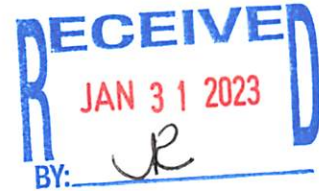




STEWART MELVIN & FROST
ATTORNEYS AT LAW
AN UNCOMMON PRACTICE

January 23, 2023

Jennifer Rivera, Clerk
Hall County Board of Commissioners
P.O. Box 1435
Gainesville, GA 30503



Re: In the Matter of Nooruddin Virani Recommendation

Dear Ms. Rivera,

Please find enclosed a copy of my Recommendation, made pursuant to Hall Code Section 5.60.190(F). I understand that this Recommendation is to be transmitted to you, with copies to Mr. Virani, Business License Director Brandi Smith, and County Administrator Zach Propes. I further understand that this matter will be placed on the next regular meeting agenda.

If you have any questions, feel free to let me know.

Sincerely,

Kristin K. Bloodworth

Enclosures.

cc: Nooruddin Virani/Licensee, Business License Director Brandi Smith, County Administrator Zach Propes, and Deputy County Attorney William Linkous

BEFORE THE HALL COUNTY BOARD OF COMMISSIONERS

**IN THE MATTER OF:
NOORUDDIN VIRANI
d/b/a SHELL FOOD MART
5804 CORNELIA HWY
ALTO, GA 30510**

RECOMMENDATION

Pursuant to Hall County Code Section 5.30.190(F), the following report is submitted for the Hall County Board of Commissioners' review and consideration.

On January 19, 2023, the above-referenced matter was heard pursuant to Hall County Code Section 5.30.190(A). At the hearing, Hall County was represented by counsel, Deputy County Attorney William Linkous, and Shell Food Mart was represented by Nooruddin Virani ("Mr. Virani" or "Licensee"). The Hearing Officer asked if either party had any preliminary matters to address and none were presented. Thereafter, both parties had an opportunity to present opening statements, evidence in support of their claim or defense, and closing statements. Hall County presented three witnesses: Director of the Hall County Business License Division, Brandi Smith, and two agents from the Georgia Department of Revenue, Special Agent Mary Ellen Loggins and Special Agent Brianna Brinkman. The Licensee spoke on his behalf and did not present any additional witnesses. All hearing exhibits, which were admitted without objection, are attached hereto and incorporated herein. The following facts and evidence discussed are based upon the parties' presentations at the hearing.

I. Findings of Fact

On September 15, 2022, the Georgia Department of Revenue ("GDR") conducted an investigation regarding the sale of alcohol to underage persons at multiple business locations in the North Georgia area. As part of its investigation, GDR randomly selected the Shell Food Mart for an attempted purchase of alcohol by an underage compliance operative ("underage operative").

Three GDR agents and the underage operative participated in the investigation. Special Agent Brinkman testified that she witnessed the underage operative enter the Shell Food Mart, select a 25 oz. Bud Light Beer Can from the refrigerated cooler, and purchase said beverage using cash. Special Agent Brinkman further testified that the underage operative was able to purchase the alcoholic beverage from a Shell Mart Food clerk, April Roark, without being asked for proper identification.

After the alcohol purchase, Special Agent Loggins issued an administrative citation to the Licensee, for selling or otherwise furnishing alcoholic beverages to an underage person at the licensed place of business, in violation of Georgia Rules and Regulations Rule 560-2-2-.25. A hearing was scheduled for October 20, 2022, before a GDR Administrative Hearing Officer. Prior to the hearing, the Licensee elected to forgo an evidentiary hearing and entered a plea of no contest. The Licensee was ordered to pay an administrative penalty in the amount of \$850.00 and was placed on a 12-month probation. *See* Hall County Exhibit 1: Executive Order.

On November 15, 2022, Nooruddin Virani, submitted his Alcohol Beverage License Renewal Application. Within his application, Mr. Virani self-reported that the Shell Food Mart had been cited with a violation of state law within the past twelve months. The Licensee's application and testimony at the hearing demonstrated that the clerk who sold alcohol to the underage operative was new and not yet fully trained, that the clerk did not properly scan the beverage before it was sold to the underage operative, and that the Licensee terminated the clerk's employment. *See* Hall County Exhibit 2: Alcohol Beverage License Renewal Application.

Upon receipt and review of Mr. Virani's renewal application, Hall County Business License Division Director Brandi Smith began investigating the incident. Director Smith communicated with Special Agent Loggins and Mr. Virani, who provided her with a copy of the Administrative Hearing Officer's Executive Order. Director Smith did not find any previous violations for the Licensee. Agent Loggins also stated she had not received any prior violation complaints regarding the Shell Food Mart before it was selected for a random investigatory operation. In consideration of the Licensee's first offense and fines instituted against other businesses for similar violations, Director Smith recommended the Licensee be fined, in the amount of \$350.00.

II. Applicable Hall County Code Sections

5.30.140 – Minors

- A. All persons seeking to purchase alcoholic beverages within the unincorporated area of the county shall be required to provide proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older regardless of apparent age....License holders whose employees or agents fail to request proper identification upon the sale of an alcoholic beverage shall upon conviction be assessed a fine of no less than \$100.00 for the first offense, and a fine of no less than \$250.00 for a second offense and all subsequent offenses. All such fines shall be levied against the actual license holder at the licensed location, rather than against the person failing to request that a customer provide proper identification.

- C. Any license holder who sells an alcoholic beverage to a person under the age of 21 years without requiring proper identification in violation of state law (or whose agent or employee does so) may, at the sole discretion of the board of commissioners, be subject to the revocation or suspension of his or her license upon the first offense, and the severity of the sanction may be based upon the severity of the offense.

5.30.180 – Grounds for Revocation or Suspension of License

- A. Violation by the licensee of any state or federal law or regulation, except misdemeanors, or of any resolution or ordinance of the county, other than traffic violations.

- C. Any conduct on the part of the licensee or his employees contrary to the public welfare, safety, health or morals.
- E. The violation of any state or federal law or regulation, municipal ordinance, or county resolution or ordinance pertaining to alcoholic and malt beverages and wines. This ground specifically includes any violation of any provision of this chapter.

III. Analysis

The testimony and additional evidence presented demonstrates a person under the age of 21 was permitted to purchase an alcoholic beverage without providing proper identification at the Shell Food Mart on September 15, 2022. Such a violation is a concern to the health and safety of the community.

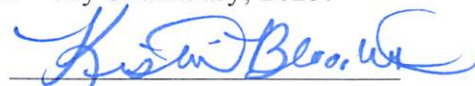
Following the incident, the Licensee demonstrated a proactive response. The clerk who sold alcohol to an underage person was terminated. The Licensee entered a plea and paid the required Georgia Department of Revenue fine. Further, the Licensee self-reported the incident to the Hall County Business License Division. The Licensee also assisted Director Smith with her investigation by providing requested documents and responding to her investigation honestly. The Licensee recognized the clerk's mistake and represented that employee training will be conducted.

In consideration of the Licensee's response to both the Georgia Department of Revenue and the Hall County Business License Division, it appears the Licensee has taken affirmative steps to ensure future compliance with local and state law concerning the sale of alcohol to underage persons. With the Licensee's first offense and actions taken following the violation, no suspension or revocation appears necessary to deter future violations. Therefore, Director Smith's request for a fine in the amount of \$350.00, which is consistent with fines instituted for similar violations, is well taken.

IV. Recommendation

Based on the foregoing analysis, it is RECOMMENDED that the Licensee be fined \$350.00.

Respectfully submitted this 23rd day of January, 2023.



Kristin K. Bloodworth
Hearing Officer

BEFORE THE GEORGIA DEPARTMENT OF REVENUE

IN THE MATTER OF:
NOORUDDIN VIRANI
d/b/a: SHELL FOOD MART
5804 CORNELIA HWY
ALTO, GA 305102214

ALLN: 0093002
CITATION NO. A202209150530036-C1
LETTER ID: L0568822960

EXECUTIVE ORDER

The Georgia Department of Revenue ("Department") issued an administrative citation that charged the above-referenced Licensee with selling or otherwise furnishing alcoholic beverages to an underage person at the licensed place of business, in violation of Revenue Regulation 560-2-2-.25.

