

February 14, 2011

DK Entertainment, LLC  
David Kiraz, Managing Member  
4635 NE 34th Avenue  
Portland, OR 97211

dba: **CABARET LOUNGE (F-COM)**  
503 West Burnside  
Portland, OR 97209

CERTIFIED and REGULAR MAIL

**NOTICE OF PROPOSED LICENSE CANCELLATION**  
**and PROPOSED REFUSAL TO RENEW LICENSE**

**I. LICENSE CANCELLATION**

Pursuant to ORS 471.315(1)(a)(A) and (1)(c), the Commission may cancel or suspend your license or assess a civil penalty for any violation. The Public Safety Program proposes that the Commission cancel your license for the violation below. On October 26, 2009, the Commission issued a final order canceling your Full On-Premises Sales license. You subsequently sought judicial review and a stay of enforcement of the final order, and you are currently operating pursuant to a stay order granted October 28, 2009. As a result, in the alternative, the Public Safety Program proposes that the Commission issue a Letter of Reprimand in lieu of license cancellation only if the stay of license cancellation is no longer in effect and the license is canceled.

There is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises or involving patrons of the establishment in the immediate vicinity of the premises. This is a violation of ORS 471.315(1)(c). The problems include the following:

On August 24, 2008 at about 12:43 AM, Portland Police Bureau (PPB) officers responded to the premises regarding a person lying down on the sidewalk. After a very intoxicated patron was asked to leave the premises, he became angry, started yelling, and threw an iPod at a security employee. The employee escorted the patron out of the premises and gave the patron a push. The patron fell to the ground and received a laceration on the back of his head.

On August 24, 2008 at about 9:14 PM, PPB officers responded to the premises regarding a fight. A security employee asked a patron to leave the premises after the patron jumped on stage and exposed his penis. The patron began shouting and throwing items at the security employee. Five other patrons began throwing glasses, candles, stools, chairs, and tables and broke several windows and mirrors and a table inside the premises. A security employee had minor injuries from being hit by a table. On September 20, 2008 at about 12:05 AM, a patron left his camera at the bar. When

## **CABARET LOUNGE (F-COM)**

February 14, 2011

Page 2

he later tried to retrieve the camera, it was missing.

On October 4, 2008 at about 1:45 AM, a PPB officer responded to the premises regarding a vandalism. Security employees removed a patron from the premises for being "grabby" with the dancers. The patron threw a rock through a window of the premises, breaking the window and causing broken glass to enter the premises. Employees chased the patron and detained him after the patron had been pepper-sprayed. The patron was charged with Criminal Mischief II and Reckless Endangering.

October 8, 2008 at about 1:00 AM, a patron's purse was stolen. The purse contained \$850 in cash, car and house keys, and the Social Security cards of the patron's five children, and miscellaneous identification and paperwork.

On December 11, 2008 at about 1:45 AM, PPB officers responded to the premises regarding an assault. An intoxicated patron pushed a security employee after the security employee asked the patron to leave the premises. The patron struck the security employee several times and the employee punched the patron with a closed fist. The patron was bleeding from his nose and had blood on his clothing and hands. The patron was taken to a detoxification facility.

On January 4, 2009 at about 2:15 AM, PPB officers responded to a private residence regarding an assault at the licensed premises. At closing time, security employees asked patrons to exit through a side door. After the patron asked a bartender where the side door was, a security employee asked the patron if he was "talkin' shit" and pushed the patron several times. The patron informed the security employee he had previous back and knee injuries and to stop pushing. The security employee punched the patron in the face. The officers observed blood on the bridge of the patron's nose, a cut to the brow line above his right eye, and swelling the size of a golf ball on his brow area.

