

**Department of Business and Professional Regulation  
Division of Alcoholic Beverages and Tobacco**

**SFS/SR - Inspection Form**

**Bureau of Law Enforcement**

Licensed Premises (DBA): RED ELEPHANT PIZZA & GRILL (THE)  
License Number: 4703542 Series: 4COP  
Owner Name: RED ELEPHANT NO. 2 LLC (THE)  
Establishment Address: 2910 KERRY FOREST PARKWAY UNIT C3  
TALLAHASSEE FL 32309

Inspection Date: Jun 21, 2017 11:20 - Jun 21, 2017 11:45  
Re-Inspection Date:  
License Expiration:  
Inspection Reason: Alcohol Random  
Business Phone: 850-222-7492  
**INSPECTION RESULT** **Official Notice Issued**

<b>Does this Establishment have a Dual License?</b>	<b>NO</b>
1 Is there an applicable special act governing the location of the licensed premises?	<b>YES</b>
2 Does the licensed premises have an outdoor service area or areas?	<b>NO</b>
3 Does the licensed premises have the required square footage of service area? (2,500 unless covered by general law or special act; or 4,000 if issued prior to 1958)	<b>YES</b>
4 Does the licensed premises have the required accommodations for the service and seating of patrons at tables at one time? (150 unless covered by general law or special act; or 200 if issued prior to 1958)	<b>YES</b>
5 If sketch available, does premises match diagram reflected on sketch submitted with the alcoholic beverage license application?	<b>N/A</b>
6 Is food served or consumed during the time the licensed premises are serving alcoholic beverages?	<b>YES</b>
7 Is there equipment to serve food?	<b>YES</b>
8 Is the alcoholic beverage license conspicuously posted?	<b>YES</b>
9 Does the business name (DBA) of the licensed premises match the business name (DBA) on the alcoholic beverage license?	<b>YES</b>
10 Does the physical address of the licensed premises match the location address on the alcoholic beverage license?	<b>YES</b>
11 Is the name of the licensee on all required or other licenses, permits, and certificates? (Department of Revenue, Occupational License, Hotels & Restaurants License, if applicable, Lottery Retail License, if applicable)	<b>NO</b>
12 If corporation or limited liability corporation; has any change of officer/managing member been disclosed to the Division?	<b>NO</b>
13 Does licensee employ only persons of legal age and not otherwise disqualified?	<b>YES</b>
14 Are all alcoholic beverage products obtained from a licensed distributor?	<b>YES</b>
15 If alcoholic beverages are stored or kept off the licensed premises, does the licensee possess an Off-Premises Storage Permit?	<b>N/A</b>
16 Are distilled spirits offered for sale 153 proof or less?	<b>YES</b>
17 If draft beer is sold, do the taps or spigots display on the handle in plain view of the consuming public, the name of the beer currently being served through the taps or spigots?	<b>YES</b>
18 If SR license series, is wine offered for sale in individual containers of one gallon or less or in 5.16 gallon reusable containers?	<b>YES</b>
19 If distilled spirits offered for sale in containers not in excess of 1.75 liters or 59.18 ounces?	<b>YES</b>
20 If SR license series, are malt beverages, packaged under one gallon, sold in container sizes of 32 ounces or less?	<b>YES</b>
21 Do all bottles appear free of refilling and misrepresentation?	<b>YES</b>
22 Does licensed premises have required 3M modifier if it has more than three separate rooms or enclosures in which permanent bars or counters are located from which alcoholic beverages are served for consumption?	<b>N/A</b>
23 Are all alcoholic beverages sold for consumption on the licensed premises only? (If license issued prior to 1958, packages sales are permitted.)	<b>YES</b>
24 Is licensee in compliance with Tied House Evil laws and rules based on observations during this inspection?	<b>YES</b>
25 If coin-operated amusement machines are on the licensed premises, does licensee have required DOR certificate for each machine?	<b>YES</b>
Sales Tax Registration #:	If no - Number of Machines:
26 Is the licensed premises in compliance with the Florida Clean Indoor Air Act?	<b>YES</b>
27 Other Violations	<b>YES</b>
28 Records Request	<b>N/A</b>
29 Is the retail tobacco products dealer permit conspicuously posted?	<b>N/A</b>
30 Is the required sign stating "The sale of tobacco products to persons under the age of 18 is against Florida Law. Proof of age is required for purchase." conspicuously posted?	<b>N/A</b>
31 Is the required sign stating "NOTICE TO CUSTOMER: FLORIDA LAW PROHIBITS THE POSSESSION OR SALE OF UNSTAMPED CIGARETTES. REPORT VIOLATIONS TO 1-866-540-7837. YOU MAY BE ELIGIBLE FOR A CASH REWARD." conspicuously displayed?	<b>N/A</b>
32 Is instructional material for assisting in determining legal age clearly visible to employees at checkout counter?	<b>N/A</b>
33 Are cigarette invoices maintained and kept on the licensed premises for a period of three years?	<b>N/A</b>
34 Are all other tobacco product invoices maintained and kept on the licensed premises for a period of three years?	<b>N/A</b>
35 Do all packages of cigarettes for sale have proper tax stamp affixed?	<b>N/A</b>

36 Are all cigarettes obtained from a licensed wholesaler?	N/A
37 Are all other tobacco products obtained from a licensed distributor?	N/A
38 Are cigarettes sold only in packages or cartons as received from the wholesaler?	N/A
39 If tobacco product sales are through vending machine, does the vending machine vendor/owner possess a retail tobacco products dealer permit (separate from licensed premises)?	N/A
40 Does the vending machine display at least one pack of each cigarette brand being sold through such machine?	N/A
41 Is the vending machine equipped with an operational lockout device which is under the control of the dealer or the dealer's agent or employee?	N/A
42 Is the sale or delivery of tobacco products under the direct control or line of sight of the licensee or licensee's agent or employee?	N/A

**Comment:**

HOTEL & RESTAURANT LICENSE NEEDS TO REFLECT RED ELEPHANT NO. 2 LLC, PLEASE CALL THEM AT 850 487 1395.