A hearing was scheduled for October 20, 2022, before the undersigned Administrative Hearing Officer to provide the Licensee with an opportunity to respond to the Department's charge. Prior to the hearing date, the Licensee entered a PLEA OF NO CONTEST and elected to forgo an evidentiary hearing. Thus, in accordance with the Department's Progressive Discipline Policy, it is

ORDERED that the Licensee be fined an administrative penalty in the amount of \$850.00; it is further

ORDERED that the Licensee's license be placed on probation for a period of 12 months from the hearing date; it is further

ORDERED that if the Licensee fails to pay the administrative penalty on or before the effective date of this Order, the Licensee's license shall be suspended until the Licensee pays said administrative penalty.

This Order shall become effective on the 10th calendar day following the date of service. Further proceedings in this matter shall be governed by Revenue Regulation 560-2-2-.07 and Revenue Regulation 560-2-16-.05.

So ordered, this 18th day of October, 2022.

FOR THE COMMISSIONER:



Nico Kairies
ADMINISTRATIVE HEARING OFFICER



HALL COUNTY ALCOHOL BEVERAGE LICENSE RENEWAL APPLICATION

For License Year 2023 County License # _____ State License # _____

Due November 15, 2022

INSTRUCTIONS: Fully ANSWER ALL questions.

If the space provided is not sufficient, answer the question on a separate sheet and indicate in the space provided that such separate sheet is attached. When completed, original application must be dated, signed and verified under oath by the applicant and submitted to the Hall County Business License Department; together with all supporting papers and payment.

Any applications received after November 15, 2022 are automatically assessed a 10% penalty and 1% per month interest for each month or fraction thereof. Incomplete applications will NOT be accepted.

- RENEWAL BEER PACKAGE: \$500.00
- RENEWAL WINE PACKAGE: \$500.00
- RENEWAL FARM WINERY: \$2,000.00

- RENEWAL BEER CONSUMPTION: \$700.00
- RENEWAL WINE CONSUMPTION: \$700.00
- RENEWAL DISTILLED SPIRITS CONSUMPTION: \$2500.00

BUSINESS INFORMATION

NAME FARIDA Business LLC DBA Shell Food LLC
 Street Address 5804 cornelia Hwy State GA Zip 30510
 City ALTO Phone 404-935-3006
 Mail Address _____ State _____ Zip _____
 City _____

Name of OWNER (S)

Name	Address	City/State/Zip	Title
<u>NOORUDDIN VIRANI</u>			

Is this business a CORPORATION? If so indicate name and address of corporation:

FARIDA Business LLC

LICENSEHOLDER/MANAGING AGENT INFORMATION (No initials; SPELL OUT ALL NAMES)

Name N
 Home Address 2297 sever Rd Co _____ Home Phone _____
 City Lawrenceville State GA Zip 30043 Cell Phone 404-935-3006
 COUNTRY of Citizenship USA Alien # _____ Exp date _____
 Title with business (owner, manager, clerk, etc.) President
 E-mail address Nickvirani2@yahoo.com

REGISTERED AGENT INFORMATION (No initials; SPELL OUT ALL NAMES)

Name ADNAN AHMED KHAN
 Home Address 2729 SUMMER CREEK DR Co _____ Home Phone _____
 City GAINESVILLE State GA Zip 30507 Cell Phone 470-272-0546
 COUNTRY of Citizenship USA Alien # _____ Exp date _____
 Title with business (owner, manager, clerk, agent etc.) _____
 E-mail address adnan_khan78@hotmail.com

What is the **CURRENT** straight line distance from this business or portion of this business used for the sale of alcoholic beverages to the nearest: (indicating more than 600 ft., more than 1000 ft., etc.) will **NOT BE ACCEPTABLE**, and application will be returned)
 School 4 Miles Church 20 min Funeral Chapel 5 min

REGISTERED AGENT CERTIFICATION

NAME ADNAN AHME KHAN

Physical Home Address 2729 SUMMER CREEK DRIVE
(Full name, no initials)

