

IN THE STRATFORD MAGISTRATES' COURT

APPEAL UNDER SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AGAINST A DECISION BY THE LICENSING SUB-COMMITTEE OF THE LONDON BOROUGH OF TOWER HAMLETS ON 3RD SEPTEMBER 2019 RELATING TO THE PREMISES KNOWN AS WHITES GENTLEMEN'S CLUB, 32-38 LEMAN STREET, ALDGATE, LONDON, E1 SEW

BETWEEN:

WHITES VENUES LIMITED

(t/a Whites Gentlemen's Club, 32-38 Leman Street, Aldgate, E1 SEW)

Appellant

- V -

LONDON BOROUGH OF TOWER HAMLETS

(Local Authority)

Respondent

WITNESS STATEMENT OF MOHAMED YASSIN BABOO

Introduction

1. My name is Mohamed Yassin Baboo, I am the sole shareholder Director of Whites Venues Limited, which trades and is known as "Whites Gentlemen's Club" situated on Leman street, London E1 SEW.
2. I am a person of good character and I have worked in the licensing trade for over 30 years, and hold a personal licence. My experience has included the operation of sexual entertainment venues.

Whites Gentlemen's Club history & overview

3. I acquired the business at Whites Gentlemen's Club in January 2019. I am at the premises working whenever the venue is operating. I am assisted by

Gemma Orr who is my assistant manager and had previously worked within the licensing trade as a performer.

4. It has held its SEV licence for many years. The hours of operation are Tuesday to Friday closing the latest at 4am. I would describe the venue as a high-end venue in terms of client spend. It borders the City of London.
5. There are a number of appropriate and proportionate procedures in place to manage the premises to promote the licensing objectives and to keep the premises safe for our customers, employees and performers (contractors).
6. These procedures include a code of conduct for staff and performers, a welfare policy and an eleven-point code of conduct for customers. I produce copies of these as exhibit reference **Exhibit "MYB/1"**.
7. These codes of conduct and the welfare policy have all been previously approved by the licensing authority, the London Borough of Tower Hamlets ("LBTH"). Customers are taken through the code of conduct prior to entering the venue by the door supervisor who reads the code to them. They are specifically told no touching of the performers. Persistent touching of a performer would result in the performer informing the SIA door supervisor who would in turn deal with the customer.
8. Staff and performers are all made aware of and sign up to a code of conduct. This includes warnings with regards to solicitation, their conduct and professional standards at work. Our application sets out our operating policies and procedures including searching and supervision of our customers, performers and staff.

SEV licence renewal

9. On 10th May 2019 an application was made to renew the SEV licence for the

premises. I produce a copy of this application as **Exhibit "MYB/2"**.

10. An objection was received on the 6th June 2019 by the LBTH to the application from the licensing team. The objection was specifically in relation to an allegation that the premises had been in breach of its licence during a visit to the premises on the 23rd May 2019 by two operatives, [REDACTED] and [REDACTED] from the Surveillance Group Ltd, a private contractor to the local authority. I produce a copy of their statements and notes of operation as **Exhibit "MYB/3"**.
11. On 13th June 2019, LBTH requested some CCTV footage between 2300 hrs on the 23rd May 2019 until 0130 hrs on the 24th May 2019 in relation to the operatives visit and their test purchase exercise.
12. The author of that letter was specific in that they wanted footage of "all private dance areas and all VIP rooms where a standard package is offered or a Russian themed room on the time and date detailed". I was reminded of condition 12 of the premises licence which says about CCTV being 'made available'. I viewed the CCTV myself between the times given and ensured that it was saved to a memory stick.
13. A number of matters were raised in the statements of the operatives and having viewed the CCTV personally from 11pm onwards, and checking my records relating to the use of the VIP rooms, I struggled to identify the operatives and/or customer being subjected to the allegations they had made.
14. I instructed my solicitor David Dadds of Dadds LLP to telephone the council and to advise them of the same and offer the CCTV for viewing, in accordance with the condition of my licence, which he did on 18th June

2019. We made it clear from the outset that the allegations were not correct and we had concerns that the statements were not true according to our CCTV and records. My solicitor cooperated with the local authority on my behalf and I am aware that they had conversations about the CCTV and met in person no less than twice and a full meeting was arranged between all parties on the 18th July 2019.

15. On Thursday 18th July 2019 Tom Lewis and a lady who I believe is Kathy Driver from LBTH council attended Whites. They were shown and taken through the CCTV of the VIP rooms. This showed no hire of the rooms as described by [REDACTED]. At this stage Mr Lewis and Mrs Driver agreed that the CCTV did not support the statements made by both undercover operatives. Before leaving they were given a bundle of all of the VIP room paperwork, receipts and a memory stick containing a large amount of CCTV, about 17.5hrs, which was shown during our meeting.
16. My book keeper was also at the meeting to answer any financial questions with regard to the recording of financial matters relating to the VIP rooms, specifically in regards to types of payment and whether they were cash or card payments. We have a strict procedure for taking payments for VIP rooms, which has been approved by the council and all payments are made in a specific area within the premises and under CCTV, and a written record is made and retained for all rooms hired. Normally such hires are paid by card with cash payments being an exception to the rule.
17. Mr Dadds was quite specific with both council officers that it was clear that the events alleged to have taken place in the VIP rooms had clearly not taken place.

18. LBTH asked for a copy of the CCTV, so they could show their contractor, Surveillance Group Ltd, and seek an explanation given what we were all seeing on the CCTV was not as stated in the operative's statements. I authorised my solicitors to release the CCTV to the council for this specific purpose. I thought and expected the objection made by the council and allegations made by the operatives to be withdrawn given the CCTV.
19. To my surprise the council did not withdraw their objection, even though they continued to agree with me that the CCTV does not show the operatives in the rooms and is in direct contradiction to their statements.
20. The council said it was for the committee to resolve the difference in the evidence and the operatives were standing by their statements.
21. The committee was due to meet on the Tuesday 3rd September 2019.
22. I learned on Thursday 29th August 2019 that the council may show to the committee some of the CCTV provided by me as part of their investigation about the visit by the operatives. They appeared to have used the footage provided not to refute what the operatives said in their statements, but to proceed to watch the 17.5 hours of footage to look for other breaches of the licence.
23. The council told me they wanted the footage to show to the Surveillance Group Ltd. They had not asked for it for any other purpose.
24. The council said they had found breaches of the licence on the CCTV. I wanted time to look at what they were saying and ask my licensing solicitors for advice. Upon discussion with my solicitor it was agreed we needed time to consider the new information and to watch and discuss the CCTV, so I asked

my solicitor to seek an adjournment. I produce a copy of the letter requesting the adjournment and the councils email confirming they seek to rely on additional information, dated Friday 30th August 2019, **Exhibit "MYB/4"** and **Exhibit "MYB/5"**.

Sub committee hearing

25. I attended a licensing sub-committee hearing at LBTH Town Hall. I recall there being approximately 15 council officers and councillors present. The councillors refused to adjourn the hearing and said I should have already watched the 17.5 hours footage provided and I was not prejudiced by the new information given the previous Thursday, as it should not be new to me. The hearing proceeded and Mr Dadds made submissions on my behalf.
26. The committee panel agreed that they had read the application and agenda. I remember Mr Dadds asking the committee in relation to the operatives' statements to exclude them or have little regard to them as they were not present. He had been told they would be at the hearing but they were not.
27. Mr Dadds was then told by the council that they were within the council building but would not be present at the hearing! He asked that they were present and to ask questions of them.
28. The majority of the committee members thought this was not necessary as they were prepared to accept the statements from the operatives in full. The legal advisor for the panel advised the committee that Mr Dadds ought to be able to ask questions of them given the serious allegations made and counter-arguments made.
29. The committee seemed reluctant to call them but gave in when their legal advisor said they ought to be there. The chairman mentioned a few times

they need to be finished by 21:30 and seemed agitated by the fact the witnessed were called.