On January 12, 2009 at about 12:40 AM, PPB officers responded to the premises regarding a fight. An extremely intoxicated patron attempted to enter the premises after he had been asked to leave earlier in the evening because of his behavior and intoxication. The intoxicated patron was bleeding heavily from his face, had a cut to his mouth that medics said would require sutures, and had a swollen eye after being beaten up by another patron. The security employee called the police after the intoxicated patron tried to initiate another fight with a patron that the officer observed leaving the premises. The patron leaving the premises admitted to fighting with the other patron and had bloody knuckles and abrasions on his forehead and face and was visibly intoxicated.

On February 4, 2009 at about 2:33 AM, PPB officers responded to the premises regarding an assault. At closing time, a bartender took a patron's beer and poured it out. When the patron complained, a security employee grabbed the patron in a headlock and moved him outside the premises.

## **CABARET LOUNGE (F-COM)**

February 14, 2011

Page 3

On February 12, 2009 at about 11:38 PM, a PPB officer responded to the premises regarding a disturbance. A very intoxicated patron grabbed a dancer's vagina inside the premises. She pushed the intoxicated patron away but he stepped towards her and head butted her on the forehead, which knocked her to the floor. Security employees removed the patron from the premises. The intoxicated patron was arrested for Assault IV and Sex Abuse III.

On February 17, 2009 at about 1:36 AM, a PPB officer responded to the premises regarding a fight. A patron and a dancer fought. The patron pulled the dancer's hair and the dancer kicked the patron in the face. Two other patrons tried to intervene and struck a security employee in the face with a pint glass, causing redness and swelling under the employee's right eye. Another security employee was hit in the face with a bottle and suffered swelling to his cheek bone area and a small cut to his right palm. The patrons threw bottles and candle holders. Two other dancers took a patron to the ground, punched him, and struck him with a glass object. One of the dancers received a two inch scratch on her arm. One of the patrons who attempted to intervene was hit on the head with a ketchup bottle and had multiple abrasions and swelling on his forehead. One patron was arrested for Assault IV.

On February 22, 2009 at about 2:33 AM, a PPB officer responded to the premises regarding a patron who had been pepper sprayed by security employees at the premises. An intoxicated patron left the premises but remembered he had left his identification card with a dancer. He knocked on a door to the premises and when the door opened he was pepper sprayed. Employees said the intoxicated patron grabbed an employee by the shirt and threatened to kill him.

On February 23, 2009 at about 11:00 PM, a patron stood at the open door and began yelling at an employee and asked the employee to step outside to fight. The patron then harassed and threatened people walking along the sidewalk, including calling a black person a racially derogatory term. The patron climbed the fire escape to the roof of an adjacent building. PPB officers arrested him for Disorderly Conduct II.

On March 8, 2009 at about 12:30 AM, two dancers were told to leave the premises for throwing glasses at another employee.

On March 8, 2009 at about 12:52 AM, PPB officers responded to the premises regarding a patron who was pepper sprayed by a security employee at the premises. The patron was arguing with an employee outside the premises when a security employee pepper sprayed her in the face. The patron's face was red and her eyes were very red and appeared irritated. An employee was arrested for Unlawful Use of Mace II.

On April 3, 2009 at about 1:32 AM, PPB officers responded to the premises regarding an assault. A patron argued with a security employee after he was removed from the

## **CABARET LOUNGE (F-COM)**

February 14, 2011

Page 4

premises for fighting inside the premises. The security employee he was arguing with struck him with a flashlight which caused reddening of the skin on the patron's neck.

On April 4, 2009 at about 1:53 AM, PPB officers responded to the premises regarding a patron threatening security employees with a knife. Security employees found an extremely intoxicated patron in the restroom selling cocaine. After the employees removed the patron from the premises, the patron pulled out a folding knife, extended the blade, and threatened to kill the employees. The patron continued to display the knife while pounding on the front door of the premises. A security employee assaulted the patron, causing bleeding injuries to the patron's head and the bridge of his nose. Officers tasered the patron and arrested him for Menacing and Disorderly Conduct II.

On June 19, 2009 at about 1:24 AM, PPB officers responded to the premises regarding a fight. A visibly intoxicated patron took a swing at a security employee when security employees attempted to escort another patron from the premises. Security employees took the intoxicated patron to the ground. The intoxicated patron complained of neck and head pain and a heart condition and was transported to the hospital.

On June 25, 2009 at about 10:53 PM, PPB officers responded to the premises regarding several people fighting. Two patrons, one of whom was intoxicated, insulted three patrons as they left the premises. The three patrons fought with the two patrons, causing one to have a bleeding lip and nose and the other fall back into the street and have a bleeding gash on the back of his head and bleeding to his frontal lobe that was likely to result in permanent changes to his personality. The three patrons attempted to kick the patron who was down in the street. Two of the three patrons who were leaving the premises were intoxicated and were arrested for Disorderly Conduct II and Assault III. One of the three patrons was released and could not be located when the officers decided he should also be arrested for punching the patron who fell into the street.

On July 6, 2009 at about 9:00 PM, a patron's debit card was stolen inside the premises. Fraudulent charges were subsequently made against the debit card.

On September 30, 2009 at about 1:48 AM, a PPB officer responded to the area of NE Grand and NE Couch Street regarding a traffic crash. The driver was intoxicated and admitted to consuming four beers at the premises before driving and crashing into a parked vehicle. The driver blew a .18% BAC and was arrested for Driving Under the Influence of Intoxicants (DUI). During the jail inventory, an officer discovered nine plastic baggies of cocaine in the driver's waistband.

On November 19, 2009 at about 8:20 PM, a PPB officer responded to the premises regarding a fight. A security employee was escorting a patron from the premises when the patron pushed the employee, refused to leave, threatened to kill the employee, and advanced on the employee with a hand raised in the air. The employee grabbed the patron and pushed him outside of the premises where the patron struggled violently,

## **CABARET LOUNGE (F-COM)**

February 14, 2011

Page 5

causing the patron and employee to fall to the sidewalk. The patron was arrested for Trespass II and Menacing.

On November 19, 2009 at about 8:55 PM, a patron was asked to leave for harassing dancers.

On November 19, 2009 at about 11:51 PM, a patron started an altercation with an employee. The patron was asked to leave several times before an employee carried her from the premises. When the patron was set down outside, another employee pushed the patron from the back, causing her to fall onto the pavement. The patron had bruises to her elbow, both knees, and her left side torso and an abrasion on her foot. An officer observed the patron, who appeared to be intoxicated, push a premises employee and the employee push her back. The patron then swung at the employee.

On November 20, 2009 at about 12:45 AM, two patrons were asked to leave for arguing. One of the patrons was 86ed for continuing to argue with an employee.

On November 20, 2009 at about 1:30 AM, a security employee removed a patron from the premises after the patron rubbed a dancer's crotch.

On November 20, 2009 at about 1:31 AM, a security employee removed a patron from the premises after the patron lit a cigarette inside the premises. The employee noticed the patron had cocaine on and in his nose.

On November 24, 2009 at about 6:02 PM, PPB officers responded to the premises regarding a security employee restraining a person who had threatened him with a knife. The employee found the person lying on the sidewalk outside the premises and asked him to move from the area. When the person refused to move, the employee took the person's backpack and attempted to carry it down the street. The person became irate and pulled out a large combat knife from a sheath on his hip and threatened the security employee.

On December 31, 2009 at about 2:32 AM, a PPB officer responded to the premises regarding a disturbance. A security employee asked two patrons to leave the premises. The patrons refused to leave and assaulted the security employee and another employee. The security employee had a swollen and bloody lip, a bloody nose, and a reddish knot on his forehead from a punch to his face. The other employee suffered pain from being punched in the face and his jacket pocket was ripped and two buttons were torn off, leaving holes in the jacket. One of the patrons was arrested for Assault IV and Trespass II.

On December 31, 2009 at about 11:32 PM, a patron attempted to enter the premises using another person's identification.

## **CABARET LOUNGE (F-COM)**

February 14, 2011

Page 6

On February 5, 2010 at about 10:25 PM, a PPB officer responded to the premises regarding a theft. A patron could not pay for the alcoholic beverages he consumed. The patron was arrested for Theft of Services.

On April 6, 2010 at about 11:30 PM, a PPB officer responded to the premises regarding an assault on an employee. While in the dressing room of the premises, a very intoxicated dancer put another dancer in a headlock, punched her 10-15 times, and choked her to the point where she thought she would pass out. The dancer suffered a broken nose and had swelling around her eyes and cheek bones.

On June 1, 2010 at about 3:00 PM, a patron's cell phone was stolen from inside the premises.

On June 24, 2010 at about 10:17 PM, a patron grabbed a dancer's vagina and her butt. The patron was pushed out of the premises.

On June 25, 2010 at about 3:25 AM, a PPB officer responded to Good Samaritan Hospital regarding an assault at the premises. A security employee forcibly pushed a visibly intoxicated patron out of the premises at closing time. The intoxicated patron was punched in the eye when he attempted to return inside the premises to find his brother.

On October 26, 2010 at about 11:30 PM, a very intoxicated dancer was asked numerous times to get dressed and leave the premises. The dancer was carried out when she refused to leave.

On October 27, 2010 at about 12:45 AM, a PPB officer responded to the premises regarding a fight in progress. A patron punched a security employee in the head after being ejected from the premises for exposing his genitalia inside the premises. Another security employee pushed and punched the patron in the face, causing the patron to fall to the ground. The patron got up and charged the employee and hit him in the head and bit him on his hand, breaking the skin. The patron said he belonged to a gang and threatened both employees with further violence.

### Willingness and Ability

There have been 36 serious incidents in 26 months either inside Cabaret Lounge or in the immediate vicinity involving patrons of the premises, including persons wishing to enter Cabaret Lounge. Incidents include unlawful activity, including, but not limited to, drug activity, criminal mischief, reckless endangering, assault, unlawful use of mace, menacing, DUII, and trespass. There are also numerous incidents of public drunkenness, fights resulting in injury or threat of injury to patrons and Cabaret Lounge employees, altercations, and harassment.

## **CABARET LOUNGE (F-COM)**

February 14, 2011

Page 7

On July 22, 2008, before this series of incidents began, OLCC staff gave verbal instructions to Licensee regarding visibly intoxicated persons and permitting disorder. On September 3, 2008, OLCC staff gave verbal instructions to Licensee regarding DUII. On September 17, 2008, OLCC staff again gave verbal instruction to Licensee regarding visibly intoxicated persons and permitting disorder. Since those verbal instructions, serious problems have continued on a regular basis.

On November 9, 2010, PPB Chief of Police Michael Reese sent a letter to the OLCC registering the City's unfavorable recommendation regarding renewal of the liquor license at Cabaret Lounge. As evidenced by the numerous police reports documenting incidents at Cabaret Lounge, this premises uses a great deal of police resources.

On October 26, 2009, the Commission issued a final order canceling the liquor license at Cabaret Lounge. Since that time, the licensee has operated pursuant to a stay order. Nearly half of the incidents comprising the history of serious and persistent problems have occurred during the period since the cancellation, indicating that Licensee has neither the willingness nor the ability to adequately control the licensed premises and patrons' behavior in the immediate vicinity of the premises.

### **DETERMINING THE PENALTY**

OAR 845-006-0500 defines this violation as a Category I violation and recommends cancellation for the first violation of this type within two years. OAR 845-006-0500(7)(a)(A), (7)(b), and Exhibit 1 to OAR 845-006-0500(7). This is your first.

If the Commission finds aggravating or mitigating circumstances, it may assess a greater or lesser sanction than that listed in the administrative guidelines.

### **PROPOSED PENALTY**

The Public Safety Program proposes that the Commission cancel your license. In the alternative, the Public Safety Program recommends that the Commission issue you a Letter of Reprimand only if the stay of license cancellation issued October 28, 2009 is no longer in effect and the license is canceled.

