ.GOV/LPS/ABC](http://www.nj.gov/lps/abc)

GURBIR S. GREWAL
Attorney General

JAMES B. GRAZIANO
Acting Director

DEC 1 0 2020

Kellys Cove LLC
t/a Branded Bear Saloon
2721 Artic Ave
Atlantic City, NJ 08401

LICENSE NO.: 0102-33-127-005
AGENCY DKT. NO.: S-20-39391, H-2020-53164;
ISSUED BY: Municipal Board of ABC of Atlantic
City, Atlantic County

Attached hereto is a copy of the Notice of Charges wherein the Division of Alcoholic Beverage Control ("Division") has alleged that the holder of this license has committed the violations set forth therein and is seeking to suspend your license for 115 days. Upon receipt of this letter you must enter either a guilty, non-vult or not guilty plea to these charges within 30 days. Failure to enter a plea within the 30-day period shall be deemed to be a statement that you do not contest the charges, which are the subject of this matter. Consequently, if a plea is not entered within the 30-day period, a non-vult plea will be entered on your behalf unless the plea period has been extended by the Division. The Director upon certification from the Division may suspend your license without further opportunity for you to oppose the charges.

Before entering a plea you may request a copy of the Report of Investigation on which the charges were based and request an additional 14 days to examine the report before you enter a plea. Send your request to Deputy Attorney General, Jessica M. Saxon and include the license number and "S" number on all letters and forms of payment.

You are entitled to have an attorney advise you. However, consultation with an attorney will not toll or stop the time of the 30 days for you to enter your plea.

Please be advised if there is a determination of guilt to the charges, the Enforcement Bureau pursuant to N.J.S.A. 33:1-31 will seek a suspension of 115 days and will also seek the forfeiture and disposal of any cash, evidence, alcoholic beverages (or other prima facie contraband nature) seized in connection with these charges. If you enter a plea of guilty or non-vult (not contesting the charges) you have informed the Division that you do not dispute the charges in this matter and will accept the penalty as set forth.



You do have the right to submit in writing mitigating circumstances and requesting the charges be reduced in penalty.

In cases in which ABC seeks suspension, the Director may also consider reduction of the penalty by 20% in consideration of your guilty or non-vult plea. In cases in which ABC seeks revocation, the Director may accept a monetary offer and/or suspension in lieu of revocation.

In addition, you have the right to make application to the Director that he accept a monetary compromise offer in lieu of the days suspended pursuant to N.J.A.C. 13:2-19.12.

If you plead not guilty, this case will be sent to the Office of Administrative Law or be retained to be heard before the Director. You or your attorney will receive the necessary notice that the case has been forwarded and the time and place of the hearing.

To assist you in responding to the Division, you may use the "plea" page to advise us of your decision in this matter. If you do utilize this form, after you fill it out we suggest you make a copy and keep it for your records. Please send this reply to DAG Jessica M. Saxon.

Very truly yours,

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By:



Jessica M. Saxon
Jessica.Saxon@njoag.gov
DEPUTY ATTORNEY GENERAL

Attachment



**STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

LIC. NO.: 0102-33-127-005
AGENCY NO.: S-20-39391, H-2020-53164;

DIVISION OF ALCOHOLIC BEVERAGE)
CONTROL,)
)
Petitioner,)
)
v.)
)
Kellys Cove LLC,)
)
Respondent.)

NOTICE OF CHARGES

Take Notice that under the authority of the Director, as set forth in Alcoholic Beverage Control Act, N.J.S.A 33:1-1, et seq; and the regulations promulgated pursuant thereto, the New Jersey Division of Alcoholic Beverage Control (“Division”) will seek to suspend plenary retail license 0102-33-127-005 held by Kellys Cove LLC, issued by Municipal Board of ABC of Atlantic City, Atlantic County, for premises located at 2721 Artic Ave, Atlantic City, NJ 08401, for violation of the aforementioned statute and/or regulations. The Division hereby prefers the following charges and will seek the noted penalty to wit:

1. On or about 12/4/20, you engaged in, allowed, permitted and/or suffered, conduct on or about your licensed premises, viz., Indoor service and/or consumption of alcohol by individuals standing in a bar area, seated at a bar, and/or and not seated at a table; in violation of Executive Order 194. 10-day suspension
2. On 12/4/20, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages beyond the scope of your license, in violation of N.J.S.A. 33:1-12, viz., consumption in an area not licensed, in an area which was not designated or described by you in your license application as a place to be licensed for the said sale, service or delivery of alcoholic beverages. 10-day suspension
3. From on or about 11/1/20, to present, you knowingly employed or had connected in a business capacity with you, Francisco Nunez, a person who had been convicted of a crime involving moral turpitude, viz., 2C:20:3 - 3rd degree Theft ; 2C35-7.1 - 3rd degree Possession/Distribution CDS within 500ft., without said person first having had the statutory disqualification resulting from said conviction removed or without first having been issued a Rehabilitation Employment Permit by the Director, Division of Alcoholic Beverage Control; in violation of N.J.S.A. 33:1-26, -31.2 or N.J.A.C. 13:2-14.5. 30-day suspension

