

**REPRESENTATIONS AGAINST INTERIM STEPS UNDER S.53B
OF THE LICENSING ACT 2003 ("LA 2003")**

My name is Thuvarakeswaran Thiyagarajah and I am the holder of the premises licence under LA 2003 for premises known as Rains Newsagents, 2 Mordaunt Road, London, NW10 8NU and Alric Food & Wine, 1 Alric Avenue, London, NW10 8RB. I make the following representations against interim steps taken by the Licensing Authority, the London Borough of Brent, following a hearing into a summary review on the application of the Police on 24 October 2014, namely to suspend the premises licences.

These representations deal with each of the allegations made against each of the premises, in turn.

Alric Food & Wine

1. Non-duty paid cigarettes seized by Brent Trading Standards. Clear signs of single cigarettes being sold

It is denied that the premises sells, or has ever sold, single cigarettes. The cigarettes that were found and seized by Trading Standards and shown in a photograph in the review papers are for staff personal use and were given to staff by friends returning from abroad who had purchased them duty-free. Three cartons of cigarettes and three batches of rolling tobacco were seized. These quantities are not inconsistent with personal use.

2. High strength alcohol.

The premises licence dated 22 October 2014 permits (see condition 6) the sale of high strength premium beers. Until seeking advice from our current lawyers, Joelson Wilson LLP, I did not realise that I was not allowed to sell strong cider. This was a genuine misunderstanding and the error will not be repeated.

3. No personal licence holder.

Since this incident I have had two staff attend the personal licence course and pass the exam, in addition to the two personal licence holders that were previously associated with the premises. A third prospective new personal licence holder is due to sit the course on 12 November 2014. I should like it to be noted that, as stated in the papers, the manager of the premises, Mr Nadarajah arrived part way through the visit and that he is the holder of a personal licence.

4. Staff not fluent in English.

Mr Vijayakumaran was as stated above, present at the premises for part of the visit. He is fluent in English. I understand the importance of ensuring that a member of staff fluent in English is present upon the premises at all times during which sales of alcohol are authorised under the LA 2003 licence and I will ensure that this is the case from now on. As far as the DPS is concerned, up until recently this was indeed Santhamoorthy Subrananiam, who unfortunately has departed the business. Upon his departure I did not make application to vary the LA 2003 premises licence to specify a new DPS: this was an oversight on my part, for which I apologise. On 10 November 2014 I submitted an application to the London Borough of Brent to specify myself as DPS and I attach paperwork confirming that this application has been received. I am happy to confirm that I am fluent in English and conversant with the requirements of LA 2003, having myself held

a personal licence for approximately 10 years. In addition, I am sitting the personal licence exam again, by way of refresher training.

5. Counterfeit and non-duty paid alcohol.

I am uncertain as to the basis for referring to the alcohol seized as counterfeit, as my legal representatives have been unable to speak with the relevant officers (as of today, 11 November 2014), despite numerous telephone calls, voicemail messages and an email. I therefore do not know what evidence the police have of the counterfeit nature of the alcohol. At the time of the visit, I was absent from the premises, with my family in Wales, having suffered a family bereavement. I had been informed by my staff that five cases of Polish vodka had been delivered upon which the UK duty had not been paid (this they were able to tell from the stamps on the bottles). I informed them, and they were aware, that we were not able to sell these bottles and I instructed them to place them to one side under one of the fridges so that we could return them to the supplier (as to whom, see further below). I understand that this is what they did and that these bottles were seized from that location. I changed my alcohol supplier in September of this year in response to an approach from a sales representative named Tomas. He told me that he was from Imperial Cash & Carry Limited, a legitimate company based in North London. My reason for changing suppliers was not so much for more competitive pricing, but more for the reason that Tomas offered me free delivery. Previously, I had collected alcohol for sale in my shops myself at a cash and carry but this was taking up a considerable amount of my time. It was therefore convenient for me to benefit from this free delivery. I paid Tomas in good faith for this alcohol on each occasion, including a payment in each case of VAT, and believed Tomas to be legitimate. On each occasion I was invoiced for the sales and those invoices showed the VAT payments. I attach copies of those invoices. It will be seen that the terms are COD (cash on delivery). As far as I was concerned, all of the alcohol delivered by Tomas was duty paid and legitimate. However, upon the occasion of the visit, I telephoned Tomas on his mobile phone number displayed on the invoices. He hung the phone up on me and has not been contactable since. I attach email correspondence between Imperial Cash & Carry Limited and my legal representatives that demonstrates that Tomas is in fact an imposter and that they do not have sales reps out on the road. Prior to the raid, I was entirely unaware of this and as far as I was concerned, Tomas was genuine.

I know that comment has been raised by the authorities in relation to the quantities of alcohol seized at my shop. The reason for the stock-piling is simple. Periodically, I return to my home in Sri Lanka to visit family. I was planning to make a trip at around this time in November and not to return until the first week in January. Therefore, I wanted to make sure that my shops were adequately provisioned for Diwali, Bonfire night, Christmas and New Year prior to my departure.

