



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

330 West 42nd Street, 26th floor New York, NY 10036
tel: 212-736-4536 fax: 212-947-9512
www.nyc.gov/mcb4

BURT LAZARIN
Chair

Jesse Bodine
District Manager

December 23, 2019

Vincent G. Bradley
Chairman
New York State Liquor Authority
80 S. Swan Street, 9th Floor
Albany, New York 12210

**Re: Ainsworth 26 LLC
d/b/a Ainsworth
122 West 26th Street (6/7 Avenues)**

Dear Chairman Bradley:

Manhattan Community Board 4 (MCB4) recommends denial of a new On-Premise Liquor License for a new operator of the Ainsworth at 122 West 26th Street, NY, NY because it is contrary to the public interest. The Ainsworth has been a problematic establishment since its opening in 2009, and the new operator has a checkered history in number of states.¹

The Ainsworth is located on West 26th Street, between 6th and 7th Avenues, in a district that has seen a sharp increase in the number of residents after the rezoning of East Chelsea in 1995. As of 2010 Census, there were 2,435 residents living on this block. There are 7 (seven) OP licenses on this specific block of West 26th Street alone and a total of 14 (fourteen) OP licenses within 500 feet of this establishment (per the SLA Lamp report).

Since its opening, the Ainsworth has created havoc in the community. It was presented to the community as a family-style fondue restaurant -- as reflected in the premises name filed with the SLA, "Fondue 26 LLC" -- but instead operated as a sports bar with DJs, promoters, and large-scale ticketed events. The Ainsworth operates with open doors and windows through which music, television, and patron noise blast outside; with large crowds who watch the sports games from outside and cheer; with drunken patrons blocking the sidewalk, stumbling and falling; and with fights erupting on the sidewalks and in the bike

¹ MCB4's recommendation is based on a vote taken at its December 4, 2019 full board meeting, with __39__ members voting in favor of the recommendation, __0__ members opposed, __1__ members abstaining and __0__ present but not eligible.

lane during days and nights on a regular basis. MCB4's files include community complaints from 2010, 2011, 2013, 2014, and 2019. The noise, traffic, and sanitation issues continue to this day.

The Ainsworth has ignored the SLA and the community by operating outside of its agreed-upon method of operation: a family restaurant with no DJ and no promoter. In 2014, MCB4 held multiple meetings trying to bring this operator in compliance with their liquor license stipulations (attachment 1). The commitments to install an indoor vestibule, hire a sound engineer, and not use a DJ or live music have all gone unheeded. Instead of the opaque curtains that were recommended to prevent crowds from viewing games from outside, the operator installed sheer curtains.

The current applicant appeared before MCB4's Business Licenses and Permits (BLP) Committee twice -- on September 10, 2019, and November 12, 2019. At each meeting, a large contingent of neighbors spoke and/or submitted written comments, opposing this application based on their experience, the continued use of the Ainsworth brand, and the lack of confidence that the new operator would improve upon the current troubled situation. MCB4 agrees with the neighbors that the new application is not in the interest of the community and will continue to encourage disorderly conduct and incessant noise in this residential neighborhood.

The new applicant John L. Sullivan -- the new operator who bought the Ainsworth brand and this location -- runs East Coast Saloons, a national bar chain that includes the McFadden's chain, Johnny Utah's, and the Irish Exit. Per reports from community member and the press, class action lawsuits have been filed against Sullivan and East Coast Saloons over sexual harassment of employees, wage disputes, and racial discrimination,² and there have been fights at Sullivan's bars, arrests, underage drinking, and one person pummeled to death.³

The new applicant has explicitly stated they intend to continue to operate the Ainsworth under the existing method of operation and with the existing brand -- a name and brand

² [One lawsuit against Johnny Utah's in Rockefeller Center was brought in 2015 by employees charging pervasive sexual harassment and bias. Another was brought in 2014 by employees of the Irish Exit at 978 Second Avenue seeking to recover years of unpaid wages and gratuities and alleging overtime violations. In 2010, there was a class action lawsuit against a McFadden's in Philadelphia for racial discrimination, with managers being accused of trying to limit the number of black customers; McFadden's settled that lawsuit.](#)

³ [In July 2009, a brawl between two groups started in McFadden's Ball Park in Philadelphia that later resulted in a fatality in the nearby parking lot. In April 2018, the Norwalk, CT Johnny Utah's was shut down when 100 underage college students were found inside. In December 2018, there was a bar fight at a McFadden's in Pittsburgh, with a woman being knocked unconscious and someone else arrested and sent to jail.](#)

synonymous with rowdy gatherings for sports games and a destination for sports fans assembled by promoters. The Ainsworth is known for heavy drinking, as encouraged by its frequent special drink offers. Unfortunately, this existing method of operation, which the new applicant seeks to continue, has proven problematic and is not in compliance with the one initially proposed to the community and MCB4 and approved by the SLA.