4. On or about 12/4/20, you engaged in, allowed, permitted or suffered the violation of an order issued by the Director, Division of Alcoholic Beverage Control, or the issuing authority, viz., Violation of Division's November 24, 2020, Order Granting Preliminary Injunctive Relief Imposing Conditions on Licensee's Operation; in violation of N.J.S.A. 33:1-31. 10-day suspension
5. On 12/4/20, Francisco Nunez, a person employed by the licensed business, failed to facilitate, hindered, delayed or caused the hindrance or delay, or attempted to hinder, delay or cause the hindrance or delay, of an investigation or inspection of the licensed business or of the licensed premises or of any search thereof, viz., Failed to facilitate an inspection; in violation of N.J.S.A. 33:1-35 and N.J.A.C. 13:2-23.30. 30-day suspension
6. On or about 12/4/20, you engaged in, allowed, permitted and/or suffered patrons and/or employees to gather and/or consume food and/or drink on or about your licensed premises your licensed premises, viz., Failure to enforce social distancing; in violation of Executive Orders 150, 157, 158 and/or 183 issued by Governor Philip D. Murphy. 10-day suspension
7. On or about 12/4/20, you engaged in, allowed, permitted and/or suffered patrons and/or employees to be on your licensed premises without wearing face masks; in violation of Executive Order 122 issued by Governor Philip D. Murphy. 5-day suspension
8. On or about 12/4/20, you engaged in, allowed, permitted and/or suffered patrons and/or employees to gather and/or consume food and/or drink on or about your licensed premises your licensed premises, viz., Occupancy in excess of 25% limit for indoor dining/consumption; in violation of Executive Orders 150, 157, 158 and/or 183 issued by Governor Philip D. Murphy. 10-day suspension

The total penalty sought by the Division is 115 days suspension of your license.

The licensee must enter a plea to the charges within 30 days of its receipt. Failure to do so will result, pursuant to N.J.A.C. 13:2-19.3(c), in the entry of a non-vult plea on your behalf and the Director upon certification by the Division may impose the penalty stated in this Notice of Charges without further notice.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: 
Jessica M. Saxon
DEPUTY ATTORNEY GENERAL

**STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

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DIVISION OF ALCOHOLIC BEVERAGE)
CONTROL,)
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)
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PLEA

TO: Jessica M. Saxon
DEPUTY ATTORNEY GENERAL
ENFORCEMENT BUREAU

CIRCLE THE APPROPRIATE TERM CONTAINED IN THE PARENTHESES “()”

I am the (owner) (partner) (member) (president/vice-president) (attorney) of this license duly authorized to enter the decision(s) in this matter as checked below:

- 1. Please send me a copy of the Report of Investigation issued in this matter. I request you to extend my time to enter a plea by 14 days.
- 2. (For cases in which license suspension is sought and suspension is accepted by licensee): I am pleading non-vult to all of the charges listed in the Notice of Charges and accept the suspension of the subject license to be imposed thereon. I understand that by doing so I will not formally contest the charges and that they will be administratively concluded without a hearing. I am giving up my rights to a hearing and/or to repossess or have returned any cash, evidence, alcoholic beverages, or other property seized in connection with these proceedings. I request that the Director reduce the proposed suspension by 20% in consideration of my plea. I request that the Division consider the following mitigation prior to determining the ultimate penalty. (You may write on the back of this page or use additional separate pages, if necessary.)
- 3. (For cases in which license suspension is sought and licensee requests to make a monetary compromise in lieu of suspension): I am pleading non-vult to all of the charges listed in the Notice of Charges. I understand that by doing so I will not formally contest the charges and that they will be administratively concluded without a hearing.

I am giving up my rights to a hearing and/or to repossess or have returned any cash, evidence, alcoholic beverages, or other property seized in connection with these proceedings. I request that the Director reduce the proposed penalty by 20% in consideration of my plea. Additionally, I petition the Director, pursuant to N.J.A.C.13:2-19.12, to accept a monetary compromise offer in lieu of suspension. I am enclosing the licensee's Federal Tax Return for the most recent year and/or a letter from the licensee's accountant showing the total sales of alcohol and the total costs of alcohol in the most recent year. I request the opportunity to offer a monetary penalty in lieu of having my license suspended. I understand that if the Director grants my request, the Division will compute the penalty amount which must be offered and provide me with a petition to sign and return for the Director's consideration. I request that the Division consider the following mitigation prior to determining the ultimate penalty. (You may write on the back of this page or use additional separate pages, if necessary.)

4. (For cases in which license revocation is sought): I am pleading non-vult to all the charges listed in the Notice of Charges. I request the opportunity to divest the license in lieu of revocation. Therefore, I am requesting that the Division contact me to schedule a conference to discuss the options for settlement. In the event that no settlement is reached, I understand that I must surrender my license to the issuing authority.
5. I wish to plead not guilty to all of the charges listed in the Notice of Charges and request that this matter be forwarded for a hearing.
- a. I am requesting a hearing.
- b. I am requesting a meeting to discuss settlement. If no settlement is reached, I request the matter be forwarded for a hearing.

LICENSEE'S SIGNATURE

TYPED OR PRINTED NAME

DATED: