

IN THE MATTER OF DONATELLO'S RESTAURANT 1-3 BRIGHTON PLACE BRIGHTON BN1
1AH

AND IN THE MATTER OF THE LICENSING ACT

AND IN THE MATTE OF A REVIEW UNDER SECTION 51 OF THE LICENCING ACT 2003

Bundle pre-hearing open correspondence

Nicholas Perkins

From: REDACTED

Sent: 21 November 2022 16:39

To: REDACTED

Subject: DW Ref:[7253/063] - Donatello Licence Review - Lie Act 2003

Good afternoon

I am the Solicitor instructed by Pietro Addis and Sons Ltd regarding your application for Review of their Prewmises Licence

I am writing at this early stage to see if there is any basis for a dialogue to see if common ground could be established - short of an actual review

Thanks in anticipation

Nicholas Perkins

For and on behalf of

Dean Wilson LLP

REDACTED

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Dean Wilson LLP

Solicitors

16 December 2022

Immigration Compliance & Enforcement
The Home Office

Our Ref: NP/SW/7253/063/ Pietro Addis

& Sons Limited

Direct dial:

Redacted

E-mail:

Redacted

Your Ref:

By email only: **REDACTED**

Dear Sirs

DONATELLO RESTAURANT BRIGHTON

We act for the premises Licence Holder.

We refer to our email of 21 November last to which we are, to put it at its highest, disappointed that we have not had a response.

Even now however we would hope that you would be prepared to engage with us.

Whilst our clients may accept that they had briefly fallen below the standard required in terms of ensuring that employees had the appropriate employment status, they absolutely refute your allegation that staff were being paid in cash or being paid less than the minimum wage.

All staff were officially registered and were paid subject to appropriate deductions for National Insurance and tax.

We attach extracts from our client's records to so demonstrate - save with the exception of one employee who had only just joined and was working a short probationary period.

The allegations you make are serious and in our client's view simply not borne out by the facts.

We would also say that you have failed to take any account of the background circumstances - particularly the murder of Mrs Sue Addis in January 2021.

This was but an isolated series of events, and as was demonstrated by your recent visit to our client's other premises at Pinocchio in New Road, Brighton where our client was found to be fully compliant.

In the circumstances we invite you to immediately, rather than awaiting the scheduling of a hearing before the Committee, disclose the evidence that you hold and upon which these allegations against our client have been made.

Having done so, we would then invite you to re-consider our request for a dialogue.

At this point, we consider that it would be appropriate in all the circumstances for you to withdraw your Application for a Review - or at least agree that revocation is not appropriate.

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DX 321001 Hove IO

We trust that we will now hear from you positively.

If we do not receive a response, you will understand that we reserve the right to place this letter before the Licensing Committee, and if necessary, before any Appeal Court.

We await hearing from you.

Yours faithfully

REDACTED

Enc

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REDACTED PAYS LIPS

Nicholas Perkins

From: REDACTED

Sent:16 December 2022 10:47

To: REDACTED

Cc: REDACTED

Subject:DW Ref:[7253/063] - Donatello Licence Review - Lie Act 2003

Attachments:image001 .jpg

Good morning Mr. Perkins,

Firstly my apologies for not responding to your previous email on the 21st November, this was an oversight on our behalf.

Many thanks for providing the documents in your email below, I have forwarded these to our civil penalties compliance team and the local authority as each of these departments has an ongoing interest relating to your clients business.

In my view, now a date has been set for the premises license review (11/01/23) it would be best to follow due process and allow this to proceed. In light of the evidence you have provided below I am confident the panel will accept that none of the employees were being paid less than minimum wage.

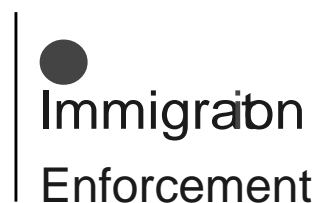
Should you need anything further from my team please don't hesitate to contact me.

Kind regards

Elliot

Elliot Andrews
Inspector
South East - Immigration Compliance & Enforcement (ICE) Team
Immigration Enforcement
Home Office

REDACTED



From: Nicholas Perkins REDACTED

Sent: 16 December 2022 09:37

Nicholas Perkins

From :np REDACTED

Sent:16 December 2022 14:10

To: REDACTED

Subject:RE: DW Ref:[7253/063] - Donatello Licence Review - Lie Act 2003

Attachments :image001 .jpg

Good afternoon - reference our exchange earlier and whilst I appreciate that you may have to confer internally, I have given this further thought

When you say: "it would be best to follow due process and allow this to proceed", respectfully this is not how licensing works.

If the review Applicant has a change of position, it is incumbent upon them to notify the decision maker without delay of their position. The Licensing Regulations (The Licensing Act 2003 (Hearings) Regulations 2005), particular at paragraphs 9 and 10 expressly give the ability to withdraw representations and dispense with hearings, which are a drain on public resources, as well as the private purse.

A responsible authority is not obliged to continue with a review: it has the power to withdraw. It is not "due process" to allow representations to proceed in front of a Committee when the representing party concedes that they are no longer appropriate. On the contrary, it is appropriate in licensing to keep rolling stock of the situation and present the decision maker with the most up to date position at all times. This is also what happens in the Courts on appeal. Any other approach gives rise to wasted costs

I look forward to hearing from you accordingly

Nicholas Perkins

For and on behalf of
Dean Wilson LLP

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file:///C:/Users/nicholas/AppData/Local/Temp/ECSMCHTemp-459294.html

06/01/2023

Nicholas Perkins

From : REDACTED

Sent: 16 December 2022 15:53

To: REDACTED

Subject: DW Ref:[7253/063] - Donatello Licence Review - Lie Act 2003

Attachments: image001.jpg

Hello Mr. Perkins,

Further to your response below.

