APPENDIX D

The Licensing Unit
Floor 3
160 Tooley Street
London
SE1 2QH

Metropolitan Police Service
Licensing Office
Southwark Police Station,
323 Borough High Street,
LONDON,
SE1 1JL

Tel: 020 7232 6756
Email: SouthwarkLicensing@met.police.uk

Our reference: **MD/21/ 2690/15**

Date: **28th August 2015**

Re:- Banana's Bar 374 Walworth Road SE17

Dear Sir/Madam

In consideration of the new proposals by Messrs Rodrigues for the Pazzia Restaurant 374 Walworth Road.

The conditions and hours proposed would indicate that this would be a restaurant based venue with little in the way of vertical drinking, and conditioned so food is served ancillary to a substantial table meal. I am now aware that this proposed change of use would be in breach of the current lease held by Messrs Rodgrigues and therefore would not appear to be a viable business proposal.

It however still remains the position of the Metropolitan Police that Mr Messrs Rodrigues are not suitable persons to hold a Premises licence on Southwark Borough.

The issues identified throughout the review process indicate that the problem was with the management of the premises and their disregard for the promotion of the licensing objectives.

During the appeal hearing there were admissions made my Mr Candido Rodrigues that there were failings made by management and staff at the premises, and that he wished to change the entire operation to a restaurant based business.

I am of the opinion that there is sufficient evidence to support the revocation of the premises licence. I am minded to ask the licensing sub committee to refuse the proposals made by Messrs Rodrigues brothers on the grounds that I have no faith in them as premises licence holders, and no faith that they would operate the premises within the conditions or hours they have proposed. The proposal would also appear to be in breach of the current lease for the premises.

In support of my no faith submissions I refer to the attached statement **IJC1**, the attached CCTV **IJC2** and a copy of crime report 3010653/13 **IJC3**

Mr Candido Rodrigues has on a number of occasions made reference to his family and work colleagues as a reason for late opening and breach of his premises licence conditions.

On the 13th April 2013 a serious GBH occurred outside the Banana's Bar, during the investigation Mr Rodrigues was spoken to by Police to try and establish the identity of the suspects. The following is a direct lift from the crime report.

No further witnesses have been found in relation to this. When attending the venue to secure CCTV the owner stated he didn't know anyone who had seen it but they did know the victim but neither suspect. I also spoke to the manager who provided the cctv and he stated no one had seen what had happened

In point **9** of the statement provided to Camberwell Green Magistrates court in support of the appeal against the revocation of the premises licence **(IJC4)** Mr Candido Rodrigues makes reference to the late opening allegations and states that only staff, work colleagues and family remain on the premises after 03:00.

If this is to be believed then why is that Mr Rodrigues was unable to identify the suspects for the above mentioned GBH .

In point **25** of the Statement made by Messrs Rodrigues it refers to the above alleged GBH. The statement clearly states that they were not aware of this incident at the time and that they dispute being open at the time of the incident.

In my attached statement **IJC1** and CCTV **IJC2** you will see that this is simply not true. The premises was open, it is highly likely that persons other than family, friends or staff were in the premises at the time of the incident.
Mr Candido Rodrigues was fully aware of this incident and it is highly likely he was witness to a serious assault or could have been in position to assist the Police enquiry further.

It is for these reasons I maintain the position of no faith. Messrs Rodrigues in my opinion supported by the evidence already submitted to the licensing sub committee are not suitable persons to hold a premises licence.

Respectfully subitted for consideration.

Ian Clements
Licensing Officer Southwark Borough
☎ Phone: 0207 232 6756
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323 Borough High Street
SE1 2ER

WITNESS STATEMENT

CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

Statement of **Ian Clements PC 362 MD**..... URN: | | | | |

Age if under 18 **Over 18**..... (if over 18 insert 'over 18') Occupation: **Police Officer 193760**.....

This statement (consisting of: ....**2**..... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature: ..... Date: .....

Tick if witness evidence is visually recorded ☐ *(supply witness details on rear)*

I am Police Constable Ian Clements; I have been a Police officer for over 22 years and am currently posted as the Police Licensing officer for Southwark Borough. I have been in post for nearly six years and have specific responsibility for all matters relating to licensed premises

On Wednesday the 3rd June 2015 whilst on duty at Southwark Police station I viewed a CCTV recording taken from the Banana's Bar 374 Walworth Road SE17.

The recoding relates to an incident that occurred outside of the Banana's Bar on the 13th April 2013 at approximately 05:30.

