STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS DEPARTMENT OF BUSINESS REGULATION PASTORE COMPLEX 1511 PONTIAC AVENUE CRANSTON, RHODE ISLAND

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Club Elements, Inc., Appellant,

v. : DBR No.: 08-L-0171

Providence Board of Licenses,
Board/Appellee.

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ORDER OF DISMISSAL

The above-captioned matter came for hearing pursuant to the Providence Board of Licenses ("Board") September 2, 2008 order imposing a two (2) day suspension on Club Elements' ("Appellant") liquor license for September 5 and 6, 2008 and imposing a monetary penalty. The Appellant filed an appeal and the Department granted a stay of the suspension pending hearing. By agreement of the parties, the hearing in this matter was continued. At the time that this matter was then scheduled to be heard, the Board imposed an emergency suspension on the Appellant's liquor license from which the Appellant appealed. As that hearing was ongoing, the parties again agreed to continue this matter pending the result of *Club Elements, Inc. v. Board of Licenses, City of Providence*, DBR No. 10-L-003.

On May 24, 2010, the Board transferred the Appellant's liquor license and as a result the Department dismissed the appeal in DBR No. 10-L-003. See order dated June 17, 2010. While no document evidencing that the transfer application was approved by the Board was filed with the undersigned, the Board's counsel represented to all parties and the undersigned that

¹ By order dated October 31, 2006, the Director of the Department has delegated his authority to hear appeals filed pursuant to R.I. Gen. Laws § 3-7-21 to the undersigned.

the License had been transferred and that the Board did not address the issue of the Appellant's outstanding appeal of the two (2) day suspension.

While the Board could choose to address outstanding discipline while considering an application to transfer such a license, in this matter, the Board did not. Therefore, there is nothing left to appeal.

Based on the foregoing, the Appellant's appeal is dismissed.

As recommended by:

Date: 6/23/10

Catherine R. Warren Hearing Officer

I have read the Hearing Officer's recommendation and I hereby ADOPT/REJECT the recommendation of the Hearing Officer in the above-entitled Order of Dismissal.

Date: 6-24-2010

A. Michael Marques

Director /

Entered as an Administrative Order No.: 10-<u>095</u> this <u>24</u> day of June, 2010.

NOTICE OF APPELLATE RIGHTS

THIS DECISION CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.

I hereby certify on this day of June, 2010 that a copy of the within Order was sent by first class mail, postage prepaid to -

Max Foster, Esquire Assistant City Solicitor 275 Westminster Street Providence, RI 02904

John J. DeSimone, Esquire DeSimone & DeSimone 735 Smith Street Providence, RI 02908

and by electronic-delivery to Maria D'Alessandro, Associate Director, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Cranston, RI.

RB Ellison