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August 27, 2008

Mayor Marty Blum  
Members of the City Council  
Post Office Box 1990  
Santa Barbara, CA 93102-1990

SEPTEMBER 16, 2008 AGENDA  
DANCE PERMIT – MADISON'S GRILL & TAVERN – 525 STATE STREET

Dear Mayor Blum and Members of Council,

My office has represented Madison's Grill & Tavern in the past, and in particular in 2006 when the Corporation's existing major shareholder, Lawrence and Josephine DeSimone, sold their then remaining shares to Derek and Diane Harding, who already owned 15 percent of the corporation's shares and had served for a number of years as onsite managers. The remaining shares were to be sold to another third party, however, because of issues that arose between the Hardings and the third party, the Hardings wound up acquiring 90% of the corporation's stock and Lawrence and Josephine DeSimone retained 10% ownership. This is the situation currently.

Importantly, in 2006, when DeSimones sold to Harding the purchase agreement contained the following representation and warranty:

"2.6 Governmental Approvals and Filings. Other than the consent of the California Alcoholic Beverage Control Board regarding transfer of liquor licenses, no consent, approval or action of, filing with or notice to any capital Governmental or Regulatory Authority on the part of seller or the company is required in connection with the execution, delivery and performance of this agreement or the consummation of the transactions contemplated hereby."

It has now come to light that the dance permit for the premises was never held by the corporation, but instead had been held by the DeSimones. Derek and Diane Harding did not know that the dance permit was issued to Mr. DeSimone individually, and relied on Mr. DeSimone's representation and warranty that all of the permits to conduct business as had been occurring in the past were in good order.

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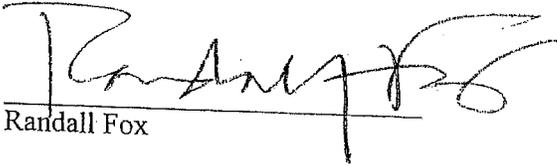
In April, the Hardings learned that that the corporation did not hold the permit and immediately sought approval to dance at the premises consistent with their past and existing operations. They are surprised to learn that Mr. DeSimone's representation and warranty to them was not correct, and ask that you not penalize them because of their good faith reliance on the transaction to acquire Madison's Grill and Tavern.

Please issue a dance permit for Madison's Grill and Tavern and 525 State Street to the corporation known as Those Guys, Inc. which has owned and operated the property since 1996.

Thank you for your courtesy and cooperation in this matter.

Sincerely,

REETZ, FOX & BARTLETT LLP

  
Randall Fox

RF/aml

Harding\Mayor 08.08.26

cc. Iya Falcone, Council Member  
Dale Francisco, Council Member  
Grant House, Mayor Pro Tempore  
Roger Horton, Council Member  
Helene Schneider, Council Member  
Das Williams, Council Member  
Barbara Sansone,  
Executive Assistant to Fire and Police Commission  
Derek & Diane Harding, Those Guys, Inc.