This incident was provided as evidence to support the review of the premises licence for the Banana's Bar on the 25/09/2013

At the time of the premises licence review I was unaware that this CCTV was available and therefore relied on evidence contained within the crime report relating to this incident. A copy of the crime report was submitted at the time of the review hearing.

Following the revocation of the premises licence there has been an ongoing appeal by the premises licence holders Mr Abilio Rodrigues and Mr Candido Rodrigues.

On the 14th February 2015 I received a copy of the witness statements from Abilio and Candido Rodrigues. Point 25 of this statement relates to the incident on the 13th April 2013. I note the appellants stated that they were not aware of this incident at the time and go on to challenge my submissions by stating that the premises were not open at the time stated.

I have viewed the CCTV from this incident and for ease of reference am using the time as displayed on the CCTV recording, please not that the recording is approximately 30 minuets behind throughout.

At 04:25:51 the victim arrives and parks his vehicle in the side road next to the venue, he is seen to exit the vehicle with two unknown females. He is then seen to what appears to be urinate against a parked vehicle.

At 04:28:52 the victim and the two unknown females enter the venue and go out of sight.

At 05:05:05 the victim comes out of the venue via the entrance on the Walworth Road and goes to his car shortly followed by the suspects who approach the victim at the rear of his vehicle. At 05:05:11 you can see Mr Candido Rodrigues exit the venue and look down the road in the direction of the victim and the suspects before returning back inside. The suspects then and begin to assault the victim punching him to the ground then kicking him several times. The victim is then seen to get up from the floor and run away.

At 05:06:02 the suspects are seen to run after the victim down the Walworth Road. At this point at 05:06:11 I believe Mr Candido Rodrigues can be seen to exit the venue look briefly in the direction of the suspects before returning inside again.

Signature: ..... Signature witnessed by: .....

Continuation of Statement of **Ian Clements PC 362 MD** .....

Between 05:24and 05:31 the victim can be seen talking to two males outside the venue next to the victims car, I believe these two males to be Mr Candido Rodrigues and the manager of the venue Mr Garcia

This evidence would appear to contradict the evidence provided at point 25 of the witness statement of Mr Candido and Abilio Rodrigues.

This statement is submitted in support of the decision made by the licensing sub committee to revoke the premises licence for Banana's Bar 374 Walworth Road SE17.

Signature: ..... Signature witnessed by: .....

Witness contact details

Home address: .....

..... Postcode: .....

Home telephone number ..... Work telephone number .....

Mobile/pager number ..... Email address: .....

Preferred means of contact: .....

Male / ~~Female~~ (delete as applicable) Date and place of birth: .....

Former name: ..... Ethnicity Code (16+1): ..... Religion/belief: .....

Dates of witness non-availability .....

.....

Witness care

a) Is the witness willing and likely to attend court? **No**. If 'No', include reason(s) on **MG6.**

b) What can be done to ensure attendance?

c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? **No**. If 'Yes' submit **MG2** with file.

d) Does the witness have any specific care needs? **No**. If 'Yes' what are they? (Disability, healthcare, childcare, transport, , language difficulties, visually impaired, restricted mobility or other concerns?)

Witness Consent (for witness completion)

a)	The criminal justice process and Victim Personal Statement scheme (victims only) has been explained to me	Yes ☐	No ☐			
b)	I have been given the Victim Personal Statement leaflet	Yes ☐	No ☐			
c)	I have been given the leaflet 'Giving a witness statement to police — what happens next?'	Yes ☐	No ☐			
d)	I consent to police having access to my medical record(s) in relation to this matter: (obtained in accordance with local practice)	Yes ☐	No ☐	N/A ☐		
e)	I consent to my medical record in relation to this matter being disclosed to the defence:	Yes ☐	No ☐	N/A ☐		
f)	I consent to the statement being disclosed for the purposes of civil proceedings e.g. child care proceedings, CICA	Yes ☐	No ☐			
g)	The information recorded above will be disclosed to the Witness Service so they can offer help and support, unless you ask them not to. Tick this box to decline their services:		☐			

Signature of witness: ..... Print name: .....

Signature of parent/guardian/appropriate adult: ..... Print name: ....

Address and telephone number if different from above: .....

Statement taken by (print name): **193760 Ian Clements** ..... Station: **Southwark** .....

Time and place statement taken: .....