A CHANGE OF OFFICER APPLICATION MUST BE COMPLETED TO DISCLOSE CARL SAHLSTEN & JEFF HANSON (LETTER INDICATING JEFF HANSON IS NO LONGER WITH THE BUSINESS).

YOU HAVE UNTIL JULY 12, 2017 TO COMPLETE AND SUBMIT THE REQUIRED APPLICATION.

**VIOLATIONS**

**Code:3.01 Violation:** You are hereby notified that it is a violation of section 561.17(1), Florida Statutes, for any person to fail to submit to the division a sworn application before engaging in the business of manufacturing, bottling, distributing, selling, or in any way dealing in alcoholic beverages. Violations of this nature may result in criminal and/or administrative charges being filed.

**Corrective Action:** Any person, not disclosed or on file with the division, with a direct or indirect interest in the business shall file, with the district licensing personnel of the district of the division in which the place of business for which a license is sought is located, a sworn application on forms provided by the division.

**Comment:** 561.17(1)

**Code:3.02 Violation:** You are hereby notified that it is a violation of section 561.17(3), Florida Statutes, to fail to notify the division of a transfer of 10 percent of any financial interest, a change of executive officers or directors, or a divestiture or resignation of such interest or position, in a business holding a vendor license permitting the sale of any alcoholic beverages regardless of alcoholic content. Any such changes shall be contingent upon the express approval by the division of the persons holding or acquiring such interest or position. Violations of this nature may result in criminal and/or administrative charges being filed.

**Corrective Action:** Any person with a direct or indirect interest in the business shall file, with the district licensing personnel of the district of the division in which the place of business for which a license is sought is located, a sworn application on forms provided by the division.

**Comment:** 561.17(3)



Licensee or Owner Signature

MIKE ABBOTT

GM

850 668 7492

Jun 21, 2017 11:37



Inspector Signature

Penny Macmillan

Investigation Specialist II

2601 Blair Stone Road

Tallahassee, FL 32301

850 510 7573

Jun 21, 2017 11:36

August 2, 2017

RED ELEPHANT NO. 2 LLC (THE)  
D/B/A RED ELEPHANT PIZZA & GRILL (THE)  
12302 MARBLEHEAD DR  
TAMPA, FL 33626

RE: Case Number 2017029534, License Number BEV4703542 Series 4COP  
RED ELEPHANT NO. 2 LLC (THE)

Dear RED ELEPHANT NO. 2 LLC (THE):

The Division of Alcoholic Beverages and Tobacco is pursuing legal action against your (beverage/tobacco) license in the form of an Administrative Complaint. You must choose one of the following options within **21** days from receipt of this letter:

**YOU MAY REQUEST A HEARING** (form is on page 2 of this package).

If you have any issues that you want to dispute, then you should choose this option. You need to complete the "**REQUEST FOR HEARING**" form by checking the type of hearing you want; or

**YOU MAY ENTER INTO A STIPULATED AGREEMENT** (form is on pages 3-6 of this package).

If you wish to settle this action without a hearing, you **MUST** sign the stipulation form and return it.

Here are the specific steps you should take to pursue this option:

- Return pages 3-6
- On pages 4-5 answer numbers 10-12
- On page 6 sign all appropriate areas
- Initial and date all changes you make on the form
- Return the signed form to:

2601 Blair Stone Road  
Tallahassee FL 32399-1023

Again, to preserve your rights under Florida's Administrative Procedures Act, Chapter 120, Florida Statutes, you must return a request for hearing or the stipulation, within **21** days from **RECEIPT** of this letter to 2601 Blair Stone Road, Tallahassee FL 32399-1023.

**FAILURE TO RESPOND MAY RESULT IN REVOCATION OF YOUR LICENSE.**

If you have any questions, please contact us at 850.922.9903.

Sincerely,

/s/   
Ray Owens  
Law Enforcement Captain

Enclosure: Explanation of Rights, Request for Hearing, Stipulation, Administrative Complaint

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RE: CASE NUMBER 2017029534 RED ELEPHANT NO. 2 LLC (THE), D/B/A RED ELEPHANT PIZZA & GRILL (THE), LICENSE NUMBER BEV4703542 SERIES 4COP

### EXPLANATION OF RIGHTS

If you wish to request a hearing, you must file the written request enclosed no later than 21 days following the date you received this notice. The written request for hearing must be filed with the local district office. If there are disputed issues of material fact, a formal hearing under section 120.57 (1), Florida Statutes, will be scheduled. If there are no disputed issues of fact, you will be given an opportunity to have an informal hearing pursuant to section 120.57 (2), Florida Statutes.

If you would like to make a settlement offer, you may return the enclosed stipulation (settlement agreement) with any written mitigation and corrective action you would like the division to consider in reaching a decision in your case.

If there is a formal hearing, you have the right to appear in person on your own behalf, be represented by your attorney or qualified representative, to present witnesses and evidence, to cross-examine any witnesses produced against you by the state, and to have subpoena and subpoena duces tecum issued on your behalf.

If your written request for hearing or the enclosed stipulation is not received by the Division of Alcoholic Beverages and Tobacco with a postmark no later than 21 days following the date you received this notice, a final order may be entered revoking your license/permit or assessing maximum late penalties. You will be notified of the time, place and date of any hearing if you have requested one.

If the division does not accept the stipulation (settlement) you offer and it is filed within 21 days after you receive this package, it will be considered a timely request for an administrative hearing and you will be contacted by the division to determine the kind of hearing you wish to have; that is, formal evidentiary hearing or informal mitigation hearing.

You are encouraged to call the district supervisor if you have any questions about this procedure.

Note: Chapter 120, Florida Statutes, will provide you with additional guidance regarding actions by the state that affect you.

