

TIMOTHY L. VAN VALIN  
Administrative Hearing Officer  
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ISB # 3827

STATE OF IDAHO,

PLAINTIFF

THE GRAIL RESTAURANT, LLC.  
Licensee, dba, THE GRAIL  
RESTAURANT & MULTI PURPOSE  
ARENA

RESPONDENT

CASE NO 13ABC-COM018  
LICENSE NO. 4496  
PREMISE NO. K-219

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER

This matter came on for hearing on the merits on the 10<sup>th</sup> day of December, 2014. The State was represented by Kenneth Robins , Deputy State Attorney General, and the Defendant was not present but represented by Susan Weeks, Attorney at Law. Also present were Danial Keyes for the Defendant, as well as Stephanie Nemore and Detective Tim Snell for the State.

**PROCEDURAL BACKGROUND**

The Grail has a State issued liquor license, received by transfer in January 2002. On or about the 20<sup>th</sup> day of April, 2013, the State of Idaho was performing an emphasis investigation in Kootenai County. One of the businesses that was part of the investigation was The Grail. Something evidently alerted ISPABC to the coming performance of The Ultimate Male Review, an all male, burlesque type of show aimed at women audiences. The advertisements on Facebook were included in the documents submitted by the State and illustrate the nature of the entertainment.

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LAG REVIEW
INITIALS

Undercover female police officers were recruited to attend and video this show for potential violations of Idaho Law, The Administrative Procedures Act and the Rules promulgated thereunder.

The State issued an Administrative Violation Notice to the Grail, sometime thereafter, which indicated the violations and that the Grail's license for the sale of alcoholic beverages would be revoked.

The matter was then at issue and the parties agreed to enter into discovery on an informal basis. This officer left the parties set their own deadlines for discovery and then issued an order for the scheduling of the summary judgment briefs using those deadlines found in I.R.C.P. Rule 53(c). The parties were timely in their briefing. This Officer issued an Opinion regarding the Issues stated denying the Summary Judgment and then set the matter for hearing on the merits.

At the hearing on the merits, the Grail plead No Contest to the charges and confessed Judgment. The Parties stipulated to the admission of State's Exhibits 1- 29.

Therefore, this Hearing Officer submits the following:

#### FINDINGS OF FACT

The Hearing Officer will use some of the proposed Findings Of Fact, as amended, and finds that it is unnecessary to address the previous violations as they pertain to service of underage individuals. This Officer further states that due to the previous objection by The Grail of the evidence regarding the service of underage individuals it would be procedurally beneficial to not address that at this time.

1. The Respondent currently holds a license to serve beer pursuant to Idaho Code Section 23-1010; wine by the glass and by the bottle, pursuant to Idaho Code Section 23-1306; and liquor by

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the drink pursuant to Idaho Code Section 23-903. The Respondent, "The Grail Restaurant, LLC," does business under the name "The Grail Restaurant and Multipurpose Arena" (hereinafter "The Grail"). Id.

2. At present, the licensees do not have restaurant or multipurpose endorsements issued by ISPABC. Respondent does have a city liquor license issued by the City of Huetter, Idaho. The licensed premises is located at 4720 Ferral Road, Huetter, Kootenai County, Idaho.

3. On April 27, 2013, Idaho State Police, Alcohol Beverage Control (hereinafter "ISPABC") Detectives Charles Robnett and Tim Snell conducted an undercover operation at the Grail, located at 4720 Ferral Road, Huetter, Kootenai County, Idaho. Prior to the undercover operation, Det. Robnett came across a Facebook advertisement by the Grail advertising a male review show called "The Ultimate Male Review" ISPABC Detectives were first shown an advertisement for this event by Larry Sumner during an under-age compliance operation at the licensed premises on April 20, 2013. The event was advertised for ages "eighteen (18) plus."

4, Det. Robnett reviewed "The Ultimate Male" website and found a promotional video featuring numerous prohibited acts as defined by the Idaho Liquor Act.

5. Det. Robnett contacted four (4) female police officers from various agencies with a presence in Kootenai County. The officers were utilized as undercover patrons inside The Grail during the April 27, 2013 "The Ultimate Male" review.