City GAINESVILLE State GA Zip 30507
(NO P.O. BOX)

Home Phone _____ Cell 470-272-0546

E-mail address adnan_khan78@hotmail.com

COUNTRY of Citizenship USA Alien Registration # _____ EXP _____

ADDITIONAL CONTACT INFORMATION

Place of employment ZS GAINESVILLE CANDLER LLC

Address 2178 CANDLER ROAD

City GAINESVILLE State GA Zip 30507

Phone _____

Additional Employer _____

Address _____

City _____ State _____ Zip _____

Phone _____

I hereby certify that I am a permanent resident of Hall County, Georgia and agree to serve as a "registered agent" on behalf of Sweet too, located at 5804 Auntie May Dr SW, Hall County, Georgia.
Business Name
Business Address

Georgia until December 31, 2022. As registered agent, I agree to accept any process, notice or demand required or permitted by law or under the Alcoholic Beverage Codes of Hall County, Georgia, to be served upon the licensee or owner. I understand that such service upon me will serve as legal notice upon the licensee or owner and that it is my responsibility to forward such service to the owner or licensee.

If for any reason I am unable to serve as the "registered agent" on behalf of the above named business, I understand that it is my responsibility to contact the Business License Director in writing advising that I will no longer serve as the "registered agent" for the above named business.

Adnan
Signature of Registered Agent _____ date _____

Sworn and subscribed before me this 10 Day of NOV 2022
Brandi Smith
Notary Public
(SEAL)



Has this place of business or anyone connected therewith been cited or charged at any time with any violation of state or federal law or regulation or any rule or regulation of the city or county within the past twelve (12) months?
 Yes No (If yes, give details on separate sheet.)

Has anyone (including employees) been convicted of driving/boating under the influence within the past five (5) years?
 Yes No (If yes, give details on separate sheet.)

List all other businesses engaged in the sale of alcoholic beverages that any of the persons, firms, or corporations herein listed are interested in, employed by, or associated with in any way whatsoever.

2890 SWANEE LLC DBA (BP FOOD)
SADIAH EL SAMBER INC DBA (SHELL FOOD MART)
2890 LAWRENCEVILLE SWANEE RD SWANEE GA 30024
3638 Hwy 5 Douglasville GA 30135

List full name, address and other pertinent information of the owner of the building, the name and address of the owner of the land, and the name and address of all lessors and sublessors. (If no change, indicate "ON FILE" ; if changed, please attach a copy of lease or deed)

OATH: I/We do solemnly swear, subject to criminal penalties for false swearing, the statements and answers made to the foregoing questions in this application for a license as a dealer in alcoholic beverages are true and complete, and no false or fraudulent statement or answer is made herein to procure granting of a license, that any license issued pursuant to this application is conditioned upon the truth of the answers and statements made herein and that any false or fraudulent statement or answer herein shall constitute cause for the suspension or revocation of any license issued pursuant to this application. Should any change occur during the year for which a license is issued pursuant to this application which would require a different answer to any question contained in this application, such change MUST be reported as a written amendment to this application within five (5) days of the change. The failure to make such amendment shall be a cause for the suspension or revocation of any license issued. I/We have received a copy of the local alcoholic beverage regulations and understand that this copy is to be kept on the licensed premises at all times.

Signature of Licenseholder/Managing Agent Under Oath _____
Signature of Registered Agent Under Oath _____
Signature of Owner _____
Doing Business As FARIDA Business LLC DBA Shell Food M.
Title President

Sworn to and Subscribed before me this 15 day of NOV, 2022



DUE WITH PAYMENT BY NOVEMBER 15, 2022

ATTENTION!!!!!!

APPLICATIONS RECEIVED BY MAIL WILL NOT BE ACCEPTED DUE TO NEW REGULATIONS. YOU MUST COME IN PERSON TO RENEW. PLEASE READ THE APPLICATION INFORMATION VERY CAREFULLY AND COMPLETELY!!!!!!

ON Business FARIDA Business LLC
(DBA) SHELL FOOD MART cited for
sell BEER To Minor through one of
an Employee she didn't scan and
~~sell~~ sell it by mistake. she was on
Training that time and she don't
work in company no more. Sorry for the
incident.

