

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

RECEIVED
28 JAN 2010

I The Commissioner of the Metropolis (represented by Paul Compton PC294MD Southwark Borough Police Licensing Officer.)

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description

HYPNOTIC
75-79 Norwood Road

Post town London

Post code (if known) SE24 9AA

Name of premises licence holder or club holding club premises certificate (if known)

Mr Lincoln Smith & Mr Satchell Thompson-Smith

Number of premises licence or club premises certificate (if known)

829065

Part 2 - Applicant details

I am

Please tick yes

1) an interested party (please complete (A) or (B) below)

- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises
- d) a body representing persons involved in business in the vicinity of the premises

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Comissioner Metropolitan Police Paul Compton PC294MD & Ian Clements PC362MD Southwark Borough Police Licensing Officer 12/28 Manor Place Walworth London SE17 3RL
Telephone number (if any) 0207 232 6210
E-mail address (optional) paul.compton@met.police.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

1) The Prevention of Crime & Disorder.

Police have collated evidence that customers using the premises openly use controlled drugs without any intervention by the club management and this also includes usage by members of staff.

2) Public Safety.

Police have serious concerns over the laissez-faire attitude to the implementation of the stringent search procedures which pertain to the Premises Licence, which has resulted in illegal controlled drugs being taken into the premises and has hindered the investigation of a serious criminal offence on a minor.

3) Protection of Children From Harm.

Police are investigating an offence of Kidnap of a 16 year old female from the premises and the lack of use of the electronic identification entry system, which is a condition on the Premises Licence, has resulted in the details of potential witnesses and/or suspect were unavailable to that investigation.

Please provide as much information as possible to support the application
(please read guidance note 2)

1) Prevention of Crime & Disorder:

As the result of a complaint received from the mother of a 16 year old female, concerning under age persons gaining access to the premises, Police conducted a number of covert licensing visits which revealed that the premises are not adhering too or operating the stringent security search procedures that were placed on the Premises Licence as the direct result of a previous Premises Licence review in 2008 after serious incidents of crime & disorder involving firearms, knives and drugs.

The covert visits have revealed that the open use of controlled drugs are permitted in the main public areas of the premises and this includes useage by staff whilst on duty. The visits also reveal that the electronic identification entry system is not being used and the details of potential witnessess and/or suspects are not available to assist an investigation. The verification and recording of the details of all that enter the premises would deter an individual from committing an offence as they could always be identified and traced.

2) Public Safety.

Police have serious concerns over the laissez-faire attitude of the club management to the implementation of the stringent search procedures which results in controlled drugs being taken into the premises. Covert visits by Police, along with a statement obtained from the 16 year old victim of a serious crime, reveal that habitually the electronic identification entry system is not used or indeed was not available for use for an extended period and this resulted in Police issuing a Closure Notice under Sec. 19 the Criminal Justice & Police Act 2001 on 13th November 2009. Police are currently investigating the serious offence of kidnap of a 16 year old female from the premises at 02.00am and the investigation has been hindered by the lack of use of the electronic identification entry system as a full list of potential witnessess and/or suspect was not available.

3) Protection of Children from Harm:

As stated above, Police are currently investigating the serious offence of kidnap from the premises. On 31st October 2009 the 16 year old victim attended the club with her 16 year old friend and gained entry without any age checks being conducted. Alcoholic drinks were supplied, again without any age checks being conducted and subsequently a male abducted the young victim as they both left the premises. Thankfully the young victim managed to break free from the suspect whilst close to the premises. The premises was not using the electronic identification entry system and therefore potential witnessess and details of the suspect were not available to the investigation.

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year
1 1 0 3 2 0 0 8

If you have made representations before relating to this premises please state what they were and when you made them

Police previously submitted a expedited review application on 11th March 2008 as the premises had been associated with serious crime and disorder in form of gun-enabled crime, violence and drugs, over an extended period.

Police had executed of a search warrant issued under the Misuse of Drugs Act 1971 on 8th March 2008 involving over 100 Police Officers, where serious crime were discovered and a number of serious breaches in the Premises Licence giving rise to concern over public safety were identified.

Found during the search were a self-loading 9mm pistol & ammunition, four lock knives and a significant amount of illegal controlled drugs.

Significant breaches in the Premises Licence were also identified: The capacity limit was set at 100 persons, however 276 customers were found inside the premises. Despite having signage stating "Over 21's Only" the premises contained the following:

One Hundred and Twelve under 21
Twenty-Three age 20
Twenty-eight age 19
Twenty-five age 18
Twelve age 17
Fifteen age 16
Eight age 15
One age 14

A Police Superintendent considered the level of crime associated with the premises was so serious that the only option was to issue an expedited review of the premises under Section 53A Licensing Act 2003

Please tick yes


- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date 29th January 2010

Capacity Police Licensing Officer.

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5) As in Section C on page 3 of application.

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

Your reference: .



RECEIVED
28 JAN 2010

Our reference: MD/21/2010

Date: 29th January 2010

The Licensing Unit
The Chaplin Centre
Thurlow Street
London
SE17 2DG

Metropolitan Police Service
Licensing Office
Walworth Police Station,
12-28 Manor Place,
LONDON,
SE17 3RL

Tel: 020 -7232 – 6210 Fax6282

Re: Review of Premises Licence under Section 51 Licensing Act 2003.

HYPNOTIC 75-79 NORWOOD ROAD LONDON SE22 9AA

Dear Sir/Madam

The Metropolitan Police, as a Responsible Authority under the Licensing Act 2003, hereby give notice that we are applying for a review of the Premises Licence currently held by the above premises under Section 51 Licensing Act 2003.

Enclosed are the Review Application Forms detailing the reasons behind the application. Police are in the process of obtaining a number of statements and these will be served to all concerned parties in due course.

Please do not hesitate to contact me at the address shown above if you have any questions in respect of this application.

Please note that I will be unavailable between 2nd & 19th April 2010.

Paul Compton PC294MD
Licensing Officer (Southwark North)

Working for a safer Southwark

 Phone: 0207 232 6210
 Mobile: 07990901483
 Fax: 0207 232 6282
 E-mail: paul.compton@met.police.uk
 Mail: Licensing Office, Walworth Police Station,
12/28 Manor Place Walworth London
SE17 3RL

Your reference: .



Our reference: MD/2009

Date: 5th October 2009

Mr Lincoln Smith
Hypnotic
74/79 Norwood Road
London
SE24 9AA

Metropolitan Police Service
Licensing Office
Walworth Police Station,
12-28 Manor Place,
LONDON,
SE17 3RL

Tel: 020 -7232 – 6210 Fax6282

Re; Hypnotic 75-79 Norwood Road SE24 9AA

Dear Mr Lincoln Smith

I wrote to you and your business partners in a letter dated 21st September 2009 highlighting the concerns of Police at how Hypnotic Club was been operated and suggested what actions would need to be taken to address those concerns. However it would appear from subsequent visits that the advice of Police has not been acted upon.

On Sunday 4th October 2009 I made a series of visits to your premises between 00.00hrs and 04.00am, speaking to door staff and to Mr Satchel Thompson Smith. Regrettably I discovered that the premises were operating other than in accordance with the current Premises' Licence in the following areas:

- The electronic identification entry system was not being used and not in working order in contravention of Condition 842.
- Customers were being granted entry to the premises at 03.30am in contravention of condition 375.
- Licensable Activities (Recorded Music) was being provided at 03.40am when the Premises Licence stipulates that the terminal hour is 03.30am

Should the premises continue to operate other than in accordance with the Premises Licence, consideration would be given to using powers requiring the premises to close, as afforded under the Licensing Act 2003 & Criminal Justice & Police Act 2001. It is vital for well-run premises to adhere to the conditions listed on the Premises Licence and the responsibility lies with the Designated Premises Supervisor and the Premises Licence holder to ensure compliance.

If you require further information then please contact me at the number shown above.

Paul Compton PC294MD
Licensing Officer (Southwark North)

 Phone: 0207 232 6210

 Mobile: 07595011458

 Fax: 0207 232 6282

 E-mail: paul.compton@met.police.uk

 Mail: Licensing Office, Walworth Police Station,
12/28 Manor Place Walworth London
SE17 3RL

Your reference:



Our reference: MD/2009

Date: 5th October 2009

Mr Satchel Thompson-Smith
Hypnotic
74/79 Norwood Road
London
SE24 9AA

Metropolitan Police Service
Licensing Office
Walworth Police Station,
12-28 Manor Place,
LONDON,
SE17 3RL

Tel: 020 -7232 – 6210 Fax6282

Re; Hypnotic 75-79 Norwood Road SE24 9AA

Dear Mr Satchel Thompson-Smith

I wrote to you and your business partners in a letter dated 21st September 2009 highlighting the concerns of Police at how Hypnotic Club was been operated and suggested what actions would need to be taken to address those concerns. However it would appear from subsequent visits that the advice of Police has not been acted upon.

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If you require further information then please contact me at the number shown above.