Section 120.573, Florida Statutes, mediation disclosure. This is an action that may affect your substantial interests. Mediation of this administrative dispute is not available. However, you may request either an informal or formal hearing on the charges, pursuant to Chapter 120, Florida Statutes, and as further detailed in this notice.

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RE: CASE NUMBER 2017029534 RED ELEPHANT NO. 2 LLC (THE), D/B/A RED ELEPHANT PIZZA & GRILL (THE), LICENSE NUMBER BEV4703542 SERIES 4COP

### REQUEST FOR HEARING

RED ELEPHANT NO. 2 LLC (THE)  
D/B/A RED ELEPHANT PIZZA & GRILL (THE)  
12302 MARBLEHEAD DR  
TAMPA, FL 33626

The Division of Alcoholic Beverages and Tobacco must determine whether a formal or informal hearing is proper for this action. Therefore, please check and complete one of the following.

- ☐ 1. I dispute issues of fact. (Please list which of the charges and counts in the administrative complaint you dispute and why).
- ☐ 2. There are no disputed issues of fact; however, I would like an informal hearing.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

### SERVICE INFORMATION

Please indicate below where the division should send all correspondence related to this action:

\_\_\_\_\_  
Signature of preparer

\_\_\_\_\_  
Name

\_\_\_\_\_  
Printed name of preparer

\_\_\_\_\_  
Email (optional)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Mailing address

\_\_\_\_\_  
Date

\_\_\_\_\_  
City      State      Zip

\_\_\_\_\_  
Email of preparer (optional)

\_\_\_\_\_  
Telephone number

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RE: CASE NUMBER 2017029534

DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO

PETITIONER,

VS.

RED ELEPHANT NO. 2 LLC (THE)

D/B/A RED ELEPHANT PIZZA & GRILL (THE)

LICENSE NUMBER BEV4703542 SERIES 4COP

RESPONDENT.

### **STIPULATION (Settlement Agreement)**

Pursuant to s.120.57(4), F.S., the above named parties hereby enter into this stipulation as disposition of the attached administrative action, in lieu of any other administrative proceedings authorized in Chapter 120, F.S. The terms herein become effective only if and when the division accepts this stipulation as evidenced by an authorized signature. In considering this, the division may review all investigative materials regarding this action, past administrative penalties and violations, tax delinquencies, and failure to make timely payments to alcoholic beverage distributors by this license. If this stipulation is rejected, it shall not be used against either party and shall be considered a request for an administrative hearing.

### **STIPULATED FACTS**

- 1) Respondent admits the allegations of the administrative complaint are true.
- 2) During the time the violation(s) occurred, respondent was licensed as a vendor having been issued license number **BEV4703542** series **4COP**.

### **CONCLUSIONS OF LAW**

- 1) Respondent admits that the stipulated facts contained in the administrative complaint constitute violations of law and subject the license and/or permit to administrative penalties.

### **SETTLEMENT**

- 1) Respondent shall pay **\$500.00** as a civil penalty within **15** days after receipt of this accepted stipulation.
- 2) Respondent shall pay **\$N/A** in late penalties for delinquent tax reports within **N/A** days after receipt of this accepted stipulation, which will be for late reports received by the Division of Alcoholic Beverages and Tobacco.

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- 3) Respondent shall serve a **N/A** day suspension which shall begin on the first Monday that is not a legal holiday 15 days following the receipt of this accepted stipulation. During the suspension, the division shall post signs on the exterior and interior of the license premises indicating that respondent's license is suspended. Respondent agrees that it shall not deface, cover, remove, relocate, alter or damage any suspension signs posted by the division, nor permit others to do the same.
- 4) Respondent shall submit alcoholic beverage license/ tobacco permit number **N/A** for revocation effective **N/A** days after acceptance by the division.
- 5) Respondent shall reimburse investigative costs to the division in the amount of **\$N/A** and reimburse investigative costs to the **N/A** in a separate check, in the amount of **\$N/A** which shall both be remitted to your local district office of the Division of Alcoholic Beverages and Tobacco within **N/A** days following receipt of this stipulation.
- 6) Respondent shall forfeit all evidence seized related to this administrative complaint. The below listed items shall be returned to the respondent by petitioner within 15 days after receiving acceptance of this stipulation as follows:
- 7) Respondent waives the right to seek any attorney's fees or cost from the petitioner or its agents or employees in connection with this disciplinary proceeding.
- 8) Additional agreements: **Any person, not disclosed or on file with the Division, with a direct or indirect interest in the business shall file, with the district licensing personnel of the district of the division in which the place of business for which a license is sought is located, a sworn application in duplicate on forms provided to the district licensing personnel by the division within 15 days after receipt of this accepted stipulation.**
- 9) Respondent understands that the failure to comply with this stipulation, or any part of it, may result in additional penalties for violating an order of the division.
- 10) Have all violations cited in the attached administrative action been corrected as of this date?  
(   ) YES                      (   ) NO
- 11) The following corrective action plan has been taken by the respondent to prevent future violations of the same nature, as cited in the administrative action.

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- 12) If charges relate to drug violations or underage sales violations, the LICENSEE acknowledges that he/she is in compliance with sections 561.701 through 561.706, and sections 569.003 (Florida Responsible Vendor Act) and 569.008 (Retail Tobacco Products Dealer Qualifications), Florida Statutes.
- ☐ YES                      ☐ NO



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RE: CASE NUMBER 2017029534 RED ELEPHANT NO. 2 LLC (THE), D/B/A RED ELEPHANT  
PIZZA & GRILL (THE), LICENSE NUMBER BEV4703542 SERIES 4COP

**MUST SIGN IN THIS AREA**

Printed Name of Attorney

Signature of LICENSEE, Corporate Officer, or Attorney for  
LICENSEE

Email (optional)

Printed Name of LICENSEE or Officer

Mailing Address

Email (Optional)

City State ZIP

Mailing Address

( )  
Area Code and Phone Number

City State ZIP

( )  
Area Code and Phone Number

**Corporation must complete the following paragraph to this stipulation now.**

Therefore, be it resolved, that on \_\_\_\_\_, 2017, a meeting of the board of  
directors was held pursuant to legal notice and that the officer's signature appearing on this  
stipulation, executed in case number **2017029534** on behalf of this corporate respondent, is duly  
authorized, empowered and perfected to execute the stipulation on behalf of the corporation and is  
further empowered to execute any other documents necessary to fulfill the intent of the stipulation.