Nooruddin VIZANI
NOV/15/22

5.30.140. - Minors.

- A. All persons seeking to purchase alcoholic beverages within the unincorporated area of the county shall be required to provide proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older regardless of apparent age. "Proper identification" for purposes of this subsection means any valid document issued by a state or U.S. governmental agency containing a description of the person, the person's photograph, or both, and providing the person's date of birth. "Proper identification" shall include, but not be limited to, valid passports, military identification, driver's licenses, and/or certified birth certificates. License holders whose employees or agents fail to request proper identification upon the sale of an alcoholic beverage shall upon conviction be assessed a fine of no less than \$100.00 for the first offense, and a fine of no less than \$250.00 for a second offense and all subsequent offenses. All such fines shall be levied against the actual license holder at the licensed location, rather than against the person failing to request that a customer provide proper identification.
- B. Any license holder, agent, or employee of any license holder, who sells an alcoholic beverage to a person who is under the age of 21 years, without requiring proper identification as defined in subsection A above, shall upon first offense conviction thereof be sentenced to serve no less than one weekend (48 hours) in confinement and also be assessed a fine of no less than \$500.00. Subsequent convictions shall be punished as provided by [section 5.30.230](#) of this Code.
- C. Any license holder who sells an alcoholic beverage to a person under the age of 21 years without requiring proper identification in violation of state law (or whose agent or employee does so) may, at the sole discretion of the board of commissioners, be subject to the revocation or suspension of his or her license upon the first offense, and the severity of the sanction may be based upon the severity of the offense.
1. If a second offense is found at the same licensed location, the board of commissioners shall suspend the license for 30 days or more, or in its sole discretion revoke the license based upon the severity of the offense. If the second offense occurs within three years of the disposition of the first offense, the board of commissioners shall suspend the license for 90 days or more, or in its sole discretion revoke the license based upon the severity of the offense. However, if the license holder provides conclusive documentation to the board of commissioners demonstrating that it has engaged in systematic proactive training and education of its employees, or utilized other similar programs or systems, designed to prevent the sale of alcoholic beverages to persons under the legal age, the board of commissioners may, in its sole discretion, suspend the license for less than the 30/90 day suspension periods imposed above. Any such training, education, program, or system must be in place at the time of the second violation in order to demonstrate that the business was being proactive so as to qualify for a lesser suspension.

2. If a third offense is found at the same licensed location within three years of the disposition of the first offense, the board of commissioners shall revoke the license, and no application for a new license may be filed by any applicant for the same location until the expiration of 12 months from the date of the revocation. After the expiration of the 12 month period, the board of commissioners may grant a malt beverage and wine license for the location, provided that the applicant provides conclusive documentation to the board demonstrating that it has engaged in systematic proactive training and education of its employees, or utilized other similar programs or systems, designed to prevent the sale of alcoholic beverages to persons under the legal age. If the applicant or license holder does not provide conclusive evidence of such systematic proactive training, education, programs, or systems, then no application for a malt beverage and wine license shall be accepted for the location at issue until such training, education, programs, or systems are put in place.
 3. If a license holder (or his or her employee or agent) is found to have committed an offense of selling an alcoholic beverage to a person under the age of 21 years without requiring proper identification in violation of state law, the board of commissioners may, in its sole discretion, treat the license holder as having no prior offenses if: (1) there have been no recorded underage sales of alcoholic beverages within the previous three years; and (2) the license holder provides conclusive documentation to the board demonstrating that during the past three years it has engaged in systematic proactive training and education of its employees, or utilized other similar programs or systems, designed to prevent the sale of alcoholic beverages to persons under the legal age. Alternatively, if no conclusive evidence of systematic proactive training, education, programs, or systems exists, the board may, in its sole discretion, treat the license holder as having no prior offenses if there have been no other recorded underage sales of alcoholic beverages within the previous ten years.
 4. The board of commissioners may, in its sole discretion, suspend a license for a longer period of time than the time periods described herein above or revoke a license depending upon the severity of the offense as evidenced by the facts of the case, including, but not limited to, consideration of prior violations of law at the location by the license holder or its agents or employees. Where the board of commissioners has suspended the license of a specific location, such suspension shall not be relieved prior to its expiration notwithstanding the sale of the licensed premises or business located thereon unless specifically authorized by the board of commissioners pursuant to a public hearing.
- D. License holders of malt beverage and wine licenses shall not allow any person under 18 years of age to sell malt beverages or wine.
- E. No person shall knowingly and intentionally act as agent to purchase or acquire any alcoholic beverage for or on behalf of any person who is under the minimum legal age (as provided by state law) or otherwise procure for or furnish any alcoholic beverage to any person who is under