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Licensing Officer (Southwark North)

 Phone: 0207 232 6210

 Mobile: 07595011458

 Fax: 0207 232 6282

 E-mail: paul.compton@met.police.uk

 Mail: Licensing Office, Walworth Police Station,
12/28 Manor Place Walworth London
SE17 3RL

Your reference:



Our reference: MD/2009

Date: 5th October 2009

Ms J M Thomas
Hypnotic
74/79 Norwood Road
London
SE24 9AA

Metropolitan Police Service
Licensing Office
Walworth Police Station,
12-28 Manor Place,
LONDON,
SE17 3RL

Tel: 020 -7232 – 6210 Fax6282

Re; Hypnotic 75-79 Norwood Road SE24 9AA

Dear Ms Thomas

I wrote to you and your business partners in a letter dated 21st September 2009 highlighting the concerns of Police at how Hypnotic Club was been operated and suggested what actions would need to be taken to address those concerns. However it would appear from subsequent visits that the advice of Police has not been acted upon.

On Sunday 4th October 2009 I made a series of visits to your premises between 00.00hrs and 04.00am, speaking to door staff and to Mr Satchel Thompson Smith. Regrettably I discovered that the premises were operating other than in accordance with the current Premises' Licence in the following areas:

- The electronic identification entry system was not being used and not in working order in contravention of Condition 842.
- Customers were being granted entry to the premises at 03.30am in contravention of condition 375.
- Licensable Activities (Recorded Music) was being provided at 03.40am when the Premises Licence stipulates that the terminal hour is 03.30am

Should the premises continue to operate other than in accordance with the Premises Licence, consideration would be given to using powers requiring the premises to close, as afforded under the Licensing Act 2003 & Criminal Justice & Police Act 2001. It is vital for well-run premises to adhere to the conditions listed on the Premises Licence and the responsibility lies with the Designated Premises Supervisor and the Premises Licence holder to ensure compliance.

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 Mail: Licensing Office, Walworth Police Station,
12/28 Manor Place Walworth London
SE17 3RL

Your reference:



Our reference: MD/2009

Date: 21st September 2009

Mr Lincoln Smith
Hypnotic
74/79 Norwood Road
London
SE24 9AA

Metropolitan Police Service
Licensing Office
Walworth Police Station,
12-28 Manor Place,
LONDON,
SE17 3RL

Tel: 020 -7232 – 6210 Fax6282

Re; Hypnotic 75-79 Norwood Road SE24 9AA

Dear Mr Smith

It has come to my attention that there is considerable concern amongst local residents and businesses, that premises that operate in the "Night Time Economy" are having a disproportionate and detrimental effect upon the Herne Hill in terms of crime & disorder, anti-social behaviour, noise pollution and litter. Police would expect that those employed in managerial roles of premises that operate in the night-time economy would ensure that the premises are operated wholly in accordance with the existing premises licence.

I visited your premises on Saturday 19th September 2009 at 0025am and spoke with Mr Satchel Thompson-Smith, who informed me that the Electronic ID Entry System was not in operation and had not been for about the previous two weeks. Condition 842. The system had been made a condition on the premises licence at the review hearing the previous year and had been upheld at the recent court proceedings. It is vital that the system is fully operational prior to the premises opening up to members of the public and to remain open without the system working would be a breach of your current premises licence.

I made a further visit at 02.50am and found that there was a queue of 7 customers who were awaiting entry to the premises. Your premises licence, Condition 375, stipulates that there can be no new entries after 02,00am.

It is vital for well-run premises to adhere to the conditions listed on the Premises Licence and the responsibility lies with the Designated Premises Supervisor and the Premises Licence holder to ensure compliance.

If you require further information then please contact me at the number shown above.

Paul Compton PC294MD
Licensing Officer (Southwark North)

 Phone: 0207 232 6210
 Mobile: 07595011458
 Fax: 0207 232 6282
 E-mail: paul.compton@met.police.uk
 Mail: Licensing Office, Walworth Police Station,
12/28 Manor Place Walworth London
SE17 3RL

Your reference:



Our reference: MD/2009

Date: 21st September 2009

Ms J M Thomas
Hypnotic
74/79 Norwood Road
London
SE24 9AA

Metropolitan Police Service
Licensing Office
Walworth Police Station,
12-28 Manor Place,
LONDON,
SE17 3RL

Tel: 020 -7232 – 6210 Fax6282

Re; Hypnotic 75-79 Norwood Road SE24 9AA

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I made a further visit at 02.50am and found that there was a queue of 7 customers who were awaiting entry to the premises. Your premises licence, Condition 375, stipulates that there can be no new entries after 02,00am.

It is vital for well-run premises to adhere to the conditions listed on the Premises Licence and the responsibility lies with the Designated Premises Supervisor and the Premises Licence holder to ensure compliance.

If you require further information then please contact me at the number shown above.

Paul Compton PC294MD
Licensing Officer (Southwark North)

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 Mail: Licensing Office, Walworth Police Station,
12/28 Manor Place Walworth London
SE17 3RL

Your reference: .



Our reference: MD/2009

Date: 21st September 2009

Mr Satchel Thompson-Smith
Hypnotic
74/79 Norwood Road
London
SE24 9AA

Metropolitan Police Service
Licensing Office
Walworth Police Station,
12-28 Manor Place,
LONDON,
SE17 3RL

Tel: 020 -7232 – 6210 Fax6282

Re; Hypnotic 75-79 Norwood Road SE24 9AA

Dear Mr Satchel Thompson-Smith

As you are aware, we have recently discussed that there is considerable concern amongst local residents and businesses, that premises that operate in the "Night Time Economy" are having a disproportionate and detrimental effect upon the Herne Hill in terms of crime & disorder, anti-social behaviour, noise pollution and litter. Police would expect that those employed in managerial roles of premises that operate in the night-time economy would ensure that the premises are operated wholly in accordance with the existing premises licence.


I visited your premises on Saturday 19th September 2009 at 0025am and spoke with you, at which time you informed me that the Electronic ID Entry System was not in operation and had not been for about the previous two weeks. Condition 842. The system had been made a condition on the premises licence at the review hearing the previous year and had been upheld at the recent court proceedings. It is vital that the system is fully operational prior to the premises opening up to members of the public and to remain open without the system working would be a breach of your current premises licence.

I made a further visit at 02.50am and found that there was a queue of 7 customers who were awaiting entry to the premises. Your premises licence, Condition 375, stipulates that there can be no new entries after 02,00am.

It is vital for well-run premises to adhere to the conditions listed on the Premises Licence and the responsibility lies with the Designated Premises Supervisor and the Premises Licence holder to ensure compliance.

If you require further information then please contact me at the number shown above.


Paul Compton PC294MD
Licensing Officer (Southwark North)

 Phone: 0207 232 6210

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 Mail: Licensing Office, Walworth Police Station,
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SE17 3RL

CLOSURE NOTICE (UNLICENSED PREMISES)

(Section 19 of the Criminal Justice and Police Act 2001 as amended by Sections 126 & 127 of Schedule 6 of Licensing Act 2003)



Details of Notice Service and Premises:

Date of the Closure Notice: 13th 09

Time Served 23.50

Police Force : Metropolitan

Person making the Notice: Paul Compton PC294MD

Signature:

Name (if applicable) & address of the affected Premises:
Hypnotic 75-79 Norwood Road London SE24 9AA

Details of alleged unauthorised use of the Premises [Section 20(6)(a)]:

The grounds for this notice are that the above premises are being used, or that within the last 24 hrs of service of this notice premises were undertaking a licensable activity otherwise than in accordance with a licence and there is a reasonable likelihood that the premises will be so used again in the future.

The specific alleged use of the premises to which these grounds apply (details of use, sales and likelihood of further use):

Knowingly allowing or carrying on an unauthorised licensable activity, contrary to Sec 136 Licensing Act, 2003. Cond 397: "The premises licence stipulates that an Identification Recognition System shall be installed & maintained in working order at all times. Every person, including staff & agents, entering the premises during opening hours shall be required to submit their details to the system prior to entry being granted."
The premises currently has no working system and there all licensable activities should cease until this is rectified.

Effect of Section 20(6)(b) of the Act (see overleaf for full details):

Under Sec 20 of the Act, an application for a Sec 21 Closure Order may be made to

Camberwell Green

Magistrate's Court,

unless the above use of the above premises has ceased and there is no reasonable likelihood that it will be so used in the future. Steps that may be taken to ensure this are suggested below.

Steps which may be taken to end the alleged unauthorised use of the premises, or prevent it from re-occurring [Section 20(6)(c)]:

The premises should be shut until such time as a Premises Licence or Temporary Event Notice is granted. There must not be any sales of alcoholic drinks or other licensable activities until this is complied with.

The Person (if applicable) on whom the Closure Notice has been served:

Name:

Signature:

Notes Accompanying This Closure Notice

1. A Police Officer, or an authorised officer from the Local Authority, has decided to issue this Closure Notice under the terms of Section 19 of the Criminal Justice and Police Act 2001 (CJPA). The Notice alleges that the said premises has been operating illegally without the authorisation to sell alcohol in compliance with the Licensing Act 2003 ('the Act'), being a licensable activity within the meaning of Sec. 14 of the Act. It also mentions the actions which may be taken by the owner or manager of the premises to end the unauthorised sale of alcohol, or to prevent it from re-occurring.