IN THE CAMBERWELL GREEN MAGISTRATES' COURT

APPEAL UNDER S.181 & PARAGRAPH 2 OF SCHEDULE 5 OF THE LICENSING ACT 2003 AGAINST A DECISION BY THE LICENSING SUB-COMMITTEE OF SOUTHWARK COUNCIL ON 1st OCTOBER 2013 AND 25th SEPTEMBER 2014
relating to the premises known as Banana's Bar, 374 Woolworth Road, London SE17 2NF

BETWEEN:

CANDIDO RODRIGUES & ABILIO RODRIGUES
(t/a Banana's Bar, 374 Woolworth Road, London SE17 2NF)

Appellant

and

SOUTHWARK COUNCIL
(The Licensing Authority)

Respondent

INDEX TO APPELLANT'S BUNDLE

Dadds LLP

Court Administration Office
Camberwell Green Magistrates Court
15 D'Eynsford Road
Camberwell Green
London, SE5 7UP
SPECIAL DELIVERY

Our Ref: dd/lb/ROD1-1

Your Ref:

14th October 2014

gl-southgroupmcenq@hmcts.gsi.gov.uk

Dear Sirs,

Re: Appeal against the decision of Southwark Council to review and revoke a premises licence of Candido Pereira Rodrigues and Abilio Pereira Rodrigues in respect of the premises known as Banana's Bar, 374 Walworth Road, London, SE17 2NF

Will you please note that we act on behalf of (1) the Premise Licence Holder, (2) Mr Candido Pereira Rodrigues and (3) Mr Abilio Pereira Rodrigues who desire to appeal against the decision of Southwark Council licensing sub-committee made on the 25th September 2014 to revoke the premises licence in respect of the premises known as Banana's Bar, 374 Walworth Road, London, SE17 2NF.

And take further note that the grounds of such appeal are as follows:-

a) the decision was made against the weight of evidence adduced at the hearing, and
b) it is in the public interest that the Premises Licence is not revoked, and
c) such further grounds as may be raised upon the hearing of the appeal

We have the pleasure in enclosing herewith one copy of the decision letter and our remittance in the sum of £410 made payable to HMCTS being the appeal fee. Would you please kindly treat this letter as by way of complaint for the issue of a summons in respect of this appeal.

Should you require any further information please do not hesitate to contact us. This matter is being dealt with by our Mr David Dadds.

Yours faithfully

Dadds

DADDS LLP

Enclosures: Decision letter
Application fee of £410

Dadds Solicitors

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IN THE CAMBERWELL GREEN MAGISTRATES' COURT

APPEAL UNDER S.181 & PARAGRAPH 2 OF SCHEDULE 5 OF THE LICENSING ACT 2003 AGAINST A DECISION BY THE LICENSING SUB-COMMITTEE OF SOUTHWARK COUNCIL ON 1st OCTOBER 2013 AND 25th SEPTEMBER 2014 relating to the premises known as Banana's Bar, 374 Woolworth Road, London SE17 2NF

BETWEEN:

CANDIDO RODRIGUES & ABILIO RODRIGUES
(t/a Banana's Bar, 374 Woolworth Road, London SE17 2NF)

Appellant

and

SOUTHWARK COUNCIL
(The Licensing Authority)

Respondent

WITNESS STATEMENT
CANDIDO RODRIGUES

I, Candido Pereira Rodrigues o[redacted] will say as follows:

1. I am over eighteen years of age.

2. I, along with my brother, Abilio Pereira Rodrigues, are the Premises Licence Holder of Banana's Bar, 374 Woolworth Road, London SE17 2NF ("the

premises").

3. The Designated Premises Supervisor of the premises is Dinis Fereira Baptista who is a full time member of staff.

4. I have been in the licence retail business for the last 25 years; around 7 of those years at Banana's Bar.

5. I am also the Premises Licence Holder for a restaurant called Pazzia Restaurant and Piano Bar at London Road, Sunninghill, Berks SL5 0PN. I have had this restaurant for 14 years and whilst I have held this licence it has never been called for review. Pazzia is open until 01:00 Monday to Saturday and 23:00 hours on a Sunday

6. The Premises Licence for Banana's Bar authorises the premises to open Sunday to Thursday 09:00 to 01:30 and Friday and Saturday 09:00 until 03:00 hours the following day. The sale of alcohol is permitted Sunday to Thursday 09:00 until 01:00 hours and Friday and Saturday 09:00 until 02:30 hours the following day. Other licensable activities of performance of live music, playing of recorded music, performance of dance and entertainment of a similar description is permitted Sunday to Thursday 11:00 until midnight and Friday and Saturday from 11:00 until 02:30 hours the following day. Late night refreshments Monday to Thursday 23:00 to midnight and Friday and Saturday 23:00 to 02:30, Sunday 23:00 to 01:00.