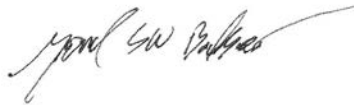
Considering the high number of OP licenses on this block, the history of the establishment, and the history of the new applicant, MCB4 requests that the SLA **deny** this application, which is contrary to the public interest.

Thank you for your attention and cooperation with this application.

Sincerely,



Burt Lazarin
Chair



Yoni Bokser
Co-Chair
Business Licenses & Permits
Committee



Frank Holozubiec
Co-Chair
Business Licenses & Permits
Committee



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JEAN-DANIEL NOLAND
Chair

ROBERT J. BENFATTO, JR., ESQ.
District Manager

June 22, 2009

Commissioner Daniel Boyle
New York State Liquor Authority
80 South Swan Street
Albany, NY 12210

Re: Fondue 26 LLC d/b/a The Orchard – 122 W. 26 St. (6/7 Avenues) – New-OP

Dear Commissioner:

Manhattan Community Board 4 voted to deny a new liquor license for Fondue 26 LLC d/b/a The Orchard – 122 W. 26 Street, unless the following conditions, agreed to by the applicant, are included in the method of operation:

- No outside promoters will be used;
- Applicant will not apply for a cabaret license;
- No DJ or live music;
- The applicant will follow the recommendations of a certified sound engineer to mitigate potential noise disturbances to the neighboring residents and buildings;
- Applicant will install an interior vestibule to further mitigate sound spillage;
- Kitchen will remain open until one hour before closing;
- New York Nightlife Association best practices guidelines for security personnel will be followed, and plan as submitted to community board (attached) will be followed.

This is a restaurant that will be open seven days a week, Sunday – Wednesday from Noon – 1 a.m, Thursday from Noon – 2 a.m. and Friday and Saturday from Noon – 3 a.m. Total capacity is 250, with 40 tables. They will have background music.

Sincerely,

Jean-Daniel Noland
Chair
Manhattan Community
Board Four

Lisa Daglian
Co-Chair
Business License & Permits
Committee

Chuck Spence
Co-Chair
Business License & Permits
Committee

cc: Applicant
Fred Gioffre
Elected Officials



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CHRISTINE BERTHET
Chair

JESSE BODINE
District Manager

December 8, 2014

Mr. Dennis Rosen, Chair
New York State Liquor Authority
80 South Swan Street
Albany, NY 12210

**Re: Fondue 26 LLC d/b/a The Orchard a.k.a. The Ainsworth,
and Windsor Custom LLC, 122 West 26th Street, NYC, 10001**

Dear Mr. Rosen:

We write with respect to Fondue 26 LLC d/b/a The Orchard a.k.a. The Ainsworth, 122 West 26th Street, NYC, 10001 (herein referred to in this letter as “The Ainsworth,” the name under which this establishment presently operates) and Windsor Custom LLC, a related but separate corporation. The Ainsworth is managed and owned by its holding company—the Paige Hospitality Group (PHG)—whose president, Matt Shendell (operator), was the co-applicant on the original liquor license.

As per the attached letter dated October 22, 2009, Manhattan Community Board 4 (MCB4) voted to recommend denial of a new liquor license unless the applicant agreed to the stipulations. It is our understanding that the applicant consented to all terms upon which its liquor license was conditioned. However, after hearing considerable complaints from the community, which sparked substantial research by MCB4, it became clear that The Ainsworth is in violation of the stipulations and operates in a manner materially different from what was initially represented.

Despite meeting with representatives from The Ainsworth four times in the past month alone, and exchanging dozens of emails over the past three months, MCB4 has been unable to entreat the operator to fully comply with the stipulations or to take effective ‘good neighbor’ measures to alleviate problems associated with inadequate security necessitated by operating in a manner inconsistent with the terms of its liquor license.

Contrary to the liquor serving family-friendly restaurant for which its license was granted, The Ainsworth also has a diverse array of operations including:

- 1) a clandestine clothing store with a second bar that was never approved by the SLA;
- 2) a sports bar that USA Today named among the “*10 Best*” in the country featuring 40

- large screen televisions, two projectors and a state of the art sound system;¹
- 3) a 6,000 square foot event space for corporate and private events;
 - 4) and a club-like party venue.²

Indeed, an Ainsworth representative was quoted as saying, “*We’ve done everything from building a stage for athletes to interact with their clients, to driving a car into the center of the venue.*”³ The operator himself pointed out “*You name it, we do it at The Ainsworth on 26th.*”⁴

MCB4, therefore, respectfully requests that the SLA enforce The Ainsworth’s terms of operation, require adherence to the stipulations, and necessitate the closure of the illicit liquor-serving clothing store that exists beneath The Ainsworth.