Section 20 of the 2001 Act – Closure Orders

2. Your attention is drawn to Section 20 of the 2001 Act. This provides that the Police, or as the case may be the Local Authority, can take action against the said premises by applying to a Justice of the Peace at the local Magistrates' Court for a Closure Order if the unauthorised sale of alcohol (as alleged in this Closure Notice) is continuing, or there is a reasonable likelihood that the premises will be so used in the future. The application for a Closure Order must be made not less than **7 days**, and not more than **6 months**, after the date on which this Closure Notice was served.
3. After an application for a Closure Order is made, the Justice of the Peace may issue a summons requiring the applicant, and also the person or persons on whom the Closure Notice was served, to attend a hearing at the Court on a specified date and time. At the hearing the Court will consider the applicant's complaint against the said premises and decide whether a Closure Order should or should not be made.
4. In accordance with the Magistrates' Court Act 1980, and under the law on human rights, you are entitled to be legally represented at the hearing and to make representations to the Court before any decision is taken.

Appeals – Section 24 of the 2001 Act

5. An appeal against a decision by the Magistrates' Court to grant a Closure Order, or a decision to refuse an application for a Closure Order, can be made by an affected person to the Crown Court within **21 days**.

Enforcement Powers and Offences – Section 25 of the 2001 Act

6. It is an offence for a person, without reasonable excuse, to permit a premises to be open in contravention of a Closure Order made by the Magistrates' Court. Any person found guilty of such an offence will be liable to a fine not exceeding £20,000, or to imprisonment for a term not exceeding three months, or to both.
7. It is also an offence for a person who, without reasonable excuse, fails to comply with any other terms of a closure order made by the court, or does an act which contravenes those other terms. Any person convicted of this offence is liable to a fine not exceeding £5,000, or to three months imprisonment, or to both.
8. Police Officers and authorised officers from the Local Authority have the power to enter the said premises at 'any reasonable time', and do anything reasonably necessary to secure compliance with the Closure Order (for example, to board up the premises). However, when exercising this power, the Constable or the officer must produce evidence of his authority to enter and also his identity before entering the premises, if asked to do so by the owner (or the occupier or person in charge of the premises).
9. It is an offence for a person to intentionally obstruct Police Officers or authorised Local Authority officers from exercising these powers. Any person convicted of obstructing an authorised Local Authority officer is liable to a fine not exceeding £5,000.

WITNESS STATEMENT

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

Statement of **Paul Compton PC294MD/176623** URN:

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Age if under 18 **Over 18** (if over 18 insert 'over 18') Occupation: **Police Staff**

This statement (consisting of: **4** 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: **Paul Compton** Date: **1st February 2010**.....

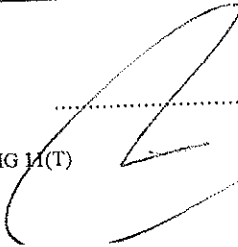
Tick if witness evidence is visually recorded (supply witness details on rear)

I am Paul Compton PC294MD/176623 and currently posted to the Police Licensing Office at Walworth Police Station, 12/28 Manor Place, Walworth, London, SE17 3RL. I am authorised to represent the Metropolitan Police in all issues connected with Licensed Premises located within the London Borough of Southwark.

On 29th January 2010 I submitted a review of the Premises Licence held by Mr Lincoln Smith and Mr Satchell Thompson-Smith in respect of a premises known as Hypnotic (formerly Brockwells) 75-79 Norwood Road, London, SE24 9AA, which is operated as a night club. The grounds for the submission of the review are 1) The Prevention of Crime & Disorder 2) Public Safety 3) Protection of Children From Harm.

Southwark Council, as the local authority and Police have received a considerable number of complaints from local residents and businesses in respect of a number of licensed premises, including Hypnotic, in the Herne Hill area, particularly premises that operate in the night time economy. The complaints concern issues of crime and disorder, anti-social behaviour and noise and has resulted in joint enforcement visits with colleagues from Southwark Licensing & Safer Neighbourhood Officers along with officers from the neighbouring borough of Lambeth. A number of public meeting have been held where the local residents have voiced their concerns, however many of the complainants feel too intimidated to submit representations in their own name and therefore I have been requested to act as a conduit.

I visited Hypnotic Night Club on Saturday 19th September 2009 at 00.25am where I discovered that the premises were not operating in accordance with the conditions as stipulated on the premises licence. The club did not have a functioning Electronic Identification Entry System and on speaking with Mr Satchell Thompson Smith, the club manager, had not had a functioning system for the previous two weeks. This particular condition was placed on the premises licence as the result of Police submitting a previous premises licence review which was heard by the

Signature:  Signature witnessed by:

Continuation of Statement of Paul Compton PC294MD/176623

Licensing Sub-Committee on 7th April 2008. I will detail the previous review grounds later in this statement. I left the premises and returned at 02.50am and found customers still being permitted entry with 7 customers in the queue at the main front entrance. I sent the entire management team a letter dated 21st September 2009 detailing my visit and suggesting that the management should adhere to the conditions as stipulated on the premises licence.

On 4th October 2009 I made a series of licensing visits to Hypnotic Night Club between 00.00hrs and 04.00am and again spoke with Mr Satchel Thompson-Smith where I identified that the premises was operating other than in accordance with the premises licence:

- The Electronic Identification Entry System was not being used and was not in working order.
- New Customers were being granted entry to the premises at 03.30am.
- Licensable activities (Recorded music) was being provided at 03.40am when the premises licence stipulates that the terminal hour is 03.30am.

I wrote to the entire management team in a letter dated 5th October 2009 detailing my visits and suggesting what actions need to be taken and what were the possible consequences should the operation of the premises not improve.

On Friday 13th November 2009 I made a further licensing visit to the premises at 23.50pm and spoke with Mr Satchell Thompson-Smith. Again I found that the premises had no functioning Electronic Identification Entry System, and Mr Satchell Thompson-Smith informed me the system was away for repair. I issued Mr Satchell Thompson-Smith with a Closure Notice under Section 19 Criminal Justice & Police Act 2001 and explained the consequences should the premises remain open without adhering to all the premises licence conditions. I made enquiries with the company who had supplied the Electronic Identification Entry System, ID Scan, and was informed that the system had been with them for repair for a number of weeks. I was also informed that Mr Lincoln Smith had attended the offices of ID Scan at 08.00am the following Saturday morning after the issue of the Closure Notice and obtained a replacement system and therefore this negated the need for any further police action at this juncture.

On 2nd November 2009 I received a call from the mother of a 16 year old female who had been in the premises with her 16 year old girlfriend on 31st October 2009 between 02.00am and 03.30am. During the time her daughter was in the club she was supplied with intoxicating liquor and subsequently was the victim to a kidnapping and assault which is being investigated by DC Keen from Walworth Police Station. Cris 3037087/09 refers. As part of the investigation a statement from obtained from the victim, [REDACTED] and a

Signature:

Signature witnessed by:

Continuation of Statement of **Paul Compton PC294MD/176623**

copy included with this application. Mark Antill, Operation Superintendent at Walworth Police Station authorised a covert licensing visit. Two covert visits were conducted by experienced officers on 12th December 2009 and 16th January 2010. I will not detail the officer's findings as copies of their statements have been included with this application. However in précis: the officers found that little or no searching was being conducted at point of entry and there was no Electronic Entry System being used and identification was not asked for by door staff. Once in the premises officers witnessed the open use of illegal controlled drugs, cannabis in all public areas of the premises and on one occasion noticed that a member of the door staff was openly smoking a cannabis cigarette whilst working as a door operative on the main entrance to the club.

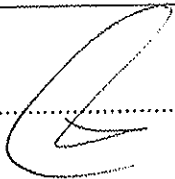
As previously stated, Police submitted a previous review of the Premises Licence which was heard by the Licensing Sub-Committee on 7th April 2008. The grounds for that review were serious incidents of Crime and Disorder associated with the premises and resulted in a search warrant under the Misuse of Drugs Act 1971 being obtained and executed 8th March 2008 and involved over 200 police officers, during which a viable firearm and live ammunition, 4 lock knives and a quantity of illegal drugs were found.

More applicable to this particular application was the breakdown in terms of age of customers inside the premises at the time of the execution of the search warrant on 8th March 2008: 276 customers inside the premises; 112 were under 21 years of age; 23 were 20 years old; 28 were 19 years old; 25 were 18 years old and more disturbingly 12 were 17 years old; 15 were 16 years old; 8 were 15 years old and one 14 year old. The Licensing Sub-Committee did not revoke the premises licence as requested by Police, but added a number of additional control measures to the Premises Licence and reduced the hours of operation. This did result in a drastic decrease in crime and disorder associated with the premises. However over the following months the management of the premises successfully obtained the return of extended hours through the Magistrates Court on 28th July 2009. Very soon after obtaining extended hours, on 14th August 2008 at 02.55am a male customer was shot in the leg by a suspect who discharged five more rounds as he left the premises. The investigation could not obtain details of potential witnesses as the Electronic Entry Identification System was not in operation. However the victim of this crime was 19 years of age, which is above the legal age of 18, but at the Licensing Committee Hearing and subsequent appeal hearing Mr Lincoln Smith, Premises Licence Holder, gave live evidence to the court that those over 23 years of age would be prevented from entering the premises. Clearly this undertaking has not been honoured.

(Copy of appeal notice included in papers)

I am aware that the premise does not have the required planning permission to operate as a nightclub and this matter is currently being proceeded with by officers from Southwarks Planning Department. I realise that planning is not a concern under the Licensing Act 2003, but it is further evidence that the management have little or no regard for the relevant legislation.