In witness thereof, I have set my hand and seal of this corporation this \_\_\_\_ day of  
\_\_\_\_\_, 2017.

**MUST AFFIX SEAL OR FACSIMILE HERE**

(Must Sign) LICENSEE/Corporate Secretary Signature

**FOR OFFICE USE ONLY**

Director's or designee approval section

( ) Approved

( ) Disapproved

Signature

Thomas R. Philpot, Director  
Alcoholic Beverages & Tobacco

Date

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RE: CASE NUMBER 2017029534

DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO

PETITIONER,

VS.

RED ELEPHANT NO. 2 LLC (THE)

D/B/A RED ELEPHANT PIZZA & GRILL (THE)

LICENSE NUMBER BEV4703542      SERIES 4COP

RESPONDENT

### ADMINISTRATIVE COMPLAINT

Comes now, the Division of Alcoholic Beverages and Tobacco, herein after referred to as "petitioner," and files this administrative complaint against **RED ELEPHANT NO. 2 LLC (THE)** herein after referred to as "respondent," and alleges:

1. Petitioner is the state agency charged with supervising businesses licensed under the Florida beverage, tobacco and tax, and tobacco products permit laws pursuant to sections 559.061, 561.07, 561.15, 561.19, 561.29, 561.501, 210.15, 210.16, 210.45, 210.50, 569.003, and 569.006, Florida Statutes.
2. Respondent is, and has been at all times material hereto, the holder of a valid license/permit, issued in the State of Florida, by the Division of Alcoholic Beverages and Tobacco. Respondent's last known mailing address is as follows:

**RED ELEPHANT NO. 2 LLC (THE)**  
**D/B/A RED ELEPHANT PIZZA & GRILL (THE)**  
**12302 MARBLEHEAD DR**  
**TAMPA, FL 33626**

And the division has not been notified of any other designated person or address for the service of process and notices authorized by Rule 61A-2.012, Florida Administrative Code.

3. Petitioner intends to revoke; suspend; annul; impose civil penalties, investigative costs, and late penalties; or any combination of these authorized penalties. This intended action is based on the below described facts or conduct.

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RE: CASE NUMBER 2017029534

DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO

VS.

RED ELEPHANT NO. 2 LLC (THE)

D/B/A RED ELEPHANT PIZZA & GRILL (THE)

LICENSE NUMBER BEV4703542

You, RED ELEPHANT NO. 2 LLC (THE), D/B/A RED ELEPHANT PIZZA & GRILL (THE), are charged with the following count(s):

1. On or about 06/21/2017, you, the aforementioned licensee, holding a license issued by the Division of Alcoholic Beverages and Tobacco, or your agent(s), officer(s), servant(s), or employee(s), to wit: RED ELEPHANT NO. 2 LLC (THE), failed to submit to the Division of Alcoholic Beverages and Tobacco, a sworn application, before such person who has a direct or indirect financial interest in the license, engaged in the business of manufacturing, bottling, distributing, selling, or in any way dealing in alcoholic beverages on your premises licensed under the Beverage Law, this act being contrary to and in violation of section 561.17(1), Florida Statutes, within 561.29(1)(a), Florida Statutes.

Signed this August 2, 2017

Thomas R. Philpot, Director  
Division of Alcoholic Beverages & Tobacco

/s/   
Ray Owens  
Law Enforcement Captain

Explanation of Service:

Date Served \_\_\_\_\_

Received By \_\_\_\_\_

Personal Service By \_\_\_\_\_ (sign)

Personal Service By \_\_\_\_\_ (print)

Service Location \_\_\_\_\_

Certified Mail # \_\_\_\_\_

*\*Attach Receipt if Served by Mail.*

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO

BUREAU OF LAW ENFORCEMENT  
ADMINISTRATIVE SUMMARY

AGENCY CASE NUMBER		ADMINISTRATIVE SUMMARY		SPECIAL AGENT	
2017029534				PENNY MACMILLAN	
ADOPTED: N	LICENSE #: 4703542	SERIES: 4COP	STATUS: PERMANENT		
D/B/A: RED ELEPHANT PIZZA & GRILL (THE)					
LICENSEE: RED ELEPHANT NO. 2 LLC (THE)					
ADDRESS: 2910 KERRY FOREST PARKWAY UNIT C3				CITY: TALLAHASSEE	
VIOL. CODE / DESCRIPTION				STATUTE / ADM	CNTS
:AAC03.01 - UNDISCLOSED INTEREST				561.17(3)	1
SUMMARY OF ADMINISTRATIVE HISTORY AND DISPOSITION					
CASE NUMBER	DATE NTSC	CODE	CHARGE	DISPO	
			No relevant cases		
AGENT: /s/ PENNY MACMILLAN		LT: <i>Frank Amalone</i>		DIST SUP: /s/ <i>Roy Queen</i>	
DATE: 8/01/17		DATE: 08/02/2017		DATE: 8/2/2017	

**ABT Case Summary Sheet**



Case Number:

Add Comment:

Comment History:

## Administrative Case Disposition

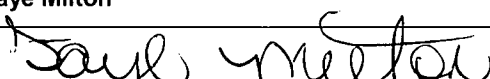
Case Number	2017029534	Disposition Date	/ /
Business Name	RED ELEPHANT PIZZA & GRILL	License Number	4703542
Violation	:AAC03.01 - Undisclosed Interest		
Civil Penalty	\$500.00		
Date Paid	08/21/2017	Receipt Number	170039317
Suspension From	/ /	Total Days	
Suspension To	/ /		
License Revoked	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Date Revoked	/ /

**Remarks:**

The licensee has paid the \$500.00 civil penalty fee, and has submitted a signed Stipulation Agreement. Please close case.