7. On 1st August 2013 review proceedings were initiated by the Metropolitan Police on the basis of Prevention of Crime and Disorder and Public Safety. Following this, the licensing sub-committee determined to revoke the licence on 1st October 2013. Further on 27th August 2014 summary review proceedings were heard before the Southwark Council Licensing Sub-Committee who determined to suspend the Premises Licence. On 25th September 2014 the licensing sub-committee, after hearing the full review decided to revoke the

premises licence. Both of these decisions form the basis of this appeal.

8. Firstly, I would like to state that between 2011 and 2013 Banana's Bar has been visited by licensing authority on 52 occasions, 27 of which were in 2011, 9 in 2012 and 16 in 2013. The Licensing Authority state during this time, there have been many breaches of our licensing conditions but it is prudent to note that no review proceedings were initiated until 1st August 2013. I honestly and truly believe that the review proceedings were only initiated because at this point in time I became frustrated with the licensing authority for carrying out constant harassing visits and as a result, I stopped cooperating with them which led to my arrest in July 2013 under S179 Licensing Act 2003 for which I have been prosecuted and was found "not guilty".

9. Turning to the licensing visits in 2011-2013 the majority of these are allegations of the premises being open and operating beyond its permitted hours and breaches of conditions. I dispute that at any time, have the premises operated beyond their permitted hours. I have a large family of 7 brothers and 2 sisters and also have business partners, for security staff, 7-8 bar staff, 2 kitchen staff and 1 cloakroom staff. After trading on a busy Friday or Saturday night we sometimes have staff/family and their partners join us for a drink after we have finished working. This alone can amount to 30-40 people but we are not selling alcohol or playing loud music, this is personal recreation time after a busy night, where we simply unwind with a drink before going home. Members of the public do not remain on the premises after 03:00 hours all the people that remain are known to me.

10. In relation to visits on the 26th April 2013, the 5th May 2013, the 18th may 2103, 29th June 2013, 20th July 2013 and the 21st July 2013 I have been prosecuted for carrying on a licensable activity otherwise than under and in accordance with an authorisation issued under the Licensing Act 2003 contrary to section 136 of the Licensing Act 2003. With regards to allowing the sale and/or supply of alcohol I was found not guilty in relation to each of these dates and in relation

to regulated entertainment although I was found guilty for 2 dates namely the 18th May 2013 and the 29th June 2013 I was found not guilty in relation to the other dates. For these 2 convictions my brother and I were each fined £250 for each offence. With regard to these 2 dates I still maintain that the public were not permitted on the premises after 03:00 hours.

11. More specifically with regard to the 26th April 2013 I was prosecuted of failing to comply with conditions 100, 290, 289 and 845 on the Premises Licence 837380 but I was only found guilty in relation to one of these matters namely condition 289 but only to the extent that CCTV footage was not available for the full period of 31 days as contained in this condition. For this offence my brother and I received no separate penalty. The problem had arisen because we installed a further 3 cameras and did not realise that in doing so that this decreased the duration of the recording time. This problem was rectified within 2 days of us realising that there was a problem and all CCTV footage is kept for 31 days.

12. With regard to the allegations of no Designated Premises Supervisor being at the premises, I would like to state that the Designated Premises Supervisor is employed full time, 45 hours a week and always works a Friday and Saturday evening.

13. With regard to 2012, during the 10 visits recorded by the licensing officer, there was nothing to report in relation to the running of the Banana Bar. Matters of note that occurred on 24th February 2012 show compliance in relation to the DIP test for the bottle of Smirnoff Vodka and Gordon's Gin and a member of door staff confirming that nobody had been permitted to copy his badge or use his badge or registered details.

14. Regarding the visit that was made on New Years Eve 2013 the door staff are contracted via a SIA registered company called Unique Frontline Protection Limited. They are contracted on the basis that they provide their own

equipment, for example, search wands. I was not aware that they did not have them with them on this day and cannot explain how this happened. The ones that were retrieved from behind the bar were search wands that were left over from when I employed door staff directly before I was advised by the council to contract staff via a registered company.

15. From January 2014 I decided to cease using the premises as a venue for friends and family to meet after work and as such there have been no allegations of breach of licensing conditions since this time.

16. Turning to crime and disorder. There were 2 alleged crimes during 2014. The last one on the 24th August 2014 occurred whilst I was on holiday in Portugal. I had left the premises in what I thought to be the capable hands of my manager Mr Lourenco. Although during this time we did not usually open on Sunday nights he decided to open on this night as it was preceding the bank holiday Monday but he did this without my knowledge.