As the authority seeking the license review our position has not changed as a result of the information you sent us and therefore I am content for these proceedings to go ahead as planned. The documents you submitted only evidence that some of the employees were paid at least minimum wage and paid some of their earnings in to bank accounts not by cash.

The licensing review is being sought based on the employment of illegal workers, not their specific pay and working conditions.

Furthermore, one of my colleagues has noticed that one of the payslips you submitted below was for an individual we did not encounter during our enforcement visit in November, but whose immigration status does not allow him to be employed in this sector. This is further evidence of another 'illegal worker' employed by the business, given the case precedent in terms of threshold for a premises license review is set at one illegal worker being employed I am happy that seeking a premises license review in these circumstances is fully proportionate and justified.

Kind regards

Elliot

Elliot Andrews
Inspector
South East - Immigration Compliance & Enforcement (ICE) Team
Immigration Enforcement
Home Office

REDACTED



**Immigration
Enforcement**

Nicholas Perkins

From: REDACTED

Sent: 28 December 2022 15:13

To: REDACTED

Cc: REDACTED

Subject: DW Ref:[7253/063] - Donatello Licence Review - Lie Act 2003

Attachments: image001.jpg

Hello Mr. Perkins,

I have reviewed the statement you submitted below and given the mitigating circumstances you have put forward I am happy to move away from seeking a full premises license revocation which has been our objective (and outcome) in almost all of our previous license review hearings. In my opinion the mitigation you put forward is compelling enough to move away from this objective.

I wonder if you could ask your clients if they would be willing to accept a 3 month license suspension? If in agreement there would be no further need to hold a license review in January.

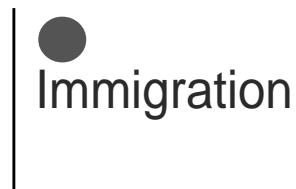
This seems to strike the right balance between taking the mitigation in to account whilst maintaining an effective punitive/deterrent factor which is a strong consideration for Immigration Enforcement when seeking a premises license review.

Kind regards

Elliot

Elliot Andrews
Inspector
South East - Immigration Compliance & Enforcement (ICE) Team
Immigration Enforcement
Home Office

REDACTED



Enforcement

G9

From: Nicholas Perkins REDACTED

Sent: 23 December 2022 09:25

Nicholas Perkins

From **REDACTED**

Sent: 29 December 2022 14:00

To: **REDACTED**

Subject: **RE: DW Ref:[7253/063] - Donatello Licence Review - Lie Act 2003**

Attachments: **image001.jpg**

Good afternoon Mr Andrews

I have discussed yours of yesterday afternoon with my clients

My clients are grateful for the movement in your position but before they can instruct me to respond can you please clarify your overall position

You suggest that a three month suspension would be an "effective punitive/deterrent factor" which implies that this would be the only punishment following the events of November - ie does this mean that if we can reach an agreement in the Licensing Act 2003 proceedings you would not pursue the civil financial penalty ?

I look forward to hearing

thanks

Nicholas Perkins

For and on behalf of
Dean Wilson LLP

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From : REDACTED

Sent: 28 December 2022 15:13

To: REDACTED

Cc: REDACTED

Subject: RE: DW Ref:[7253/063] - Donatello Licence Review - Lie Act 2003

Nicholas Perkins

From: REDACTED

Sent: 2 January 2023 10:57

To: REDACTED

Subject: DW Ref:[7253/063] - Donatello Licence Review - Lie Act 2003

Attachments: image001.jpg

Good morning Mr. Perkins,

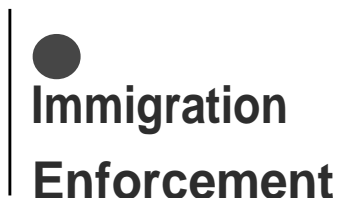
Just to clarify the offer of settling the premises license review case by way of a 3 month suspension will not have any impact on our Civil Penalties team deciding whether they issue a civil penalty for the employment of the illegal workers, this is a separate matter and will continue to be pursued/investigated.

Kind regards

Elliot

Elliot Andrews
Inspector
South East - Immigration Compliance & Enforcement (ICE) Team
Immigration Enforcement
Home Office

REDACTED



From: Nicholas Perkins REDACTED
Sent: 29 December 2022 14:00
To: REDACTED
Subject: RE: DW Ref:[7253/063] - Donatello Licence Review - Lie Act 2003

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Good afternoon Mr Andrews

Nicholas Perkins

From: REDACTED

Sent: 5 January 2023 10:46

To: REDACTED

Cc: REDACTED

Subject: RE: DW Ref:(7253/063] - Donatello Licence Review - Lie Act 2003

Attachments: image001.jpg

Good Morning

Mr Andrews

I have conferred with my clients who consider - on advice - even though you have conceded revocation - that any sort of suspension is inappropriate - not least where

- (1) you are continuing with the financial penalty proceedings
- (2) my clients have already suffered considerable financial damage as result of your actions if you had only had the courtesy to speak to my clients before launching the review
- (3) a suspension will do nothing to advance the Licensing Objectives and
- (4) your view that a Review procedure should be used as some sort of punishment

We maintain that this Review is wholly misconceived - we in all the circumstances invite you to withdraw the Review unconditionally

If you are so illadvised as to continue I presume that you will be serving evidence/statements in advance of next wednesday? When?

Nicholas PerkinsFor and on behalf of
Dean Wilson LLP

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From: REDACTED**Sent:** 28 December 2022 15:13**To:** REDACTED**Cc:** REDACTED