6. On April 25, 2013, Det. Robnett went to the Grail to purchase four (4) tickets to the April 27, 2013 show. While on the premises, Det. Robnett recognized two of the licensees, Larry Sumner and Dorothy Sumner. Det. Robnett told the Sumners that he

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was purchasing the tickets for his wife and her girlfriends. Larry Sumner replied that he (Det. Robnett) would be pleased once the show was over because the sexual drive of all the females would be highly aroused once the show was over.

7. On April 27, 2013, at approximately 7:00 p.m., Det Robnett conducted a briefing with the female undercover officers. Each female undercover officer was given an event entry ticket and some cash to pay the dancers.

8. At approximately 8:45 p.m., the female undercover officers arrived at the Grail. The female officers presented their driver's license identification to the security staff at the entrance of the Grail. One of these security officers was identified as John Nolan Whitaker.

9. They were also greeted by an older female near the entrance, selling reserved tables, which they purchased. ( One of the undercover officers asked the older female if persons under twenty one (21) were allowed to attend. The older female confirmed that they were permitted to attend. The female officers rented a table and were seated in the back of the room, furthest away from the stage.

10. The undercover officers observed a stage with a screen that displayed "Ultimate Males - Sex You Down Tour;" below that was, "Men at Work;" and below that was the web address of "TheUltimateMales.com." There were multiple tables of varying heights, including one large table in the middle of the room, which was marked as "Reserved" but was left unoccupied.

11. Prior to the performance, one of the undercover officers purchased a lap dance from a performer named Logan. When she paid him \$10.00 for the dance, Logan advised her that he would be the one to do the dance. As she walked back to the bar

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area, the performer requested that she come up on the stage and had her sit in a chair while an announcer explained the process and rules of the show. The undercover officer was seated with her legs crossed during this time.

12. During the explanation, the announcer walked over to the seated undercover officer and stated that participants were not allowed to cross their legs and needed to keep their hands to the side because the performers "needed that space." While these details were being explained the announcer grabbed the undercover officer's breasts and the performer named Logan spread her legs apart while she was sitting on stage.

13. After the explanation was finished, performer Logan unzipped the undercover officer's jeans and slid a dollar bill into the front of her jeans. While the undercover officer was still seated, performer Logan began to dance in front of the undercover officer with his legs straddling hers while sliding his clothed pelvic area up and down against her pelvic area. Logan then turned around and knelt down between the undercover officer's legs. Logan then reached forward, placed his arms under the female officer's legs and picked her up so that her thighs were on his shoulders and straddling his face simulating oral copulation. Logan then slid the undercover officer off of his shoulder to a point where the female officer was straddling his hips and pelvic area. While in his position, Logan moved his hips back and forth causing the female officer to bounce up and down as to simulate sexual intercourse. After this, performer Logan placed the female undercover officer in the chair; she then left the stage and went back to her table.

14. The undercover officer that went on stage at the beginning of the event described her interaction with Larry Sumner as follows:

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We were seated t a table in the back of the room furthest away from the stage). I had identified John Whitaker as the male who took our tickets at the front door. We then walked to the bar which was to the left Of the stage (if looking at the stage). Identified Larry Sumner and Dorothy Sumner behind the bar and were serving alcoholic drinks to patrons. Detective Ellis ordered beer and I ordered a rum and coke. Larry provided our drinks to us. There was also a pink pussy shot that was a mixed drink that I also ordered. Larry advised that it contained vodka.

After this undercover officer left the stage after the incidence of being fondled, simulating oral-genital sexual contact and sexual intercourse by the announcer and one of the performers, she reported the following conversation with Larry Sumner:

I walked back to the bar, and contacted Larry and asked him for water. Larry made a comment to me about being on stage with Logan indicating to me that he had watched what had happened.

15. On a second occasion performer Christian unbuckled the female officer's belt, after being led on stage and seated in a chair. Christian then placed his mouth against the crotch area of the undercover officer's jeans simulating oral copulation.

#### Videotaped Segment

This segment involved an on stage routine by one of the performers. The performer begins dancing on stage before the crowd wearing white pants and a white tank top. The performer then simulates a sex act from behind a female audience member while whipping the audience member with a belt. The performer then removes the tank top. the performer then removes his pants; revealing white shorts underneath. the performer then removes the white shorts; revealing a red, white and blue g-string type garment. The performer then bends over showing his backside to the audience revealing the cleft of his buttocks. The performer then walks to the middle of the stage and pulls the sides of the g-string garment away from his body. the segment concludes after the performer places a belt around the neck of a female audience member.