ITEM	COLLECTED	REMARKS
Surcharge Taxes	\$ 0.00	
Surcharge Penalties	\$ 0.00	
Surcharge Interest	\$ 0.00	
Sales Tax	\$ 0.00	
Excise Tax	\$ 0.00	
Civil Penalty	\$ 500.00	
Gambling Proceeds	\$ 0.00	
Restitution (Bad Check)	\$ 0.00	
Investigative Cost	\$ 0.00	
Other Cost	\$ 0.00	Specify:
Other Cost	\$ 0.00	Specify:
Other Cost	\$ 0.00	Specify:
Total Collected	\$ 0.00	

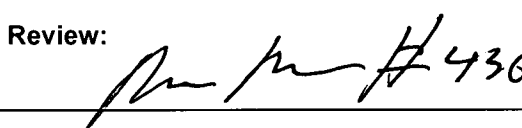

**District:**

District	1	District Supervisor	Ray Owens
Office	Tallahassee Lt. Frank Anzalone		
Prepared By:	Faye Milton	Title	Administrative Assistant II
Signature		Date	08/24/2017

**Director's Office:**

Closed By:		Title	
Signature		Date	

## Final Order/Case Disposition Recommendation

<b>Case Number</b>	2017029534		
<b>Business Name</b>	RED ELEPHANT PIZZA & GRILL (THE)		
<b>License Number</b>	4703542	<b>Series</b>	4COP
		<b>Date Issued</b>	8/14/08
<b>1. Documented history of violation</b>		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	
<b>2. Mitigation provided by licensee</b>		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
<b>Code</b>	<b>Violation</b>	<b>Penalty Guidelines</b>	<b>Offer by Licensee</b>
03.01	Undisclosed Interest	\$500.00 civil penalty fee	Pay penalty fee
<b>Remarks:</b> The licensee has paid the \$500.00 civil penalty fee, and has submitted a signed Stipulation Agreement.			
<b>Lieutenant's Review:</b> Signature: <u></u> #436      Date: <u>8/24/17</u> Comments: <u>LICENSEE HAS PAID GUIDELINE PENALTY AND ADDED ALL REQUIRED OFFICERS, RECOMMEND CASE BE CLOSED</u>			
<b>District Supervisor's Review:</b> Signature: <u></u> Comments: <u>I concur the case should be closed.</u>		<b>Stipulation Recommendation:</b> <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Disapproval Date: <u>8-30-2017</u>	
<b>Director Thomas R. Philpot</b> Signature: _____ Comments: _____ _____ _____		<b>STIPULATION:</b> <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved Date: _____	

THE RED ELEPHANT NO. 2, LLC

OPERATING ACCOUNT  
2910 KERRY FOREST PKWY, STE C-3  
TALLAHASSEE, FL 32309

Tallahassee  
State Bank

a division of SYNOVUS BANK

8/14/2017

PAY TO THE  
ORDER OF DBPR

\$ 500.00

Five Hundred and 00/100

DOLLARS

DBPR  
PO BOX 6300  
TALLAHASSEE FL 32314-6300

MEMO



*Carol Galt*  
AUTHORIZED SIGNATURE

THE RED ELEPHANT NO. 2, LLC

8970

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
8/14/2017	Bill	BEV 4703542-400	500.00	500.00		500.00
				Check Amount		500.00

2017 029534

OPERATING

500.00



AB&T COMPLAINT FORM

<u>COMPLAINT NBR</u>	<u>CASE AGENT</u>	<u>SERIES</u>
2017029534	MACMILLAN, PENNY	4COP

ALLEGATION

1. UNDISCLOSED INTEREST

<u>DATE RECEIVED</u>	<u>SOURCE</u>	<u>INCIDENT DATE</u>	<u>PRIORITY</u>
June 21, 2017		June 21, 2017	1

COMPLAINANT

PENNY MACMILLAN

1940 N MONROE STREET  
BUREAU OF LICENSING - ABT  
TALLAHASSEE, FL 32399

PHONE:

RESPONDENT

LICENSE NBR: BEV4703542  
EXPIRATION: September 30, 2017 DOB:  
**D/B/A: RED ELEPHANT PIZZA & GRILL (THE)**  
RED ELEPHANT NO. 2 LLC (THE)  
2910 KERRY FOREST PARKWAY UNIT C3  
TALLAHASSEE, FL 32309

PHONE: 850-222-7492

SUMMARY INFORMATION:

ON JUNE 21, 2017, ISII MACMILLAN ENTERED RED ELEPHANT PIZZA & GRILL TO CONDUCT A ROUTINE INSPECTION. DURING THE COURSE OF THE INSPECTION, MACMILLAN ADVISED THE MANAGER, MIKE ABBOTT, THAT A CHANGE OF OFFICER APPLICATION WOULD NEED TO BE COMPLETED TO DISCLOSE TWO OFFICERS/DIRECTORS THAT WERE ADDED TO THE LLC AND HAD NOT BEEN DISCLOSED TO OUR DIVISION. ABBOTT STATED THAT HE UNDERSTOOD AND WOULD CONTACT THE CORPORATE OFFICE AND ADVISE THEM THAT THE APPLICATION NEEDED TO BE COMPLETED. MACMILLAN ISSUED AN OFFICIAL NOTICE AND WILL FOLLOW UP ON JULY 12, 2017. ON JULY 13, 2017, MACMILLAN CHECKED VERSA REGULATION TO SEE IF ANY CHANGES HAD OCCURRED, NO NEW OFFICERS/DIRECTORS WERE ADDED. MACMILLAN SENT AN EMAIL TO CARALYN PAUL IN THE CORPORATE OFFICE TO CHECK THE STATUS OF THE CHANGE OF OFFICER APPLICATION. PAUL REPLIED ASKING MACMILLAN TO RESEND HER THE APPLICATION. ON JULY 26, 2017, MACMILLAN EMAILED PAUL TO CHECK THE STATUS OF THE APPLICATION. ON AUGUST 1, 2017, MACMILLAN PHONED ROBERT ANDERSON, SUPERVISOR OF LICENSING, TO INQUIRE IF A CHANGE OF OFFICER APPLICATION HAD BEEN RECEIVED, ANDERSON ADVISED MACMILLAN THAT NO APPLICATION HAD BEEN RECEIVED. MACMILLAN PROCEEDED TO FILE ADMINISTRATIVE CHARGES AGAINST THE LICENSE FOR UNDISCLOSED INTEREST.