OPERATING WITHOUT A LICENSE

According to the operator, the PHG came up with the idea for a “*bespoke, speakeasy style, appointment-only custom men’s clothing shop...as an amenity...that has become a busy business.*”⁵

The New York Department of State recognizes that the clothing store is owned by Windsor Custom, LLC, an entirely different business entity from The Ainsworth that was described as “*A Secret Custom Suit Shop Under NYC’s Hottest Sports Bar*” where “*the bar is stocked.*”⁶

ONGOING VIOLATIONS OF THE STIPULATIONS

1) Capacity In contradiction to the stipulation’s cap of 250 people, The Ainsworth’s website advertises that it can accommodate up to 450 people.⁷

2) Applicant Will Not Apply For A Cabaret License While The Ainsworth does not have a cabaret license, dancing does take place. The website partyearth.com states that people arrive on the scene, “*to check out the action on the dance floor.*”⁸ On yelp.com a patron commented that The Ainsworth is actually “*confused about whether it is a sports bar or a club.*”⁹

In fact, during the November 10, 2014 meeting of the MCB4’s Quality of Life Committee, The Ainsworth’s Chief Operating Officer, Joe Arongino, referred to The Ainsworth not once but four times as a “*club.*” One committee member noted that she had been turned away by bouncers who attempted to prohibit her family from entering the establishment for dinner because her ten-year-old child was underage. Another said that he (along with a long line of rather lively patrons) was carded by bouncers on the sidewalk when he attempted to enter The Ainsworth for a late-night snack.

¹ <http://www.usatoday.com/story/travel/destinations/10greatplaces/2014/01/23/sports-bars/4801737/>

² <http://www.ainsworthnyc.com/about.htm> and <http://paigegroupny.com/windsor-custom/>

³ <http://insidechelseanyc.com/the-ainsworth-chelsea/>

⁴ <http://www.bbook.com/industry-insiders-matt-shendell-president-of-paige-hospitality-group/>

⁵ <http://www.bbook.com/industry-insiders-matt-shendell-president-of-paige-hospitality-group/>

⁶ <http://www.businessinsider.com/windsor-custom-2012-4?op=1#ixzz3JjMol0ug>

⁷ <http://www.ainsworthnyc.com/events.htm> (“AV/CAPACITY” pop-up caption)

⁸ <http://www.partyearth.com/new-york/bars/the-ainsworth-2/#review>

⁹ <http://www.yelp.com/biz/the-ainsworth-new-york>

3) No DJ or Live Music As reflected on several floor plans posted on its own website, The Ainsworth installed a permanent DJ booth that facilitates live spinning during parties, corporate events, and sports broadcasts, which frequently attract large, often boisterous crowds.

- **Game Days:** On yelp.com patrons commented that DJ's were, "*blowing out the speakers,*" and that television sportscasters could not be heard over "*the thumping music.*"¹⁰

- **Promoters' Parties:** Joonbug, a promoter that does business with The Ainsworth, advertised that, a top DJ "*will be turning up the heat on the dance floor.*"¹¹ And on the same yelp web page referenced above, a customer observed "*haggling/bartering with bouncers at the door,*" prompting another to query "*why a restaurant needs bouncers in the first place?*"

- **Corporate and Private Events:** In two separate emails to MCB, the operator mistakenly asserted that The Ainsworth is "*allowed to have a DJ for private events and corporate events. We have them maybe 50 days a year,*" and, "*There is NO reason why we cannot have one if it means losing...a corporate event.*"¹²

4) No Outside Promoters In contradiction to its stipulations, The Ainsworth rents out space to at least one promoter to host parties with a club-like atmosphere.¹³ For example, on its website, promoter Joonbug advertised an adult-only 2014 Halloween party as a "*nightclub*" and urged people buy tickets, "*for some serious hell-raising party mayhem.*"¹⁴

At the November 10th, 2014 MCB4 Quality of Life (QOL) Committee meeting, two Ainsworth executives promised that they would immediately stop working with Joonbug or any other promoter but that parties would none-the-less continue with tickets sold directly by PHG.¹⁵ In a subsequent email to MCB4, the operator stated that he cancelled Joonbug's New Year's Eve party and noted that he "*did not view them as an 'outside' promoter*" and that working with them was "*unintentional.*"¹⁶

After MCB4 requested documentation of the cancellation, we received a one-line email from Joonbug's CEO stating "*We have canceled the event for NYE for Ainsworth.*"¹⁷ However, as of December 3rd, 2014, the event is still being promoted, and tickets are being sold on Joonbug's sister site—Cravetickets.com—both of which are owned by SkyNet Media Group.¹⁸ Tickets are also being sold on Clubzone.com.