the minimum legal age (as provided by state law), except for legitimate medical purposes upon the legal written prescription of a duly licensed physician.

- F. It is unlawful for any person who is under the minimum legal age to purchase alcoholic beverages (as provided by state law), or to falsely misrepresent his or her age in any manner whatsoever.
- G. It is unlawful for any person who is under the minimum legal age to drink or possess any alcoholic beverage, including malt beverages, or wine.
- H. It shall not be a violation of this chapter for a person who is under the minimum legal age to purchase, drink, or possess an alcoholic beverage, distilled spirits, malt beverage, or wine if such person is at the time acting in a bona fide capacity for and on behalf of law enforcement agencies conducting investigations of license holders and/or their employees.

(Res. of 5-14-2009(1), § 1(Exh. B); Res. of ~~4-14-22(1)~~, § 7)

Editor's note— Res. of May 14, 2009, § 1(Exh. B), deleted § 5.30.140, and enacted a new § 5.30.140 as set out herein. The former § 5.30.140 pertained to similar subject matter. See the Code Comparative Table for complete derivation.

5.30.180. - Grounds for revocation or suspension of license.

The following shall be grounds for the suspension or revocation of a malt beverage and wine license. The existence of such grounds shall be determined by the board of commissioners in its sole discretion, to wit:

- A. Violation by the licensee of any state or federal law or regulation, except misdemeanors, or of any resolution or ordinance of the county, other than traffic violations.
- B. The failure of the licensee or his employees to report promptly to the sheriff's department any violation of law, regulation, county resolution or breach of the peace, disturbance, or altercation occurring on the premises.
- C. Any conduct on the part of the licensee or his employees contrary to the public welfare, safety, health or morals.
- D. Operating or conducting a business in a manner contrary to the public welfare, safety, health or morals, or in such a manner as to constitute a nuisance.
- E. The violation of any state or federal law or regulation, municipal ordinance, or county resolution or ordinance pertaining to alcoholic and malt beverages and wines. This ground specifically includes any violation of any provision of this chapter.
- F. The violation by the licensee of the Georgia Controlled Substances Act.
- G. The violation by the licensee of any federal, state or local law prohibiting the sale of pornographic materials.
- H. Failure of the licensee to furnish to the business license director any report required by this chapter or any report requested in writing by the director.
- I. Allowing a person to work in the licensed business who had an alcoholic beverage license revoked by any jurisdiction for violation of its laws or rules within a period of five years immediately preceding the filing of an application for a license under this chapter.
- J. Allowing a person employed by a licensed business to sell or assist in the sale of alcoholic beverages after being convicted of or having pled guilty to any federal, state or local law classified as a felony involving moral turpitude.
- K. Allowing a person employed by a licensed business to sell or assist in the sale of alcoholic beverages after being convicted of or having pled guilty to any federal, state or local law classified as a felony not involving moral turpitude within ten years from date of conviction.
- L. Allowing a person employed by a licensed business to sell or assist in the sale of alcoholic beverages after being convicted of or having pled guilty to any law of the United States or any state law pertaining to the sale of malt beverages, wines or alcoholic beverages within the past five years from date of conviction.
- M.

The conviction of the license holder or his or her employees who sell or assist in the sale of alcoholic beverages for driving under the influence of alcohol within the past five years based upon the date of the conviction.

(Res. of 11-13-97, § 1; Res. of 9-9-99; Res. of 12-10-09(1), § 1; Res. of ~~4-14-22(1)~~, § 9)