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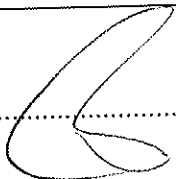


Signature witnessed by:

Continuation of Statement of **Paul Compton PC294MD/176623**

Regretably it would appear that the management have little regard for the existing conditions imposed on the current Premises Licence as it has continuously operated the premises other than in accordance with the premises licence. Police have engaged with the management, with the exception of the Designated Premises Supervisor Ms Jacqueline Thomas who has never been seen in attendance at the premises and has only been contacted by letter. Therefore the only conclusion that can be made is that there are no additional conditions that could be imposed upon the Premises Licence that would prevent the premises being associated with serious crime and the only option, given that the safety of the public is paramount and particularly young persons, is that the Premises Licence should be revoked.

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Signature witnessed by:

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 DC Wilkinson URN: [] [] [] []

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

This statement (consisting of: 4 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: [Signature] Date: 18th January 2010.....

Tick if witness evidence is visually recorded [] (supply witness details on rear)

On SATURDAY 16TH JANUARY 2010, PC 395GD CHAPMAN and I were on duty in plain clothes and engaged on Covert Licensing visits with a purpose to observe and ascertain whether any licensing laws are being committed.

At about 11.00 pm we received a briefing from PC WATERMAN with regards to HYPNOTIK Wine Bar (formally known as BROCKWELLS Wine Bar) situated at 75-79 NORWOOD ROAD, HERNE HILL, SE24.

At approximately midnight, PC CHAPMAN and I attended HYPNOTIK Wine Bar. On arrival at the venue there were no customers queuing to gain entry into the venue. There was no activity outside the venue concerning the wine bar. At the entrance door to the wine bar which was cordoned off by a rope, there was one black female licensed person displaying her Security Industry Authority (SIA) Identification badge which she wore around her neck. The black female was then joined by a black male who was also displaying his SIA Identification badge which he also wore around his neck. Neither the black female nor the male wore high visibility reflective garments to indicate that both were door supervisors. (Same door supervisors as statement dated 16/12/2009). I will describe the door supervisors towards the end of my statement.

Prior to entering the wine bar, I noticed there was a visible poster on the entrance door headed 'Dress Code dress smartly, no hoodies, no hats, jeans or trainers'. The same black female door supervisor then asked PC CHAPMAN and I to open our clutch bags, she quickly glanced inside and proceeded to shine a small torch in our bags respectively. She did not search our bags. The female door supervisor did not body search us, nor did they give us a pat down search. Metal weapon detectors or wands were not seen or used. There was no club scan machine seen or used, however there could possibly have been a search arch on the inside the entrance door. This came to our attention due to the red and green lights flashing every so often on the inside of the entrance door, although when the red light flashed, no one was challenged by door staff.

Signature: [Signature] Signature witnessed by:

Continuation of Statement of DC [redacted] Wilkinson

We were then directed by the female door staff to enter the wine bar and pointed to a cubicle to the right by the entrance door that also appeared to be a cloakroom where I noticed a female member of staff sitting down accepting payment from patrons. I will describe this black female later in my statement.

I asked the black female how much it was to enter, she stated to me that it was £5.00 per person. We were not asked for identification. The female accepted £10.00 from PC CHAPMAN for both of us. The male door supervisor then directed PC CHAPMAN and I to hand our coats over to the same female inside the cubicle for a fee of £1.00 per coat

Our hands were not marked with a red marker to indicate that we had paid to enter the venue.

Opening hours are between 6.00 pm and 4.00 am.

(Please refer to my statement dated 16th December 2009 for a detailed description of club layout).

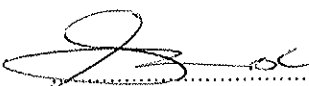
There are two fire exits in the venue, one at the entrance which was clearly sign posted 'Fire Exit' and the other one near to the ladies and gents toilets which was not blocked or obstructed in anyway. The only exit visible was the entrance.

Near the ladies and gents toilets PC CHAPMAN and I noticed there were signs on the door headed 'NO DRUGS', 'NO SMOKING' and that there was 'CCTV in operation', however apart from the 'No Smoking' sign, the other signs do not appear to be displayed anywhere else around the venue. There appears to be a CCTV camera in the bar area. I saw what I would describe as a dome camera situated on the ceiling which appeared to be pointing towards the bar staff working behind the bar and the till area.

At about 12.30 am a group of ladies and gentlemen entered the location and were not searched or asked for identification. There were approximately over 60 people on the dance floor (an equal ratio).

PC CHAPMAN and I then realised that there was also a private birthday party being held at the Wine bar (for a lady who we now know as Sam who was 41 years old).

At approximately 12.45 am, we noticed that the black female security staff came inside the location with a cake along with members of Sam's family and friends and at this point the security staff left the entrance door unattended.

Signature:  Signature witnessed by:

Continuation of Statement of DC [redacted] Wilkinson

Upon going to the ladies toilets, there were 3 cubicles, one of them was not in use and had a handwritten note on the door displaying 'Out of Order' and the other two were in use, but had no locks on the door, nor was there a toilet attendant present in the bathroom. Both fire exits were clearly displayed by signs and were not blocked/obstructed. There was seating available inside, but this was very minimal. The second bar area to the left of the entrance was open to patrons who were dancing in that area but the actual bar itself was closed and not staffed at any point.

At the bar to the right, the staff were serving drinks in bottles and glasses and it did not appear that drinking water was not readily available and this bar was staffed by three black males.

The lighting in the premise was lit by ultra violet lighting. Also there was one black male who walking around freely with camera taking photos of patrons,

The clientele was 98% black and 2% white - of that it was equal ration of men to women. The age group ranged from 18 years to about 45 years, although the age limit for the location is 21 years old. Although the dress policy was "dress smartly, no hoodies, no jeans or trainers" there was clearly people, predominately black males breaching this policy and were dressed in contravention to the dress code. In particular, one black male put his hood up, but was not challenged in anyway.

The music being played at the location was a mixture of funky house, old skool, bashment and R 'n' B and Rare Grooves.

Although alcohol was consumed freely, there was one black light skinned lady who did show signs of drunkenness and possibly under the influence of drugs. The bar staff continued to serve her even though it was clear that she had had too much to drink. She was never refused alcohol nor was she escorted off the premises. The black light skinned lady was lifting her dress up and staff and patrons could clearly see her underwear. Some of the patrons were laughing, the expressions on the faces on some of the patrons showed that they were clearly surprised and shocked.

Furthermore, staff was allowing people to go on the dance floor with bottles and glasses.

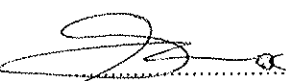
At 1.08 am, we saw that patrons were being let in the venue without being searched by security staff, paying an entrance fee, or handing their coats in at the cloakroom.

At about 1.24 am, there were now two black females in the cubicle by the entrance door.

At about 1.26 am, security staff at regular intervals patrolled the wine bar. The female security staff entered the female toilets several times during the night.

After about 2.00 am, the smell of cannabis could be smelt near to the entrance.

At 2.42 am, we saw that people were being let inside the location and were not being searched by the security staff and the smell of cannabis could still be smelt, and the staff appeared to be happy in letting people go outside with their drinks and bottles.

Signature:  Signature witnessed by:

Continuation of Statement of **DC [redacted] Wilkinson**

I can describe the door staff as follows:-

A black dark skinned female, aged about 40 years old, F5.5 in height, small build, wearing a long puffa jacket, black trousers with her SIA badge clearly visible around her neck and navy beanie hat which covered her short plaits.

A black dark skinned male, aged about 35 years old, F5'9 in height, athletic build, with moustache, wearing black jacket, black trousers, black beanie hat with his SIA badge clearly visible around his neck.

I can describe the 1st female in the cubicle near the entrance of the venue as being a black brown skinned female with long hair in a pony tail, dressed in black, about 30 years old, (not sure of her height due to her sitting down on a chair).

I can describe the 2nd female that joined the 1st female in the cubicle as a black dark skinned female, slim build, black wavy hair, wearing black top and black trousers, about 23 years old, (not sure of her height due to her sitting down on a chair).

I can describe the 1st barman as a black dark skinned male, athletic build, F5.8 in height, late 20s in age, black cane row hair, wearing black shirt and black trousers.

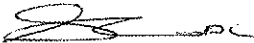
I can describe the 2nd barman as a black dark skinned male, medium build, F5.9 in height, early 20s in age, low no1 hair cut, wearing black top and black trousers.

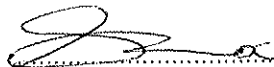
I can describe the 3rd barman as a black dark skinned male, athletic build, F5.8 in height, about 30 years in age, short plaits, wearing black shirt, black trousers and when leaving the bar area he was wearing a dark grey puffa with hood.

When leaving the location, the amount of patrons who were at the location on the dance floor and by the bar areas were approximately over 200. There were patrons outside the location smoking cannabis and drinking from bottles. Door staff did not challenge those patrons.

During the evening PC CHAPMAN and I purchased alcoholic beverages and soft drinks. We only partly consumed the contents of each bottle and glasses then discarded discreetly around the venue.

PC CHAPMAN and I left the wine bar at about 3.15 am and made our way back to the safety vehicle staffed by PC WATERMAN who in turn drove us to the local police station where a de-brief was then given of the night's events.



Signature:  Signature witnessed by:

WITNESS STATEMENT

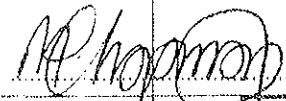
CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

Statement of **PC CHAPMAN GD** URN:

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Age if under 18 **Over 18** (if over 18 insert 'over 18') Occupation: **Police Constable**

This statement (consisting of: ... **4** 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.