30. Both operatives were then individually called to assist the committee hearing. The first was Mr. [REDACTED] who stated he was a person of good character, he had previously served in the armed forces, he had around 8 years' experience in this type of work, he had never been challenged on his evidence before and had never had a complaint made against him. [REDACTED] stated he had hired the VIP room 1 hour after entry. I recall Mr Dadds asking [REDACTED] some questions such as how did he pay the money for the room hire and he replied cash. Mr Dadds asked how much? He stated £870. He was asked where the transaction took place and replied in the middle of the bar. Mr Dadds asked if he had a receipt, [REDACTED] stated he had asked for one but was told he couldn't have one. He was finally asked who did he give the cash to and he stated it was me. He actually pointed me out in the committee and said 'I paid him a sum of money'. I couldn't believe what I was hearing. I knew this was untrue. I had no recollection of [REDACTED] especially the fact that he was alleging he had handed me a large amount of cash. I would have remembered if he had paid me cash as the vast majority of our customers use debit and credit cards to pay for services and very few pay by cash these days.
31. Mr. [REDACTED] was asked similar questions by Mr Dadds. [REDACTED] also stated he was a person of good character, had never been challenged or complained about. He was also an ex-serviceman. [REDACTED] appeared to be very nervous and vaguer than Mr. [REDACTED]. He stated he paid a member of management but did not give any detail other than to say the payment was made at the end of the bar within 30 - 60 minutes of entering. I was the only member of

management working that night and once again, for the same reasons as ■
I had no recollection of ■ who was stating he had paid £850 cash. My
solicitor on my behalf categorically stated that there was no hire of the room,
no payments made, no cash received.

32. The Council's Officers confirmed the CCTV did not show the operatives ■ and ■ in the rooms, contrary to their statements and said they believed the CCTV was genuine and had not been altered.
33. Mr Dadds then made submissions on my behalf to the committee panel about the visit and additional information. I was asked by Mr Dadds 'Is this your evidence for the committee to take into account?' to which I replied 'Yes'.
34. When the hearing was finished, I felt upset because it was not a fair hearing and the operatives had not been truthful.
35. The behaviour of the Councillors made me feel they were against me.
36. One Councillor who is now known to me as Cllr Ahmed (Vice-Chair) fell asleep and/or closed his eyes because of being unwell and this had to be brought to the attention of the Chairman by my solicitor, which the Chairman took exception to. The individual Councillor accepted he had not given his full attention as he was feeling unwell so he excused himself from the hearing.
37. Councillors were using their mobile telephones during the hearing. This point was raised with the Chairman who took exception to this being raised. Another Councillor, Cllr Qureshi, withdrew for using their telephone during the hearing, but two other Councillors remained despite it being raised and them confirming they had used their telephones during the hearing. I saw them watching something on their screen/telephone, the chairman took no

action and allowed members whose conduct had been raised to remain on the committee.

38. I have been given a copy of the Minutes of the hearing and am surprised to see that no reference has been made to the objection relating to the two Councillors watching their mobile telephones. There is no record of that and I am surprised because it was a notable exchange because the Chairman said something like "I know what you are up to Mr Dadds," My solicitor took exception to the comment, given that he was just raising what he said was right and proper concerns and that two Councillors had already withdrawn. It was right for him to put forward concerns about fairness, particularly as I had told him about the two Councillors, as I had seen them watching something on their mobile phone. I do recall in Parliament that day and on the television, much fuss being made about votes in Parliament regarding Brexit and election matters, and I did wonder whether they were being distracted by news updates or watching the television, or some broadcast. Obviously, I do not know that, but what I do know is that they were watching something on their phone, there was quite a fuss made by the Chairman about Mr Dadds raising this on my behalf and it does not appear at all in the Minutes, which are shown as "**Exhibit MYB/6**".
39. After my solicitor had raised the issues regarding conduct and behaviour of the Councillors, the Chairman's and Councillors' demeanour, if not appearance, changed and they appeared to be against me.
40. We were told during the hearing that we would have time to respond to the lengthy submissions made by the other side, as my solicitor had raised issues about what was being said. After the other side spoke, which was in excess of

one hour, we were only given one minute to give a closing statement. The chairman actually counted down the time saying 40 seconds, and 10 seconds and then stopped my solicitor from speaking. My solicitor raised an objection to the unfairness but was dismissed. It was so unfair.