## DAILY REPORT OF NEW ADMINISTRATIVE CASES

# **EXHIBIT #1**

## **2017029534**

FEBRUARY 27, 2008

PROFESSION: BEVERAGE LIC NBR: BEV4703542 SERIES 4COP TYPE: SRX

ID NBR: 201536246 FILE NBR: 166736

BUSINESS NAME: RED ELEPHANT PIZZA & GRILL (THE)

OWNERSHIP NAME: RED ELEPHANT NO. 2 LLC (THE)

LOCATION ADDRESS:  
2910 KERRY FOREST PARKWAY UNIT  
C-3  
TALLAHASSEE, FL 32309

MAILING ADDRESS:  
401 E VIRGINIA STREET  
BRADFORD LEWIS  
TALLAHASSEE, FL 32301

DATE RECEIVED BY FIELD OFFICE: 02/27/2008  
DATE TEMP ISSUED: 02/27/2008  
TRANS CODE: TEMPORARY 4COP WITH CLASS

90-DAY DATE: 05/27/2008  
EXPIRED:  
TRANS CLASS: INITIAL

THIS APPLICATION CONTAINS THE FOLLOWING:

I HEREBY CERTIFY THIS APPLICATION HAS BEEN PROCESSED, REVIEWED AND INVESTIGATED ACCORDING TO THE POLICIES AND PROCEDURES OF THE DIVISION. BASED ON THE FLORIDA ALCOHOLIC BEVERAGE AND CIGARETTE LAWS AND THE FLORIDA ADMINISTRATIVE CODE, THE FOLLOWING IS MY RECOMMENDATION:

APPROVAL

DISAPPROVAL

NO RECOMMENDATION

COMMENTS: CORP OK, BKGRDS DONE, R OF OCC VERIFIED. NEEDS SITE & SRX INSP.

SIGNATURE: BM

DATE: 2-27-08

CENTRAL OFFICE USE ONLY

FINAL DECISION:

APPROVED

DISAPPROVED

WITHDRAWN

DATE RECEIVED: \_\_\_\_\_

DATE MICROFILMED: \_\_\_\_\_

RECEIVED

MAR 25 2008

DIV. OF ABT-LICENSING  
TALLAHASSEE, FL

**LICENSE #**

## OWNERSHIP

**DBA**

**DATE APPLICATION  
RECEIVED IN DISTRICT**

[illegible]

**SRX INSPECTIONS WILL BE CONDUCTED BETWEEN 120 AND 180 DAYS AFTER APPLICATION FOR LICENSURE TO DETERMINE COMPLIANCE WITH THE 51% REQUIREMENT.**

9/2/2004

**LEASE AGREEMENT**  
**BETWEEN**  
**NORTHAMPTON DIXIE PROPERTY, LLC**  
**AND**  
**THE RED ELEPHANT NO. 2, LLC**

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- B Use of Premises
- C Option to Renew
- D Work Agreement

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## LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made and entered into as of the 31 day of the month of October, 2007, between NORTHAMPTON DIXIE PROPERTY, LLC, a Florida limited liability company ("Landlord") the address of which for purposes of notice hereunder is 2915 Kerry Forest Pkwy., Suite 101, Tallahassee, Florida, 32309, and THE RED ELEPHANT NO. 2, LLC, a Florida limited liability company ("Tenant") the address of which for purposes of notice hereunder is 401 E Virginia Street, Tallahassee, FL 32301. The Parties hereby agree as follows:

### ARTICLE I

1.01 Premises: Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord the commercial property located at 2910 Kerry Forest Parkway, Suite C-3, Tallahassee, Florida, 32309, consisting of approximately 5057 square feet, substantially as shown in Exhibit "A" (Sketch of Premises Floor Layout) attached hereto and by this reference made a part hereof (the "Leased Premises").

### ARTICLE II

2.01 Term: The term of this Lease shall be a period of five (5) years, commencing on the Commencement Date; provided, however, that the Tenant shall have the right to renew this Lease as provided in Exhibit "B" (Option to Renew) attached hereto and by this reference made a part hereof.


2.02 Possession: If on the Commencement Date any of the following items, hereinafter referred to as "Rental Abatement Conditions" shall have occurred and be continuing, rent hereunder shall be abated: Rental Abatement Conditions shall be strictly limited to an event or item which prohibits the Landlord from fulfilling Landlord's covenant of quiet enjoyment in delivering to Tenant a legally defensible leasehold interest in the Leased Premises.

2.03 Commencement Date: The Commencement Date shall be on or before seventy-five (75) calendar days after completion of Landlord's Work as specified in the Work Agreement (defined below) and notification thereof in writing by Landlord to Tenant.

### ARTICLE III

3.01 Base Rent: Subject to any adjustments to Base Rent herein set forth, and as consideration for this Lease, Tenant hereby agrees to pay to Landlord Base Rent as follows: Base Rent for the first year shall be nineteen dollars (\$19.00) per square foot (i.e., \$95,760.00 for the first twelve (12) months following the Commencement Date), plus applicable sales tax. Base Rent for any fraction of a month at the commencement and/or termination of the term of this Lease shall be prorated. For each subsequent year, the Base Rent shall increase sixty cents (\$.60) per square foot per year plus applicable sales tax. Base Rent and applicable sales tax shall be paid to Landlord in monthly installments in advance on the first day of each calendar month during the term of this Lease and any renewal of it.