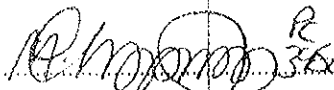
Signature:  **PC 34567** Date: **19/1/2010**

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

Original notes were discreetly made on my mobile phone (which is my own personal phone and not issued to me by the Metropolitan Police Service) during the course of the evening and later copied and saved in a word document, which myself and which myself I can refer.

On SATURDAY 16TH JANUARY 2010, I was on duty in plain clothes in company of DC WILKINSON as part of a Covert Licensing visits. The reason for this was to ascertain whether any licensing laws were being adhered to. At approximately 22:30 hours we received a briefing from PC WATERMAN of CO14 with regards to a wine bar called HYPNOTIK. This wine bar was formally known as BROCKWELLS Wine Bar and is situated at 75-79 NORWOOD ROAD, HERNE HILL, SE24.

On SUNDAY 17TH JANUARY 2010, just after midnight, DC WILKINSON and I attended HYPNOTIK Wine Bar. The wine bar is situated near to SEBASTIANS nightclub, which is near residential properties. The entrance is one door, which is managed by door staff. On this occasion, there was one female and one male security were on the door and there was no queue to get in. Both of the security staff was standing in area, which was cordoned off by a rope. In addition to this, they were displaying their SIA badges around their necks and were not wearing any hi-viz jackets. The female security shone a torch very briefly through our bags, but she did not in anyway go through our bags herself. We were not searched by any wands, nor did they seem to have them on their person, and no one was patted-down for an extra security measure. There were no club scans. However, there could possibly be an arch to the entrance of the door. This was brought to our attention due to the red and green lights flashing around the inside of the door, although when the red light flashed, door staff challenged no one.

Signature:  **PC 34567** Signature witnessed by:

Continuation of Statement of PC CHAPMAN GD

There was a cubicle to the right, which was manned by one female sitting down, and this appeared to be a cloakroom as well. There was an entrance fee of £5.00 per person and on this occasion we were not asked for any identification. I then gave the female £10.00 for the admission for of both us and our hands were not marked by any security staff with red marker, as done on our previous visit to indicate we had paid to get inside. The male door staff asked us to hand our coats over to the lady in the cubicle by the entrance door to which we did at a charge of £1.00 per coat.

At about 0030 hours a group of ladies and gentlemen entered the location and were not searched or asked for identification in anyway by the security on the door. Upon our entry, there were approximately over 60 people on the dance floor. DC WILKINSON and I then realised that there was also a private party being held at the Wine bar (for a lady who we now know as Sam who is 41 years old today). At approximately 1245 hours, we noticed that the female security staff came inside the location with a cake along with members of Sam's family and friends and at this point the security staff left the entrance door unattended for approximately 10 minutes.

A detailed description and layout of the premises is in our statement dated 16th December 2009.

Upon going to the toilets, there were 3 cubicles, one of them was not in use and the other two were in use, but had no locks on the doors, furthermore there was no toilet attendant present in the bathroom. Both fire exits were clearly displayed by signs and were not blocked/obstructed in anyway. There was seating available inside, but this was very minimal and limited. The second bar area was open to the left but the actual bar itself was closed and not staffed at any point.

The bar to the right, the staff was serving drinks in bottles and glasses and it did not appear that tap water was not readily available and this bar was staffed by THREE (3) IC3 males. The lighting in the premise was lit by ultra violet lighting. I noticed one IC3 male who walking around freely with camera taking photos of patrons,

The clientele was 98% IC3 and 2% was IC1 - of that it was equal ration of men to women. The age group ranged from 18 years to about 45 years, although the age limit for the location is 21 years old. Although the dress policy was "dress smartly, no hoodies, no jeans or trainers" there was a few people, predominately IC3 males breaching this policy and were wearing the above. In particular, one IC3 male put his hood up, but was not challenged in anyway. The music being played at the location was a mixture of funky house, old skool, bashment and R 'n' B.

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Continuation of Statement of PC CHAPMAN GD

Although alcohol was consumed freely, there was one IC3 light skinned lady who did show signs of drunkenness and possibly under the influence of drugs. The bar staff continued to serve her alcohol even though it was clear that she had had too much to drink, and she was not refused alcohol or was she escorted off the premises. Furthermore, staff was allowing people to go on the dance floor with bottles and glasses.

At 0108 hours, we saw that people were being let in the venue without being searched by security staff, paying an entrance fee, or handing their coats in at the cloakroom, unlike we were told when we first arrived. At about 0124 hours, I noticed that there were TWO (2) IC3 females in the cubicle by the entrance door. At approximately 0126 hours, the security staff which were on the entrance, were coming inside the venue at regular intervals to patrol the wine bar and the female security staff, also entered the female toilets approximately several times during the night.

After about 0200 hours, the smell of cannabis could be smelt near to the entrance of the venue, but I could not physically see anybody smoking near the entrance. At 0242 hours, we could see that people were still being let inside the location without pay or being searched by the security staff and they appeared to be happy in letting people go outside with their drinks and bottles.

I will now describe the security staff that was manning the entrance door they are as follows:

There was an IC3 dark skinned female, aged about 40 years old, F5.5 in height, small build, wearing a long puffer jacket, black trousers with her SIA badge clearly visible around her neck and navy beanie hat which covered her short plaits.

Also there was a IC3 dark skinned male, aged about 35 years old, F509 in height, athletic build, with moustache, wearing black jacket, black trousers, black beanie hat with his SIA badge clearly visible around his neck.

The 1st female in the cubicle near the entrance of the venue as being a IC3 brown skinned female with long hair in a pony tail, dressed in black, about 30 years old, (not sure of her height due to her sitting down on a chair).

The 2nd female that joined the 1st female in the cubicle was a IC3 dark skinned female, slim build, black wavy hair, wearing black top and black trousers, approximately 23 years old. I am unable to give an approximation of her height due to the female sitting down on a chair.

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Signature witnessed by:

Continuation of Statement of PC CHAPMAN GD.....

I can describe the 1st barman as a IC3 dark skinned male, athletic build, F508 in height, late 20s in age, black cane row hair, wearing black shirt and black trousers.

I can describe the 2nd barman as a IC3 dark skinned male, medium build, F509 in height, early 20s in age, low no1 hair cut, wearing black top and black trousers.

I can describe the 3rd barman as a IC3 dark skinned male, athletic build, F508 in height, about 30 years in age, short plaits, wearing black shirt, black trousers and when leaving the bar area he was wearing a dark grey puffa with hood.

When leaving the location, I would say there was approximately 200 people on the dance floor and by the bar areas. Outside the location, there were approximately 6 people either smoking cannabis or drinking alcohol from bottles and the security staff did not challenge these people in anyway. We left the venue at approximately 0315 hours and made their way to a location where the safety vehicle was waiting, staffed by PC WATERMAN.

Signature:



Signature witnessed by:

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 DC [redacted] Wilkinson URN: [] [] [] []

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

This statement (consisting of: ... 5 ... 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: [Signature] Date: 16th December 2009.....

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

Original notes were discreetly made on my mobile phone (issued to me by the Metropolitan Police Service) during the course of the evening and later copied and saved in a word document, which PC CHAPMAN and I can refer.

On SATURDAY 12TH DECEMBER 2009, PC CHAPMAN and I were on duty in plain clothes and engaged on Covert Licensing visits with a purpose to observe and ascertain whether any licensing laws are being committed. At about 10.30 pm we received a briefing from PC WATERMAN with regards to HYPNOTIK Wine bar (formally known as BROCKWELLS Wine bar) situated at 75-79 NORWOOD ROAD, HERNE HILL, SE24.

At approximately 12.30 am PC CHAPMAN and I attended HYNOTIK Wine bar. On arrival at the venue there were no customers queuing to gain entry into the venue. The entrance is one door. There was no activity outside the venue.

A dark skinned black male, approximately 30 years old, F6'0 in height, medium build, wearing dark clothing and a dark skinned black female, approximately 35 years old, F5'4 in height, heavy build, wearing black long coat with fur around the hood area, both were standing in an area which was cordoned off by a rope. They identified themselves as door staff and were both displaying their Security Industry Authority (SIA) Identification Badges which they wore around their necks.

No high visibility reflective garments to indicate that both were door supervisors were worn at all. Both security door staff worked on the front entrance and at certain intervals both of them entered and exited the club.

Signature: [Signature] Signature witnessed by:

Continuation of Statement of DC ~~XXXX~~ Wilkinson

On the entrance door and on the glass front of the venue PC CHAPMAN and I noticed that there was a visible poster headed 'Dress Code'. dress smartly, no hoodies, no hats, jeans or trainers.

The female door supervisor asked PC CHAPMAN and I to open our handbags, she quickly glanced inside and proceeded to shine a small torch in our bags respectively. She did not physically search our bags. The female door supervisor did not body search us, nor did they give us a pat down search. Metal detectors or wands were not seen or used.

There was no search arch in operation, nor was a club scan machine seen or used.

As we entered the wine bar there were two black female staff inside a cubicle to the right hand side where they were accepting payment from patrons, this also appeared to be a cloakroom area too.