If Licensee's interest in the license expires or is transferred before a Final Order is issued, the Public Safety Program recommends that under the authority of ORS 471.030, 471.040, 471.313 and 471.730, the Commission issue Licensee a Letter of Reprimand. This reprimand will become a permanent part of Licensee's Commission file and may be considered in any future application for a liquor license by Licensee.

## **II. REFUSAL TO RENEW LICENSE**

## **CABARET LOUNGE (F-COM)**

February 14, 2011

Page 8

### **A. Not a Good Record of Compliance**

Pursuant to ORS 471.313(4)(g), the Commission may refuse to license any applicant if the Commission has reasonable grounds to believe that the applicant did not have a good record of compliance with the alcoholic liquor laws of this state and the rules of the Commission when previously licensed. The Public Safety Program proposes that the Commission refuse to renew your license for the following adjudicated and pending violations which demonstrate that the applicant does not have a good record of compliance:

#### **Adjudicated Violations**

Between August 25, 2004 and September 1, 2004 at Cabaret Lounge, David Kiraz operated his business other than as the license permitted when he allowed George Kiraz to participate in the operation and management of the business and/or to be on the licensed premises. The license contained a restriction which stated, "George Kiraz may not participate in the operation or management of the business and may not be on the licensed premises." This is a violation of 471.405(1). (Paid \$4,785.00 on June 6, 2005)

On December 29, 2005 at Cabaret Lounge, Licensee's employee Ivy Ayres failed to verify the age of Christina Lofton before allowing her to buy or be served an alcoholic beverage when she reasonably appeared to be under 26 years of age. This is a violation of OAR 845-006-0335(1)(a)(b)(c). (Purchased age verification equipment January 30, 2006 in lieu of a sanction)

On March 13, 2008 at Cabaret Lounge, Licensee permitted disorderly activities on the licensed premises or in areas the Licensee controls that are adjacent to or outside the premises when Licensee's employee Keith Radley harassed and threatened persons outside the premises. This is a violation of OAR 845-006-0347(2)(a). (Pending judicial review)

On May 13, 2008 at Cabaret Lounge, Licensee permitted Randy Christenson to mix, sell, or serve alcoholic beverages, or supervise those who do, without a valid service permit issued by the Commission. This is a violation of ORS 471.360(1)(b). (Pending judicial review)

On about August 22, 2008 at Cabaret Lounge, Licensee permitted unlawful activity when servant, agent, employee, or representative Lauren Olenic and patron Victor Castillo engaged in prostitution on the licensed premises in violation of ORS 167.007. This unlawful activity is a violation of OAR 845-006-0347(3). (Pending judicial review)

From about May 21, 2008 to about August 22, 2008 at Cabaret Lounge, Licensee permitted unlawful activity on the licensed premises when employee Brandon Lorenz

## **CABARET LOUNGE (F-COM)**

February 14, 2011

Page 9

provided private security services as a private security professional at Cabaret Lounge without being certified to do so under ORS 181.878 in violation of ORS 181.991(1)(b). This is a violation of OAR 845-006-0347(3). (Pending judicial review)

From about September 18, 2008 to about January 1, 2009 at Cabaret Lounge, Licensee permitted employee Lesley D. Johnson to mix, sell, or serve alcoholic beverages, or supervise those who do, without a valid service permit issued by the Commission. This is a violation of ORS 471.360(1)(b). (Pending judicial review)

On April 8, 2009 at Cabaret II, Licensee's employee Holly Dacorsi failed to verify the age of Joshua Ries before allowing him to buy or be served an alcoholic beverage when he reasonably appeared to be under 26 years of age. This is a violation of OAR 845-006-0335(1)(a)(b)(c). (Paid \$990.00 on June 30, 2009)

### **Pending Violations**

There is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises or involving patrons of the establishment in the immediate vicinity of the premises. This is a violation of ORS 471.315(1)(c). The violation as alleged under section I, entitled "License Cancellation," is incorporated into this section by reference.