41. This is not what I would expect from a committee hearing and it seems so unjust.
42. The committee retired and were out of the chamber for no more than 20 minutes. The chairman read the decision that the SEV licence would not be renewed.
43. This left me completely shocked and extremely upset. I was shocked that a professional undercover operative could produce evidence at a hearing that was completely untrue and made up. I felt that my professionalism and integrity had been cast in doubt.

CCTV review & findings

44. Now that I knew what [REDACTED] and [REDACTED] looked like I revisited the CCTV capture. The evidential statements stated that they had entered at 11pm. The council had requested CCTV from 11pm. A further viewing confirmed that neither operative had entered at the time stated. Luckily, I had downloaded footage from earlier that evening and at just gone 10pm I identified both operatives entering the venue. I then started to piece together their movements within the venue that night.
45. I could see that there were serious flaws in the allegations and statements. In relation to [REDACTED] the council note in their letter of the 6th June 2019 that in paragraph 11 of [REDACTED]'s statement in the VIP room a

performer touched the operatives body paying attention to his groin area. The performer also unbuttoned his shirt. When I looked at the CCTV, I could see that at no stage had [REDACTED] been into any VIP room for longer than 1 minute and had certainly not had any form of dance from any performer. Paragraph 8 of [REDACTED]'s statement states that whilst at the bar a performer intentionally grabbed his penis through his clothing. Paragraph 6 of [REDACTED]'s statement talks about a performer telling him the difference between a £20 and £40 dance, the latter involving touching. Finally, paragraph 10 states [REDACTED] had his penis bitten through his clothing during a private dance.

46. I have viewed the CCTV myself again as stated and not only do neither [REDACTED] nor [REDACTED] have any form of VIP dance during their visit, neither stays inside any of the VIP rooms for longer than 1 minute, there is no time whilst at the bar where a performer grabs an operatives penis nor is there evidence of a performer biting [REDACTED]'s penis. The CCTV simply does not support these allegations and as a result I seriously doubt the credibility of [REDACTED] and [REDACTED] in their roles as test purchasers on the night of their visit to White's Gentlemen's Club. [REDACTED] and [REDACTED] stated in their statements that you can get a non-touching and touching dance for £20 or £40 respectively. I would go so far as to say this is nonsense and has been made up by the operative. I do not believe either operative having seen for myself the CCTV and I know they didn't pay me any cash.
47. Furthermore, the representative of the council states concerns for the appropriate and proportionate systems and procedures not being in place. The policies and procedures I have previously referred to are materially adhered to. Performers are made aware of the consequences of breaching

policy as are customers. The policies and procedures in place are the same policies and procedures that were agreed as satisfactory and suitable by the LBTH council when the SEV licence was previously renewed.

48. The letter goes on to stress concern over customers being 'actively encouraged to drink... ' This is allegedly backed up by one of the operative's statements where he is offered a complimentary bottle of vodka in the VIP room. Two points of clarification here, the first is nothing in the venue is complimentary, any alcohol is at a cost. Secondly neither operative spent more than 1 minute in any of the VIP rooms as clearly shown by the CCTV so it is impossible for this allegation to be true.
49. The final paragraph of the letter talks about customers being led to believe they can touch a performer whilst having a private dance. At no time is any customer encouraged to touch a performer. In fact, as already stated, customers are read the code of conduct prior to entry. This clearly states the rules around touching performers or to be specific the rules around not touching the performers. To balance this, the performers themselves, as previously mentioned, also sign up to a code of conduct and are aware their employment would be terminated should they breach the code. These rules from both codes are rigidly enforced. I myself have enforced the code and have dismissed performers and have had customers ejected for breaching it. The author of the letter goes on further to say performers are at risk if the premises fails to adequately enforce the house rules. As I stated earlier any persistent touching by a customer towards a performer will see an intervention made by a door supervisor. The door supervisors are instructed to carryout regular discreet checks on the performers during the dances to

ensure the safety of the performers.