On approaching the cubicle, I asked one of the black female staff how much it was to enter, she asked me for identification, I replied that I had no identification, and PC CHAPMAN was next to me and also stated she had no identification either to which the black female staff replied that was fine and then stated that it was £10.00 per person to enter. I gave her £20.00 for PC CHAPMAN and myself.

A dark skinned black man dressed in dark clothing that appeared to be security staff (but not displaying SIA Identification) then marked one of our hands each with a red marker to indicate that we had paid.

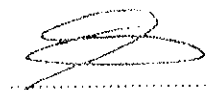
PC CHAPMAN and I stood by the entrance once we had paid and noticed throughout the night that other persons entering the wine bar were neither searched nor did it appear that they were asked for identification in anyway.

Opening hours are between 6.00pm and 4.00am.

On entering the wine bar via the entrance door the venue is on one floor, there was minimal seating available, with a two bars in the venue, the first bar situated to the right side of the dance floor as you enter the venue, the second bar to the left of the dance floor, with seating available and tables, which appeared to be closed /sectioned off with heavy duty rope, although whilst this section was closed PC CHAPMAN and myself noticed the odd person (that did not appear to be staff) entering this section.

In relation to the venues dress code, although there was a sign outside the venue dictating a strict dress policy, this was clearly not being adhered to as the vast majority of males wore denim jeans, trainers and hooded jumpers. Most of the females were smartly dressed. In particular, one male put his hood up inside the venue, but was not challenged by staff in anyway.

As we entered the venue the Disc Jockey (DJ) booth was positioned to the far end of the dance floor with

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Signature witnessed by:

Continuation of Statement of DC ~~XXXXXX~~ Wilkinson

speakers attached to the walls and on the left side of the DJ booth were the ladies and gents toilets and on the right side of the DJ booth was a black door marked 'STAFF ONLY'. The door marked 'STAFF ONLY' appeared to lead to access to the kitchen area as well as the bar to the right.

The venue was lit by ultra violet lighting.

There are two fire exits in the venue, one at the entrance which was clearly sign posted and the other one near to the ladies and gents toilets which was not blocked or obstructed in anyway. The only exit visible was the entrance.

In my opinion the approximate age group of clientele was from 20 - 55 years old. The ethnic group was predominately black females and black males, however there were a number of white people both female and male present. The clientele was made up of approximately 98% black females and males, 2% white females and white males.

Near the ladies and gents toilets PC CHAPMAN and I noticed there were signs on the door headed 'NO DRUGS', 'NO SMOKING' and that there was 'CCTV in operation', however apart from the 'No Smoking' sign, the other signs do not appear to be displayed anywhere else around the venue.

At about 12.45 am there was a mixture of approximately 100 men and women on the dance floor.

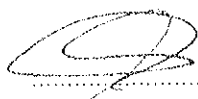
PC CHAPMAN and I entered the ladies toilets and noticed that there were 3 cubicles and 3 wash basins. Two of the toilets were not in use. One of the toilets not in use had its lid cello taped to the base. There were no locks on the doors to the toilets, nor was there a toilet attendant present in the ladies toilets.

At 1.45 am PC CHAPMAN and I noticed that the female security member entered the venue and went inside the females toilets and checked each cubicle.

The music being played by about 3- 4 different DJs at the venue was a mixture of funky house, old skool, Reggae, Bashment and R'n'B. The vast majority of males and females were drinking and chatting whilst standing and seated.

PC CHAPMAN and I noticed that there were two black males who were walking around freely with video camcorders, videoing patrons on the dance floor and there were another two black males taking photos of patrons.

Signature:



Signature witnessed by:

Continuation of Statement of DC ~~██████████~~ Wilkinson

It appeared that they had consent from the management.

The bar contained alcohol and soft drinks in fridges.

The two bar staff who I can describe as both dark skinned black males served alcohol in bottles and glasses at the bar situated on the right. It did not appear that drinking water was readily available at either of the bars.

No alcohol was seen sold to persons believed to be under the age of 18.

There were no visible licenses displayed in the venue.

At about 2.30 am the second bar that was originally closed/sectioned off was now open and was only selling bottles of spirits and champagne and was staffed by 2 black females.

There was no evidence of any alcohol being served to persons believed to be under the age of 18 throughout the whole evening.

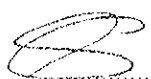
Although alcohol was consumed freely, there were no apparent signs of drunkenness by those persons inside the venue. Staff were allowing people inside the venue to go on the dance floor with bottles and glasses which were not being collected as often as they should be, causing them to mount up.

At about 2.42 am we noticed that people were being let inside the venue and were not being searched by the security staff and the smell of cannabis was very prevalent. The staff appeared to be happy letting people go outside to smoke carrying their drinks in glasses and bottles.


Both males and females inside the venue appeared to be freely smoking cannabis within the venue, and at one point the DJ announced over the microphone for patrons to stop smoking inside the venue and if they wished to smoke they should do so outside.

Outside the venue clientele was freely smoking cannabis, not being challenged by the door team, and at one point PC CHAPMAN and myself witnessed one member of the security team which was a black dark skinned male I previously described in my statement also smoking cannabis.

As we were about to leave the venue there were approximately 150 persons inside.

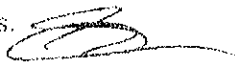
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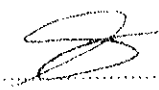
Signature witnessed by:

Continuation of Statement of DC  Wilkinson

During the evening PC CHAPMAN and I purchased alcoholic beverages and soft drinks. We only partly consumed the contents of each bottle and glasses then discarded discreetly around the venue.

PC CHAPMAN and I left the wine bar at about 3.00 am and made our way back to the safety vehicle staffed by PC WATERMAN who in turn drove us to the local police station where a de-brief was given of the night's events.



Signature: 

Signature witnessed by:

WITNESS STATEMENT

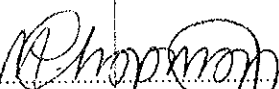
CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

Statement of **PC CHAPMAN 395GD**..... URN:

01	GN		09
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Age if under 18 **Over 18**..... (if over 18 insert 'over 18') Occupation: **Police Officer**.....

This statement (consisting of: ... **4** ... 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:  **PC 395GD**..... Date: **23/12/09**.....

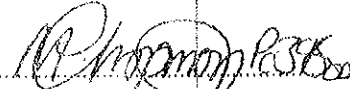
Tick if witness evidence is visually recorded (supply witness details on rear)

Original notes were discreetly made on my mobile phone (which is my own personal phone and not issued to me by the Metropolitan Police Service) during the course of the evening and later copied and saved in a word document, which myself and DC WILKINSON I can refer.

On SATURDAY 12TH DECEMBER 2009, I was on duty in plain clothes in company of DC WILKINSON as part of a Covert Licensing visits. The reason for this was to ascertain whether any licensing laws were being adhered to. At approximately 22:30 hours we received a briefing from PC WATERMAN of CO14 with regards to a wine bar called HYPNOTIK. This wine bar was formally known as BROCKWELLS Wine Bar and is situated at 75-79 NORWOOD ROAD, HERNE HILL, SE24.

At approximately 00:30 hours, DC WILKINSON and I attended HYPNOTIK Wine Bar. When we arrived at the venue there were no customers outside queuing to gain entry into the location. There were TWO (2) people by the entry of the door and they appeared to be staff from the premises. One of them was a dark skinned black male, approximately 30 years old, F6'0 in height, medium build, wearing dark clothing and a dark skinned black female, approximately 35 years old, F5'4 in height, heavy build, wearing black long coat with fur around the hood area, both were standing in an area which was cordoned off by a rope.

They identified themselves as door staff and were both displaying their Security Industry Authority (SIA) Identification Badges which they wore around their necks. However both individuals were not wearing high visibility reflective garments to indicate that both were door supervisors were worn at all. Both security door staff worked on the front entrance and at certain intervals both of them entered and exited the club.

Signature:  **PC 395GD** Signature witnessed by:

Continuation of Statement of

Pc CHAPMAN 31520

On the entrance door and on the glass front of the venue, I noticed there was a poster stating the dress code for the venue. The poster said "Dress Code, dress smartly, no hoodies, no hats, jeans or trainers." The female door staff then asked me and DC WILKINSON to open our bags, which we did. She then hastily looked inside our bags doing so with a torch. At no point did she place her hands inside our bags to physically search them nor did she body search us. I noticed at this point there were no metal detectors or wands which I would normally associate with door staff when entering a premises like this. Furthermore, there was no search arch in operation or a club scan machine seen or used.


Upon entering the location, there were TWO (2) black female staff in a cubicle to the right hand side where they were they were accepting payments customers. This cubicle also appeared to be a cloakroom area as well. DC WILKINSON asked one of the black female how much entry was. At this point she asked her for identification, which DC WILKINSON replied that she did not have any on her person. She then asked me the same and I also stated that I had none on me either. The black female said it was fine and stated that it was £10.00 per person to gain entry to the wine bar. DC WILKINSON gave her £20.00 for both of us. Just as we were about to enter and black male dressed in black who appeared to be some sort of security staff, however not displaying SIA Identification marked one of our hands each with a red indelible marker to show we had paid our entry fee.

DC WILKINSON and I positioned ourselves by the entrance once we had paid. We could still see the security staff by the door and noticed that throughout the night, other people who were entering the location were not being searched by them nor were they being asked for identification by the two black females in the cubicle.