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16. The officers observed the performers Masters and Logan reaching their hands into their underwear handling their penis and simulating masturbation.

17. The officers observed a performer exposing his buttocks to the audience while straddling a female on stage. With his back to the audience, this performer had on a "g-string" style garment and pulled the garment down exposing four to five inches of the cleft of his buttocks. The officers observed women in the audience that had their breasts and nipples touched through their clothing by the male performers. One woman had her shirt pulled down and her nipples exposed by the performer.

18. The conduct described was not an isolated incident; it happened multiple times throughout the evening. The female undercover officers observed that all these acts happened several times and by multiple performers. The undercover officers also observed that both Larry and Dorothy Sumner were able to see what was occurring and made no attempt to stop or prevent the prohibited activities.

19. The Grail has violated the governing law in this matter, to wit, Idaho Code Section 23-614(1)(a)(b)(d). There are no exceptions to this statute pertinent to the matter.

20. The violations of said Idaho Code are sufficiently egregious to support the revocation of the liquor, beer by the drink and wine by the drink endorsements currently held by The Grail.

21. The State of Idaho through the Director of the Idaho State Police has the authority to revoke the licenses currently held by The Grail pursuant to Idaho Code and the Idaho Administrative Procedures Act and the rules promulgated thereunder.

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22. The Grail has plead NO CONTEST, confessed judgment and has no further standing in this matter.

#### CONCLUSIONS OF LAW

1. The Respondents currently hold a license to dispense beer pursuant to Idaho Code Section 23-1010 and wine by the drink pursuant to Idaho Code Section 23-1306 and liquor by the drink pursuant to Idaho Code section 23-903.

2. The license is located at 4720 Ferral Rd., Huetter, Kootenai County, State of Idaho.

3. These licenses do not contain endorsements for Restaurant of Multipurpose facilities per Idaho Code Sections 23-944(1) and (3).

4. The Grail sponsored an event by the "Ultimate Male Review" which event violated governing Idaho law in pertinent part as follows:

#### 23-614. Prohibited Acts- Misdemeanors- Penalties

(1) No person, partnership, association or corporation shall conduct, permit, or encourage any of the following acts or activities in or upon premises licensed pursuant to Title 23, Idaho Code.

(a) Employment or use of any person, including allowing any person on the premises, while such person is unclothed or in such attire, costume or clothing as to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

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(b) *Employment or use of any person who touches, caresses or fondles the breast, buttocks, anus or genitals of any other person or who is touched, caressed or fondled by another person.*

(d) *Employment or use of any person to perform acts of or acts which simulate sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any acts which are prohibited by law. Emphasis added*

IDAHO CODE SECTIONS 23-614(1) (a) (b) (d)

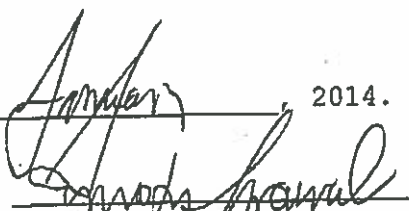
Based on the foregoing, this Officer makes the following;

ORDER

IT IS HEREBY ORDERED that the liquor license previously awarded to The Grail is revoked. The State of Idaho shall remove said license from the premises of The Grail as soon as possible pursuant to Idaho Code, IDAPA and the rules promulgated thereunder.

IT IS FURTHER ORDERED that the license to dispense beer and wine previously awarded to The Grail is revoked. The State of Idaho shall remove said license from the premises of The Grail as soon as possible pursuant to Idaho Code, IDAPA and the rules promulgated thereunder.

DATED this 3 day of January 2014.

  
TIMOTHY L. VAN VALIN  
ADMINISTRATIVE HEARING OFFICER

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CERTIFICATE OF DELIVERY

I certify that on the 8<sup>th</sup> day of Jan., 2015, a true and correct copy of the foregoing was caused to be delivered, postage prepaid, via facsimile, or interoffice mail/regular mail to the following:

Susan Weeks  
Attorney at Law  
FAX# 664-1684

Kenneth Robins  
Idaho State Police  
FAX# 208-884-7228



Assistant

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TELECOPIER TRANSMITTAL LETTER

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: attn: Kenneth Robins  
FIRM: Idaho State Police  
FAX #: 1(208)-884-7228  
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RE: State vs Heail

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