17. Mr Lourenco did telephone me whilst I was on holiday to inform me of what had happened and informed me that the altercation had happened within seconds. It is alleged that the premises did not call the police but a member of bar staff called the police using own mobile. This member of staff spoke to me when I returned from holiday and informed me that she had called the police. I believe that this point was accepted by the Council at the last review hearing as the telephone number was provided to check against the call records.

18. It is further alleged that the staff cleaned blood and glass prior to the police arrival however I have viewed the footage of this incident and can clearly see 4 police officers were present whilst the staff were cleaning and therefore they could have advised the staff to stop if they had wanted to preserve the scene and or evidence. I am not sure what the problem was in relation to downloading the CCTV as Mr Lourenco knew how to do this and the police were able to view it in any event.

19. Turning to the other incident on the 18th January 2014. I am not sure what started this incident but somebody was assaulted following an argument. I did not call the police as I heard one of our customers on the telephone to the police and requesting an ambulance and therefore did not think that I also needed to make a call. I cannot comment on what if anything the bouncers said. I would not have given any instruction for them not to call the police or say anything like this but clearly cannot say one way or another what a bouncer may or may not have said.

20. The perpetrator of this incident was ejected to prevent any further trouble and I understand that he was arrested by the police in the street where they found a screwdriver in his possession. I do not believe that the screwdriver was on him when he was in the premises as he would have been searched upon entering the premises and it is more likely that he picked this up when he had been ejected.

21. Turning to alleged crime in 2013. With regard to the alleged assault on the 7th September 2013. I was aware of these 2 men being ejected from the premises and they were arguing about retrieving their jumpers/jackets first. They did not have their cloakroom ticket and so I informed them that if they left their telephone number I would contact them at the end of the evening if there were any unclaimed items at the end of the evening. When they left the premises neither of the males had any injuries on them.

22. On the 1st September 2013 I was showing the licensing officer around, I apologised for the incident and asked whether she was okay and needed any assistance to which she replied that she was alright following which she left with the police.

23. I cannot give any explanation with regard to the incident on the 1st August 2013 as this was 05:30 -06:00 in the morning by which time the premises was closed and we had left the building.

24. The incident on the 16th June 2013 occurs at around 04:51 hours it is alleged that people re-enter the premises however at this time we were closed and this must therefore be a mistake.

25. The incident alleged to have taken place on the 13th April 2013 was reported in Croydon at 09:30am. This is an incident along Walworth Road and the only connection is that the suspect says he was in Banana's Bar beforehand. There is therefore nothing I can say in relation to this as the incident was not inside the premises and I was not aware of it occurring at the time. Further the witness statement of Ian Clements refers to the investigation showing the victim entering the premises at approximately 05:00 hours and leaving being chased at 05:40 hours. I dispute that we were open at this time and the CRIS does not support this version of events rather referring to the victim leaving the venue to go to the cashpoint and turns left along Walworth road and at some point is followed by the suspect.

26. On the 27th March 2013 it is alleged that after a fight outside and people went inside. I have no recollection of this incident and at 07:30 hours we would have been closed so am not sure how it can be alleged that people entered the premises.

27. With regard to the matter on the 17th February 2013 we refused entry to 4 males and as a result they attempted to assault the door staff. We called the police and as such did everything correctly so I am not sure why this should now be used against us.

28. With regard to the police visits in 2012, this is now some time ago however I can say generally that on 21st July 2012 there was an allegation of a theft of a mobile phone but this was down to somebody leaving their phone unattended. On 22nd July 2012 there was an allegation of a sexual assault where no further action was taken as the alleged victim did not give evidence or a statement to

the police and was known to have been aggrieved by a recent price increase and had been complaining. With regard to the alleged assaults, alleged underage sale, on 5th August 2012, the police CAD says "no offences" and this came about by way of us refusing entry to underage neighbours. On 22nd September 2012 we called the police to report 6 youths with no id trying to force their way in. Incidents of us calling the police to assist in these types of matters should not, as a result, be then used against us.

29. Going forward with Banana's Bar I am quite content to make a variation to the premises licence to reduce the hours on a Friday and Saturday night so that they are consistent with the rest of the week thereby closing at 01:30 Monday to Sunday. We have traded under these hours before without any issue and I believe that this evidence by the fact that our hours were increase on a Friday and Saturday night in June 2010. If there had been any concerns then I do not believe that we would have been permitted to increase our hours in this way.

30. I will also employ a new DPS and set up a fresh contract with a new door company so as to effectively open as a new business. As previously stated I have run Pazzia which is a restaurant for a number of years without any issue and believe that Banana's Bar can be managed in the same way going forward.

I believe that the facts stated in this witness statement are true

[redacted]

Candido Rodrigues, dated 12th February 2015