The layout of the wine bar by means of the entrance door to the venue is on one floor. There was very minimal seating at the venue and there were two bars at the location with the dance floor in the middle of both. The first bar was to the right of the dance floor as you enter and the other bar was to the left. This had seating available and table, however it appeared to be closed as it was sectioned off by a rope. Although both DC WILKINSON and myself noticed a few people entering this section and they did not appear to be staff.

With regards to the venues dress code even though the sign clearly stated it had a strict dress policy; this was not being followed by a majority of those inside the venue. By this most of the males were wearing denim jeans, trainers and hooded tops, but the females were dressed tidily. There was one particular black male who put his hood up on his top, but was not challenged or spoken to by any of the staff at the venue.

Signature:

 Pc 31520

Signature witnessed by:

Continuation of Statement of Pc CHARMAN 395

The DJ was positioned at the far end of the dance floor with the speakers attached to the walls and on the left side of the DJ both where there were the male and female toilets (females on the left and males on the right). Beside the males toilets there was a black door which had a sign on the door saying "STAFF ONLY." This seemed to lead to access to the kitchen area as well as the bar to the right. There were two fire exits at the location, one being the entrance which was clearly sign posted and the other being near to where the toilets were. Both of these exits were not blocked or obstructed in anyway.

In my view the age group of those inside the location was from 20-55 years old. The ethnic group was predominately black females and black males, although there were a few white people both male and females. In percentage wise, the ratio was approximately 98 % black females and males and 2% white females and white males.

On the fire exit door at the rear, there was a sign on the door stating "No Drugs, No Smoking" and that there was also CCTV present and in operation. This appeared to be the only sign stating this and was the only one that was displayed in the venue. At approximately 00:45 hours there was approximately 100 men and women on the dance floor, but nobody in the roped off area to the bar area on the left.

When I and DC WILKINSON entered the toilets, there were 3 cubicles and 3 wash basin. Two of the toilets were not in use and one of them had sellotape over seat. In addition to this there were no locks of the toilet door and there was not toilet attendant present in the ladies toilets. At approximately 01:45 hours, we noticed that the female security staff that was on the entrance door of the venue came inside the female toilets and checked each cubicle. The music that was being played at the location was being played by 3- 4 different DJ's one going by the name of DRAMA. The music was a mixture of funky house, old skool, bashment, Reggae and R'n'B.

We noticed that there were two black males who were walking around free with video camcorders, who were recording people who were on the dancefloor. Furthermore there were two black males taking photos of people throughout the club, and at no point were challenged in anyway which led me to believe they had consent from the management.

Both bars contained alcohol and soft beverages in the fridge. There was two black male bar staff to the right, and they were serving alcohol in bottles and glasses. However drinking water did not appear to be readily available at either of the bars and at no point did I see alcohol being sold to persons believed to be under the age of 18 years old nor did we see visible licences displayed in the venue.

Signature: Pc Charman 395 Signature witnessed by:

Continuation of Statement of

PC CHOPMAN R35

At approximately 02:30 hours, the other bar to right of the dancefloor which was originally closed/sectioned off was now opened and only selling bottles of alcohol. This bar was being manned by two black females. Again there was no evidence of under age selling of alcohol in this bar or the other bar throughout the night.

Even though alcohol was being consumed liberally, there was no evidence of drunkenness by the clientele inside the venue. In addition to this, staff was not stopping people in anyway going on the dancefloor with bottles and glasses, which in turn led to glasses not being collected as often as they have been and them mounting up around the dancefloor.

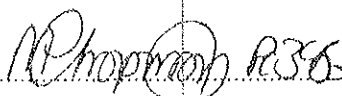
At approximately 0242 hours, we noticed that more people were arriving at the venue and were not being searched by the security staff and the smell of cannabis had become very strong. The security staff appeared to be content in letting people leave the location to go outside to smoke with their drinks in glasses and bottles.

Due to the strong smell of cannabis, at one point the DJ made announcement over the music requesting that people inside the venue were not to smoke inside and were to go outside if they wished to do so. I could see outside that people were unreservedly smoking cannabis and not being challenged by the door security staff and at one point both myself and DC WILKINSON witnessed one of the member of security team which was a black dark skinned male who I had saw earlier on and described also smoking cannabis.

As we were about to leave the location, I would say there was approximately 150 people inside. During the course of the evening DC WILKINSON and I purchased alcoholic and soft beverages. However we only partially consumed each bottle and glass and the rest was discarded inconspicuously around the location.

DC WILKINSON and I left the location at approximately 0300 hours and made our way back to the safety vehicle staffed by PC WATERMAN who picked us up at a location nearby and drove us to the local police station where a debrief was given of the nights events.

Signature:



Signature witnessed by:

WITNESS STATEMENT

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

URN [] [] [] [] [] []

Statement of: [REDACTED]

Age if under 18: 16 (if over 18 insert 'over 18') Occupation: STUDENT

This statement (consisting of 6 page(s) 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 in it, anything which I know to be false, or do not believe to be true.

Signature: [REDACTED] / [REDACTED] Date: 5/11/2009

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

I wish to record details of an incident which occurred on 31st October 2009 outside HYPNOTIC NIGHT CLUB, NORWOOD ROAD, PECKHAM. I am 16 years old and was born on [REDACTED]

As a result of this statement I will be referring to the following location HYPNOTIC NIGHT CLUB which is situated along NORWOOD ROAD in PECKHAM.

NORWOOD ROAD is a two way road with cars parked on either side, there was street lamps along the road also. On the left as you exit the club there is a set of traffic lights for a crossing and then further on there was a road on the left hand side with a railway bridge over the top.

During this statement I will be referring to the following people [REDACTED] aged around 16

Signature: [REDACTED] Signature witnessed by [Signature] 27/90

Continuation of Statement of: [REDACTED]

Who is my friends I have known for about a months. I will also be referring to a Black Male, Pale skin colour, cleanly shaven, Slim build, 5'10", Cane rolls in his hair down to the bottom of his ears at the back. This male had a teardrop tattoo under one of his eyes wearing a black belted mac, plain jeans and white AIR FORCE trainers. I would estimate the male as being 26/27 years old. I will refer to this male as male ①. I will also be referring to another black male, 5'10" slim build, aged about 24, short platted hair, wearing a red top with jeans and black AIR MAX 90's. I will refer to this male as male ②

On 31st October 2009 at 2.00 am approximately I got to HYPNOTIC NIGHTCLUB. My person was not searched, only my bag I had with me. I was not asked to show any ID to anybody and I could not see any ID scanners being used for any other ID's from others. Whilst

Signature: [REDACTED]

Signature witnessed by: [REDACTED]

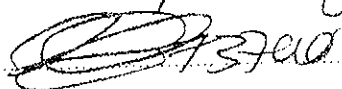
Continuation of Statement of

~~XXXXXXXXXX~~
 In the club with ~~XXXXXXXXXX~~ I bought one glass of BAILEYS and was not asked for ID. This was the only drink I had this night. I was at no point asked for ID whilst inside the club. I left the club with ~~XXXXXXXXXX~~ at 4.00am when the club closed. ~~XXXXXXXXXX~~ was walking just in front of me. ~~XXXXXXXXXX~~ got into the front seat of our friends 2 door car which was parked outside of the club to pick me and ~~XXXXXXXXXX~~ up. ~~XXXXXXXXXX~~ shut the door and left me standing on the pavement. MACE ① then grabbed my left wrist from behind with his left hand and pulled me round saying "WHERE'S YOUR FRIEND?" MACE ① then pulled me away from the curb. ~~and~~ At this time I was trying to pull his hand off my wrist and was digging my heels in trying to pull away. MACE ① then pulled me away from the entrance and about 5/6 metres towards the junction which had a railway bridge

Signature

~~XXXXXXXXXX~~

Signature witnessed by:



Continuation of Statement of [REDACTED]

At the same time Male ② went to the back of his car, opened the boot and I saw a blanket in the back. Male ② then moved the blanket and I could clearly see a black handgun under the blanket. Male ② then shot the boot quickly afterwards and got into his drivers seat and drove off away from NORWOOD ROAD. Male ① was still threatening me saying "I'M GONNA KILL YOU, I'M GONNA CLAP YOU, GONNA SHOOT YOU" no longer than a minute later Male ① punched me with his right hand clenched in a fist which hit me on my left cheek. He was still holding my ~~eye~~ wrist as I began crying and about 8 seconds later Male ① hit me again in the face on my left side with a clenched right fist again. This time I fell to the floor and hit my head. Male ① then let go of my wrist. I then remember feeling my purse hit me in my face and then being kicked

Signature [REDACTED]

Signature witnessed by: [REDACTED]

Continuation of Statement of: ~~_____~~

In the top of my stomach. I then saw male ① walk away down the road away from NORWOOD ROAD. I then sa picked up my purse and ran back to HYPNOTIC and reported it to Staff. Later on that day I attended SOUTHEAST GENERAL HOSPITAL, SOUTHEAST A & E in SOUTHEAST-ON-SEA, Essex.

I would say the whole incident took no longer than 15 minutes. I would recognise both males again. At closest point I was face to face with the male ① as he had hold of my arm and the furthest point was as he was walking away from me. At closest point ~~I~~ was ~~was~~ no closer than 1/2 metre away from male ② and at the furthest point was when he was driving away. It was dark at the time but the street was well lit. I would be willing to attend court ~~_____ / _____~~.