50. I have also had sight of the statements provided by [REDACTED] and [REDACTED]. In [REDACTED]'s statement he states he paid a large sum of cash (£870) for a Russian themed room. He alleges a number of things happened in the room, conversation, a dance where he was touched and the performer tried to kiss him, the performer was naked (after about 15 minutes), he was offered vodka or any drink he liked, he was asked to undress and he was, at the end of the hour long dance, offered the chance to go to a more fun room. I again refer to the CCTV. None of the above happened. Both [REDACTED] and [REDACTED] did visit all of our VIP rooms, but none were occupied by them for more than 1 minute in each room. At the point of reading the statements I can also say that at no time did either [REDACTED] or [REDACTED] pay me by card or by cash any sum of money and especially not the sums mentioned by both in their evidential statements.
51. The only contact I had with either [REDACTED] or [REDACTED] is at the VIP payment area. This is where I show [REDACTED] a PDQ machine with the cost of a private VIP dance. [REDACTED] talks to [REDACTED], [REDACTED] shakes his head, shows disinterest and walks away.
52. I walked away from the committee hearing completely dismayed and upset at what had happened. I was worried I had lost my business and I was worried for my reputation; I was extremely worried about the business, given the headlines in the Evening Standard newspaper and the loss of customers. I have financial commitments to pay for the business and this whole experience has had an effect on me. I've had to go to my doctors for help and support.

Actions following reviewing the CCTV

53. The very next day after the hearing, I spoke to Mr. Dadds detailing my findings. On numerous occasions I revisited the CCTV to piece together their movements. Put mildly, these bore absolutely no resemblance to what they had said in their statements and what they said at the hearing.
54. The other matters raised by the council detail further allegations with regards to a performer's actions with a customer on 2 different occasions on the 23rd May 2019 that did not involve [REDACTED] and [REDACTED]. It was my belief that the CCTV was supplied in good faith for a lawful purpose, that being to examine the allegations made by [REDACTED] & [REDACTED] between the hours of their visit, and not as a fishing expedition to trawl for other breaches. However, I have looked at the issues raised and wish to comment as follows; The first allegation is that a customer rubbed a performer's back and arms whilst having a private dance. Having viewed the CCTV of this instance it is clear that whilst the customer does make attempts to touch the dancer, she deals with this in a professional sensitive manner in that she subtly moves the customer's hands as part of her dance. She does this on 2 occasions to discourage the customer who does not persist in his actions. The second allegation relates to a performer straddling the customer which is not allowed and is a breach of the performers' code of conduct. In both instances, had I been aware of these issues they would have been dealt with in accordance with our policies. In the case of the latter performer she has since been dismissed.
55. I instructed Dadds LLP to submit an appeal against the committee's decision made by the committee that day. I've asked Dadds LLP to instruct a licensing

consultant who is a retired police officer to examine the CCTV from the night and provide a report detailing this. This has been submitted to the court along with a letter from Dadds LLP, which I produce as **Exhibit "YB/7"**. This letter details the concerns regarding the accuracy of the evidence given by [REDACTED] and [REDACTED] at the committee hearing. I also produce as **Exhibit "MYB/8"** an Index of documents that was provided to LBTH on 18th July 2019. I have also been very clear with Dadds LLP that it is important to work with the local authority going forward and that this should be made very clear to them. I hope that, following service of all of this evidence, LBTH will wish to concede that the refusal to renew was based on events which simply did not happen, so that the court time and costs relating to this appeal can be saved and the good relationship between LBTH and Whites can be resumed. I believe mediation and, if necessary, without prejudice conversations should take place in order to save court time and costs for both parties and to preserve a good working relationship.

STATEMENT OF TRUTH

I believe that the facts in this witness statement are true.

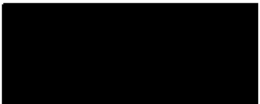
Signed
Mohamed Yassin Baboo

Dated

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STATEMENT OF TRUTH

I believe that the facts in this witness statement are true.

Signed .. 
Mohamed Yassin Baboo

Dated 20/01/20