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3.02 Initial Term Rental: It is agreed that the property is leased for a rental equal to the number of years of the initial term multiplied by the Base Rent, as adjusted, for the term hereof, payable at the time of the making of this Lease and that the provisions herein contained for the payment of such rent in installments during the second year and subsequent years of the lease term are for the convenience of the Tenant only. Upon default in the payment of such rent, or upon any default of the terms of this Lease, the entire rent, as adjusted on the date of default, for the full Lease term then remaining unpaid shall at once become due and payable without any notice or demand.

3.03 Additional Rent: All taxes, charges, costs, and expenses that Tenant assumes or agrees to pay under this Lease, together with all interest and penalties that may accrue in the event of the failure of Tenant to pay those items, and all other damages, costs, expenses, and sums that Landlord may suffer or incur, or that may become due, by reason of any default of Tenant or failure by Tenant to comply with the terms and conditions of this Lease, shall be deemed to be additional rent and, in the event of nonpayment, Landlord shall have all the rights and remedies as provided in this Lease for failure to pay rent.

3.04 Tenant's Obligation to Pay Rent: Tenant's obligation to pay Base Rent and Additional Rent hereunder, as those terms are defined herein, shall begin on the Commencement Date, as defined hereinabove, and shall continue throughout the term of this Lease. All payments due from Tenant to Landlord under the terms of this Lease, including but not limited to Base Rent and Additional Rent, shall be paid promptly when due, without notice, demand, deduction, offset or abatement, in legal tender of the United States of America, at such place as Landlord shall designate, or to such other person or at such other place as Landlord may from time to time designate in writing. If any payment is not received by Landlord by midnight on the 10th day following the day on which the payment is due, a late fee equal to 5% of the delinquent payment shall be due from Tenant to Landlord as Additional Rent. Furthermore, the amount of each payment that is not received by Landlord on or before the last business day of the month in which it became due shall bear interest from the last business day until paid at the rate of one and one-half percent (1-1/2%) (or, if lower, the maximum rate of interest permitted to be charged by applicable law) per month until paid. Such interest shall be payable as Additional Rent.

3.05 Security Deposit / Escrow Deposit: Tenant shall deposit with Landlord the sum of one thousand dollars (\$1,000.00), which amount shall be held by Landlord as security for the full and timely performance by Tenant of the terms and conditions of this Lease and for the payment of any final judgment that may be rendered against Tenant for a breach of those terms and conditions. No interest shall be paid on the deposit. The rights of Landlord against Tenant for a breach of this Lease shall in no way be limited or restricted by the security deposit. Landlord shall have the absolute right to pursue any available remedy to protect its interests as if this security deposit had not been made. The security deposit shall be returned to Tenant, within 30 days after the expiration of term of this Lease and timely surrender of the Leased Premises, provided that all the terms and conditions contained in this Lease have been fully performed by Tenant.

3.06 Landlord to Have Lien: Landlord will have a lien against all goods, equipment, furniture, and other personal property of Tenant brought, stored, or kept on the Leased Premises during the lease term, in the aggregate amount of all rent, damages, and other sums that may at any time be owed by Tenant to Landlord under the Lease. In the event of any default by Tenant,

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Landlord may foreclose the lien in the same manner that a mortgage would be foreclosed and, in that event, Tenant shall be obligated for all court costs and reasonable attorneys' fees.

**3.07 Triple Net Lease:** It is the intention of the parties that the Base Rent specified in this Lease is net rental. Such rent shall be absolutely net to Landlord so that this Lease shall, except as provided to the contrary in this Lease, yield net to Landlord the Base Rent as provided above, to be paid in each year during the lease term. All costs, expenses, and obligations of every kind and nature whatever, including maintenance, taxes, and insurance, relating to the Leased Premises and the Common Areas (prorated as provided herein), or any improvements on the Leased Premises or Common Areas, which may arise or become due during the term of this Lease, shall be paid by lessee. Landlord shall be indemnified and saved harmless by lessee from and against same. The parties hereby agree that the initial charge for Tenant's pro rata share of real estate taxes (pursuant to Section 4.04 hereof), and Common Area charges (pursuant to Section 7.05, hereof, inclusive of insurance carried by Landlord) shall be based upon an estimate of \$4.75 per square foot per year.

#### ARTICLE IV

**4.01 Sales Tax on Rents:** Tenant hereby agrees to pay to Landlord, as Additional Rent, the State and local sales tax (and any other applicable tax) on all rentals payable hereunder, including, without limitation, Base Rent, all increases to Base Rent and Additional Rent (hereinafter collectively referred to as "Rent"), and to the extent required by State law, sales tax on any other amounts paid to Landlord by Tenant.

**4.02 Utilities:** Tenant shall apply to and be solely responsible for, and shall promptly pay, all charges for water, heat, electricity, sewer, telephone and any other utility used on, or furnished to, the Leased Premises, and will save and hold Landlord harmless from any charge or liability for same. Landlord shall not be liable for any interruptions whatsoever in utility services and Landlord shall not be in breach or default under this Lease provided Landlord uses reasonable diligence to restore any such failure or defect after Landlord receives written notice thereof.

**4.03 Leasehold and Personal Property Taxes:** Tenant shall pay or cause to be paid, before delinquency, any and all taxes levied, or assessed and payable during the Term hereof on all of Tenant's equipment, furniture, fixtures and personal property located in the Leased Premises.