Signature: _____

Signature witnessed by: @ 23700

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 **Stephen McNALLY** URN:

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Age if under 18 **Over 18**..... (if over 18 insert 'over 18') Occupation: **PC 396RG**

This statement (consisting of: **1**..... 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 a Police Licensing Officer and, prior to my transfer to the London Borough of Greenwich, was one of two Police Officers responsible for all liquor-licensed premises within the London Borough of Southwark. Whilst in that role on 4th February 2009 I received an application from Lincoln Smith to vary the Premises Licence at Hypnotik, 75-79 Norwood Road, SE24 9AA. These premises had been subject to a Licence Review in 2008 the result of which was that the permitted hours for the licensable activities at the premises had been reduced. I replied to Mr Smith's legal representative - Tammi Stewart - on 15th February 2009 suggesting various conditions that Police would be seeking to be added to any variation that may be granted by Southwark Council's Licensing Committee. Mrs Stewart replied on 18th March 2009 agreeing to all of the requested conditions. As the matter had, from a Police perspective, therefore been conciliated I subsequently withdrew the Police representation to the variation application on 20th March 2009. Since the initial review hearing and the reduction in hours it imposed a large amount of crime and disorder that had been previously associated with the premises had ceased and it appeared that the reduced operating times were not attractive to those intent on causing such problems at or around at the premises.

Signature: Signature witnessed by:

Witness contact details

Home address: **Eltham Police Station, 20 Well Hall Road, London**
..... Postcode: **SE9 6SF**
Home telephone number Work telephone number **020 8284 5682**
Mobile/pager number Email address: **stephen.mcnally@met.pnn.police.uk**
Preferred means of contact: **Licensing Office**
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? **Yes**. If 'No', include reason(s) on **MG6**.
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
- I consent to police having access to my medical record(s) in relation to this matter: Yes No N/A
(obtained in accordance with local practice)
- 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): **PC 396RG 179822 Stephen McNALLY** Station: **Eltham**

Time and place statement taken:

IN THE CAMBERWELL GREEN MAGISTRATES COURT

HYPNOTIK BAR & RESTAURANT (APPELLANT)

-v-


LONDON BOROUGH OF SOUTHWARK (RESPONDENT)

ATTENDANCE NOTE
JUDGEMENT
28TH July 2009

Coram: District Judge Zani

Contra: Mr. Lopez

1. In delivering judgement, District Judge Zani ruled in favour of the Appellant and the appeal was allowed.
2. A copy of the handwritten judgement is enclosed. Given the evidence before the Court, the judgement is unsurprising and entirely logical if disappointing for local residents.
3. The Appellant seeks costs. The District Judge acknowledged the Appellant had a right to apply but commented that in his experience, costs were not pursued. The Judge requested the Respondent Solicitor liaise with the Solicitor for the Appellant. The Appellant's costs schedule is enclosed. Should it not be possible to reach agreement, the matter should return to court having been reserved to District Judge Zani.
4. Should you require further assistance please do not hesitate to contact me.


Laban Leake
Furnival Chambers

28th July 2009

by the London Borough of Southwark

BETWEEN

HYPNOTIC BAR & RESTAURANT

Appellant

The London ^{v.} BOROUGH OF SOUTHWARK

Respondent

1. This is an Appeal by Hypnotic Bar & Restaurant ("the Appellant") against the decision of the Licensing Sub-Committee of the London Borough of Southwark ("the Respondent") to refuse in part an application under the provisions of s.34 of the Licensing Act 2003 ("the Act") for a variation of the Appellant's

Premises Licence. The said decision was made on 25th March 2009 and the Appeal was served on 1st April 2009.

1.1) The variation sought was:

- (i) To extend licensable hours on Sundays until midnight
- (ii) on Thursdays, Fridays and

Saturdays until 11.30 hours

(III) To extend the hours of opening for 30 minutes following the end of the latest licensable hours on Thursdays, Fridays, Saturdays and Sundays.

(IV) To extend the hours for the sale of alcohol by retail until 04.30 hours
(a) Where Sunday follows a Bank Holiday Monday

(b) Christmas Eve, Christmas Day, Boxing Day, New Year's Eve & New Year's Day

(c) Thursdays immediately preceding Good Friday, Good Friday

(d) Sunday preceding a Bank Holiday Monday and

(e) St Patrick's Day and St David's Day.

(V) The decision of the Licensing Sub-Committee was:

- That the application to extend the hours of operation on Sundays and Thursdays is refused.
- That the hours for the sale of alcohol, late night refreshment and provision of regulated

entertainment on Thursdays and Fridays
and extended to 1:30 am and
the opening hours on Friday and
Saturdays are extended to 2:00 am

• That the application to extend the
hours for non standard timings is
refused save for New Years Eve

• That the application to remove
conditions is granted except for
conditions 342 and 344 as specified:

① 342. That a sign shall be prominently
displayed at the entrance to the
premises stating "No search, No
Entry",

② 344. That a notice be displayed
stating "Any vehicle causing
an obstruction to the emergency
escape provision off these premises
will be removed"

• The operation of the premises
under the licence is subject to
compliance with the operation
schedule as highlighted.

3.

i) The hearing is a re-hearing. The proceedings are neither criminal nor civil: this Court is exercising an administrative function. There is no burden of proof, as such. This Court has received a considerable body of evidence, both orally and in writing and the conclusion that I have reached has been finely balanced as there have been compelling but competing points ably made by both parties.

vii) s. 52(4) of the Act requires this Court to take such steps as it considers necessary for the promotion of the 4 Licensing Objectives.

viii) The relevant Licensing Objective which is the focus of this appeal is the prevention of Public Nuisance.

ix) There is no Police objection to the hours of opening sought by the Appellant. There is also no objection from the Environmental Health Department of the Local Authority.

X) Lincoln Smith, the Premises licensee gave live evidence to the effect that since March 2008 he has carried out extensive renovations to the premises including installation of CCTV, live scan and other security measures. He has also changed the name from Brockwell's to Hypnotik. He is taking a much more "hands-on" approach to the running of the business and he is consciously endeavouring to attract an older clientele: those under 23 years of age will be prevented from entering and the age group currently attending is between 23 and 45 years whereas previously it was 18 to 20 mainly. The Disc Jockey makes announcements for those patrons leaving to do so in an orderly and quiet manner.

X11 Mr Smith added that any patron who parks in Crooked Road will not be allowed access to his venue. How practical and successful such a limitation will have is, in my view, open to question as much of Crooked Road is out of sight of the door personnel. It is, however, a statement of intent from Mr Smith who impressed me as a credible witness who appears to have understood the need for him to adopt the "hands-on" approach that he professes and the need to be aware of the rights and reasonable needs of the residents in the "vicinity" a straightforward word that has given rise to much debate during the course of this well-argued appeal... well-argued by both sides.

Mr. Franklin stated that currently he is not making a profit and the increased opening hours sought are necessary to make the business a viable proposition and become a successful venture. He has installed a new Designated Premises Supervisor who has satisfied both the local authority and the police. He is unaware of any complaints regarding noise nuisance since the premises re-opened in about June 2008. He does not accept that the venue is predominately drinks led and maintains that albeit profit from food sales is limited, the provision of food is an integral part of what he offers patrons. He has an effective and efficient arrangement with two local mini cab firms who are allowed to advertise within the venue.

XIII) Mr Franklin from the licensing department of the Local Authority confirmed that there have been no complaints regarding public nuisance directly attributable to the venue since its reopening in July 2008.

7.

he professed assistance to Mr Smith to help him put forward acceptable proposals. This venue is in a parade of shops including a wine bar - restaurant "Sebastians" which has longer opening hours than Mr Smith's venue albeit Sebastians is a much smaller establishment.

XIV) Mr Hill, Chairman of the Stordella and Springfield Residents Association expressed concern, on behalf of his members, that if the appeal were allowed the former problems prevalent when the venue operated as Brookwell's would return. Local residents had been awoken by rowdy customers in the early hours of the morning shouting, revving car engines, banging car doors and generally making a great deal of noise. He is against the area developing into part of the late night economy.

XV) Dr Brunton, vice-chair of the Home Hill Society also gave evidence on behalf of his members. He confirmed Mr Hill's evidence that there had been many complaints regarding patrons of Brookwell's which complaints have effectively ceased.

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Since its closure and albeit he cannot specify any subsequent complaints as being patrons of Hypnotik his concern is that either the former clientele will return, or others likely to act in an antisocial fashion will be attracted to the venue once the word gets around that the opening hours have increased.

xvi) This Court has to balance the competing interests of those working and those residing in the area.

xvii) The narrow issue in this appeal is whether the noise by people parking and/or leaving the venue where Hypnotik will be such as to create unacceptable noise nuisance for those living in the area.

xviii) Having heard from the live witnesses and having distilled their evidence alongside the written documents placed before me I am of the view that, albeit Mr Smith can have no control of his patrons once they have exited the premises, there is insufficient evidence and/or information before me to satisfy me that there is a probability that the

Patrons of Brookwalks will return or that the public nuisance previously, but not currently, suffered by those persons living locally will be repeated.

xix) Mr Smith has satisfied me that he is alert to the obligations of his patrons. But simply if the previous problems do recur I would expect the Local Authority or the Police to take appropriate enforcement action without delay. If that were to happen Mr Smith could then have no complaints.

xx) This Appeal is allowed in full and the extended hours previously sought by Mr Smith on behalf of Hypnotik are allowed.

District Judge
28 July 11.7.
2009 11.