### **B. History of Serious and Persistent Problems**

Pursuant to ORS 471.313(5), the Commission may refuse to license any applicant if it has reason to believe that there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises or involving patrons of the establishment in the immediate vicinity of the premises. The Public Safety Program proposes that the Commission refuse to renew Licensee's license for the problems described in the violation of this Notice, which constitute a history of serious and persistent problems. The history of serious and persistent problems as alleged under section I, entitled "License Cancellation," is incorporated into this section by reference.

### **RESPONSIBILITY FOR VIOLATIONS**

"Licensee" is defined as including any person or entity whose membership or investment interest is ten percent or more of the total membership or investment interest of a limited liability company (OAR 845-006-0301). Therefore, the licensee includes David Kiraz, Managing Member of DK Entertainment, LLC. Additionally, DK Entertainment, LLC is responsible for the acts and omissions of its employees and representatives in violation of any law affecting license privileges (OAR 845-006-0362).

### **HEARINGS RIGHTS**

## **CABARET LOUNGE (F-COM)**

February 14, 2011

Page 10

You have the right to a hearing to dispute the charge, the proposed cancellation, or the proposed refusal to renew license. If you want a hearing, please sign and date the enclosed form and return it to the address listed on the form by April 15, 2011. Legal aid organizations may be able to assist a party with limited financial resources. Individuals may be represented by an attorney. **Per OAR 137-003-0550, limited liability companies must be represented by an attorney.**

Hearings are conducted by the Office of Administrative Hearings under the jurisdiction of the Oregon Liquor Control Commission, according to the Administrative Procedures Act (ORS Chapter 183), Attorney General's Rules for the Office of Administrative Hearings (OAR Chapter 137) and Commission Administrative Rules (OAR Chapter 845 Division 03).

If you do not request a hearing within the time specified above, you will have waived the right to a contested case hearing. If you do not request a hearing or if you request a hearing and then withdraw your request, a final order by default will be issued by the Commission Administrator. If you fail to appear at a scheduled hearing, a final order by default will be issued by either the Administrative Law Judge or the Commission Administrator, as authorized by OAR 845-003-0670.

In each of these instances, the Commission will designate its file or files in this matter, including all materials you have submitted, as part or all of the record supporting its final order by default.

Once a final order by default is issued, your license renewal application will be refused and your license will be cancelled. If the stay of the license cancellation issued October 28, 2009 is no longer in effect and the license is canceled for the prior violations, the Letter of Reprimand becomes final once a final order by default is issued.

OREGON LIQUOR CONTROL COMMISSION

Stephen A. Pharo  
Executive Director

SAP:BV

If you have any questions, please call 503-872-5128 or 800-452-6522, extension 5128

## CERTIFICATE OF SERVICE

I certify that on February 14, 2011, I served the attached Notice of Proposed License Cancellation and Proposed Refusal to Renew License by certified mail, in a sealed envelope, with first class postage prepaid and by regular mail, in a sealed envelope, with first class postage prepaid, addressed as follows:

DK Entertainment, LLC  
David Kiraz, Managing Member  
dba **CABARET LOUNGE**  
4635 NE 34th Avenue  
Portland, OR 97211

On the same date I also served Licensee's attorney by certified mail, in a sealed envelope, with first class postage prepaid, addressed as follows:

Duke Tufty  
Davis Wright Tremaine LLP  
1300 SW 5th Avenue #2300  
Portland, OR 97201

On the same date I also served Licensee's registered agent by regular mail, in a sealed envelope, with first class postage prepaid, addressed as follows:

DK Entertainment, LLC  
c/o Brett Hall, **Registered Agent**  
101 SW Naun Street Suite 950  
Portland, OR 97204

---

Karen Maia  
Administrative Specialist  
Administrative Policy & Process Division  
OREGON LIQUOR CONTROL COMMISSION