While MCB4 is hopeful that the operator will fulfill his promise to cancel the New Year's

¹⁰ <http://www.yelp.com/biz/the-ainsworth-new-york>

¹¹ <http://joonbug.com/newyork/events/The-Ainsworth/11-01-2014/Haunted-Halloween-at-The-Ainsworth/oye5kXOfL7i>

¹² October 30th, 2014, 6:12pm and November 12th, 2014, 3:33pm

¹³ Email dated October 30th, 2014, 6:12pm

¹⁴ <http://joonbug.com/newyork/newyeareve/The-Ainsworth-NYC-New-York/nE0mTy8aoLL>

¹⁵ Tom Simpson, Paige Hospitality Group, V.P. of Operations, and, Joe Arongino, Paige Hospitality Group, COO

¹⁶ November 21st, 2014 email to MCB4

¹⁷ <http://nightout.cravetickets.com/events/the-ainsworth-new-years-eve-2014>

¹⁸ November 21st, 2014 email from Jonathan Gabel, CEO, SkyNet Media Group.

Eve party, we remain doubtful that The Ainsworth will permanently sever its relationship with promoters in the future.

5) **Hours Of Operation** The Ainsworth regularly opens its doors at 11 a.m. instead of the stipulated 12 p.m.

It should also be noted that, as advertised by the promoter CraveTickets.com, The Ainsworth's New Years Eve party is slated to end at 4 a.m. instead of the stipulated 1 a.m. There is no indication that an after-hours permit has been applied for, or approved.

6) Certified Sound Engineer To Mitigate Noise Disturbances To The Neighboring Residents

The operator asserts that he hired an acoustician but could not recount exactly when. He conceded it may have been when The Ainsworth opened in 2009 or perhaps in 2008, during his involvement with the event business "Lotus Space NYC, Inc.", which was dissolved by proclamation in 2011 for non-payment of state taxes.¹⁹ Since the operator cannot find any documentation related to an acoustician, he has expressed a willingness to pay for a sound evaluation but there is no indication that he has, as of yet, taken action.

ADDITIONAL PROBLEMATIC CONDUCT OF CONCERN TO THE COMMUNITY

The Ainsworth's manner of operation contributes to the deleterious impact that the establishment continues to have on West 26th Street, which is comprised of an increasing number of residences with children and aging persons. These problems include extreme crowding of sidewalks, traffic back-ups, fist-fights, yelling by inebriated patrons, and cheering by people loitering or smoking on the sidewalk while watching sports broadcasts on multiple large screen televisions that are viewable through the glass frontage from as far away as across the street.

In an October 23rd, 2014 meeting attended by community members and representatives from The Ainsworth, Michael Hesekeiel, the president of All Star Security (the company that handles security for The Ainsworth) admitted that the large crowds that congregate on the sidewalk and street are at times "*hard to police*". In an attempt to reassure residents, Mr. Hesekeiel stated that one of the security measures being taken to "*discourage riff-raff from coming around*" is the enforcement of a "*very strict dress code.*" Two All Star Security guards nodded in agreement when MCB4's Quality of Life Committee Co-Chair Tina DiFeliciano asked if part of the problem might stem from the fact that bouncers need to be mindful not to offend well-heeled patrons and corporate clients at an establishment characterized by US Magazine as a "*VIP Scene*", where, according to the New York Times, tables can "*command a \$1,000 minimum*" on big game days.²⁰

During MCB4's attempts to negotiate with The Ainsworth, it made a commitment to bag garbage properly, pack broken glass safely, clean the sidewalk more effectively, hang

¹⁹http://appext20.dos.ny.gov/corp_public/CORPSEARCH.ENTITY_INFORMATION?p_nameid=3312175&p_corpid=3294423&p_entity_name=Lotus%20space&p_name_type=%25&p_search_type=CONTAINS&p_srch_results_page=0 and <http://www.bbook.com/industry-insiders-matt-shendell-president-of-paige-hospitality-group/>

²⁰ http://www.nytimes.com/2011/12/15/fashion/windsor-custom-at-the-ainsworth.html?pagewanted=all&_r=0

longer curtains, and— during busy times—add a security guard and close the drapes/windows. While these measures are intended to help ameliorate The Ainsworth's negative impact on the neighborhood, they do not change the fact that until PHG adheres to the stipulations, West 26th Street's quality of life problems may remain intractable.

This is of particular concern since PHG is planning to expand its operations across New York State based on The Ainsworth's current business model. As explained by Mr. Shendell, it is therefore vital for The Ainsworth brand to demonstrate profitability for investors. As such, MCB4 lacks confidence that this enterprise will adhere to the stipulations, and end its association with the illegal operation of Windsor Custom LLC.

MCB4 respectfully requests swift intervention by the SLA.

Sincerely,



Christine Berthet
Chair

[Signed 12/8/14]

Tina DiFeliciano
Co-Chair
Quality of Life Committee

[Signed 12/8/14]

David Pincus
Co-Chair
Quality of Life Committee