Rains Newsagents

1. High strength alcohol.

A minor variation to the LA 2003 premises licence was successfully applied for in 2011 and I note that the premises licence included in the review papers permits (at condition 5) the sale of premium brand high strength beers, lagers and ciders.

2. No personal licence holder.

I am a personal licence holder and am generally on duty at these premises at all hours during which alcohol is authorised to be sold. I have recently had two additional staff attend and pass the personal licence course in addition to the two personal licence holders

I currently employ and another member of staff is due to sit the course tomorrow, 12 November 2014. I am aware of the need to ensure that a personal licence holder is present at the premises at all times. On the day in question, I was absent from the premises with my family in Wales, having suffered a family bereavement but Mr Vijayakumaran, a personal licence holder, was on duty in my place. However, my other premises, Alric Food & Wine having been raided by the authorities, Mr Vijayakumaran was despatched to those premises to supervise matters and to liaise with the authorities and for that reason he was not present at Rains Supermarket when the authorities arrived shortly afterwards. It is for this reason alone that there was no personal licence holder present on the premises.

3. No use of RAID Control Crime Prevention (lots of cash loose in draw).

These premises have a safe which is located behind the till. All cash is bundled in the drawer and then transferred to the safe. The member of staff on duty had bundled the cash ready for transfer and was about to effect that transfer when the raid occurred. This is the only reason why the cash was found still in this drawer.

4. Counterfeit and non-duty paid alcohol.

I am uncertain as to the basis for referring to the alcohol seized as counterfeit, as my legal representatives have been unable to speak with the relevant officers (as of today, 11 November 2014), despite numerous telephone calls, voicemail messages and an email. I therefore do not know what evidence the police have of the counterfeit nature of the alcohol. I changed my alcohol supplier in September of this year in response to an approach from a sales representative named Tomas. He told me that he was from Imperial Cash & Carry Limited, a legitimate company based in North London. My reason for changing suppliers was not so much for more competitive pricing, but more for the reason that Tomas offered me free delivery. Previously, I had collected alcohol for sale in my shops myself at a cash and carry but this was taking up a considerable amount of my time. It was therefore convenient for me to benefit from this free delivery. I paid Tomas in good faith for this alcohol on each occasion, including a payment in each case of VAT, and believed Tomas to be legitimate. On each occasion I was invoiced for the sales and those invoices showed the VAT payments. I attach copies of those invoices. It will be seen that the terms are COD (cash on delivery). As far as I was concerned, all of the alcohol delivered by Tomas was duty paid and legitimate. However, upon the occasion of the visit, I telephoned Tomas on his mobile phone number displayed on the invoices. He hung the phone up on me and has not been contactable since. I attach email correspondence between Imperial Cash & Carry Limited and my legal representatives that demonstrates that Tomas is in fact an imposter and that they do not have sales reps out on the road. Prior to the raid, I was entirely unaware of this and as far as I was concerned, Tomas was genuine.


I know that comment has been raised by the authorities in relation to the quantities of alcohol seized at my shop. The reason for the stock-piling is simple. Periodically, I return to my home in Sri Lanka to visit family. I was planning to make a trip at around this time in November and not to return until the first week in January. Therefore, I wanted to make sure that my shops were adequately provisioned for Diwali, Bonfire night, Christmas and New Year prior to my departure.

Conclusion

In summary, I feel that the interim step in relation to both of these premises, namely that of suspending the premises licence, should be withdrawn pending the full hearing into the review of this matter scheduled for 19 November 2014. Given all the matters referred to in this Statement,

taken together with the evidence I have provided of my good faith in the form of invoices and with the absence of any evidence from the police to support their allegation that the alcohol seized is counterfeit, I feel that the suspension of the premises licences is disproportionate and unnecessary. It will have the effect of killing my business, alcohol sales accounting as they do for some 50% of my turnover over the two sites. I have been a personal licence holder for some ten years and have operated Rains Newsagents for nine years and Alric Food & Wine for three years. In all of that time I have never had any problems or incidents related to these premises, save for one isolated underage sale at Alric Food & Wine in 2010, for which I was fined £1,000. Indeed, I have always co-operated with the police and other authorities, by for example, providing CCTV footage from my premises in Alric Road when there have been incidents in the street outside my premises. I believe that I am a responsible licensee who does have good knowledge of the requirements of LA 2003. Unfortunately, I have been duped by an unscrupulous individual who issued me with counterfeit invoices which he has composed in order to persuade me that the alcohol that I was purchasing from him was legitimate and duty paid.

I will attend at the hearing to consider the interim steps in person to testify as to the veracity of the contents of this Statement.

Signed: 

ANNA MATHIAS

For and on behalf of Joelson Wilson LLP representatives of the licence holder

pp. Thuvarakeswaran Thiyagarajah