**4.04 Real Estate Taxes:** Tenant shall pay annually its pro rata share of the real estate taxes assessed against the larger parcel of land of which the Leased Premises are a part, which parcel is described in that certain June 19, 2007 Warranty Deed to Landlord as grantee recorded in Book 3723, Page 1334, Public Records of Leon County, Florida (said parcel's being referred to in this Lease as the "Center"), which pro rata share shall be determined by multiplying the total real estate taxes assessed by a fraction, the numerator of which is total leasable square footage of the first floor area of the Leased Premises and the denominator of which is the total leasable square footage of the first floor area of all buildings in the Center as specified above. Equitable adjustments shall be made so that only that pro rata part of Landlord's share of the real estate taxes shall be paid by the Tenant for fractions of the term at the beginning or end of the Lease that are included in the calendar year in which such taxes are incurred. If any land or leasable structures shall be added to the Center, or if any land or leasable structures shall be eliminated from the Center, the taxes attributable thereto

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shall be appropriately adjusted. As of the date of this Lease, Tenant's pro rata share hereunder is 11.32536 percent (i.e., 5.057/44,652). Tenant's pro rata share of said taxes shall be due and payable 1/12 each month in advance with the minimum rent, based on Landlord's good faith estimate of what total taxes will be, with a final adjustment to be made as soon as said pro rata share has been determined. Tenant shall have the right to contest real estate taxes assessed against the Leased Premises, provided that such contest shall be at Tenant's sole cost and expense, and provided further that Landlord shall have the right to require Tenant to post a bond or otherwise protect Landlord against the possibility of a lien being placed on the Center. The provisions of this Paragraph are predicated upon the present system of taxation in Florida. If taxes upon rentals shall be substituted, in whole or in part, for the present ad valorem real estate taxes, then Tenant's pro rata share of taxes shall be based upon such taxes on rentals to the extent to which the same shall be a substitute for present ad valorem real estate taxes, plus the remaining portion of said ad valorem real estate taxes. The foregoing shall generally apply to any system of taxation instituted which replaces the present method of taxation, in whole or in part.

**4.05 Taxes and Other Governmental Charges:** Without limiting the foregoing provisions of this Article IV, Tenant shall pay on or before the last day on which payment may be made without penalty or interest, all taxes, assessments, or other governmental charges that shall or may during the lease term be imposed on, or arise in connection with the use of, the Leased Premises or any part of the Leased Premises. Tenant shall pay all taxes assessed in lieu of or in addition to the above under all present or future laws of all governmental authorities. Tenant shall within 15 days after the time provided for the payment of any tax or other governmental charge by Tenant, produce and exhibit to Landlord satisfactory evidence of the payment. It is the intention of the parties that the rent specified in this Lease is net rental, and Landlord shall receive such rent free from all taxes that are made payable by Tenant.

## ARTICLE V

**5.01 Use:** Tenant shall use the Leased Premises only for the specific purposes and activities described in the attached Exhibit "C" (Use of Premises), including related activities and programs complementary to the operation of the same. No other purposes shall be permitted unless such other purpose or use is approved by Landlord in writing. Tenant shall not allow Leased Premises to be used for any improper, immoral, unlawful, or objectionable purpose, nor shall Tenant cause, maintain or permit any nuisance (whether public or private) in, on or about the Leased Premises, including but not limited to, objectionable or harmful noises and odors. Tenant shall not commit or suffer to be committed any waste in or upon the Leased Premises, except for reasonable wear and tear. Tenant shall not use the Leased Premises or permit anything to be done in or about the Leased Premises which will in any way conflict with any private restrictive covenant, law, statute, ordinance, or any rule or regulation of Landlord or any governmental or quasi-governmental authority now in force or which may hereafter be enacted or promulgated, provided that Landlord represents to Tenant that under applicable zoning laws and present covenants of record there is no impediment to use of Leased Premises as contemplated by this Lease.

**5.02 Signs:** Tenant may place a sign on the Leased Premises provided that it meets any and all governmental rules and regulations and further provided that Landlord approves, in writing, the type and size of the sign and the location it is to be placed.

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5.03 Alterations: Work Agreement: Tenant covenants that it will not make any alterations or additions to or in the Leased Premises which might impair the structural soundness of the building thereon, and that it will not make any alterations or additions without the written consent of the Landlord, such consent to not be unreasonably withheld. The provisions of that certain Work Agreement of even date herewith between the parties and concerning the Leased Premises, a copy of which Work Agreement is attached hereto as Exhibit "D," are by this reference incorporated herein and made a part hereof.

5.04 Holding Over: If the Tenant remains in possession of the Leased Premises after the expiration of this Lease, or any renewal term, without the execution of a new Lease, Tenant shall be deemed to be occupying the Leased Premises as a Tenant from month to month, subject to all the conditions, provisions, and obligations of this Lease insofar as the same are applicable to a month to month tenancy, except that the monthly rental shall be equal to 150% of the monthly installments due during the last year of the Lease term and further that the tenancy may be terminated by either party upon thirty (30) days' written notice.

5.05 Fixtures and Improvements: Tenant may, upon the termination of this Lease, if all rents and monies due hereunder have been paid in full and all matters and things herein agreed to be done and performed by the Tenant have been done and performed, remove all fixtures, equipment and appliances, belonging to Tenant; provided that any improvements made to the Leased Premises by Tenant of a permanent nature, e.g., carpet, plumbing, heating and air conditioning systems, etc. shall become property of Landlord and further provided that any damage or disfigurement to the Leased Premises caused by such removal shall be promptly repaired in a workmanlike manner prior to the termination of Lease at the sole expense of the Tenant.

5.06 Delivery, Acceptance, and Surrender of Premises: Tenant agrees to accept the Leased Premises on possession as clean and in a good state of repair except as noted. Further, Tenant agrees to surrender the Leased Premises at the end of the Lease term, if the Lease is not renewed, to the Landlord in the same condition as when Tenant took possession, allowing for reasonable use and wear. Tenant shall repair any damage to property including but not limited to repairing holes in walls, ceiling, floor and repainting and having carpet, if any, shampooed prior to termination of Lease. Tenant agrees to remove all business signs and symbols placed on the Leased Premises by Tenant before redelivery, and to repair and restore the portion of the Leased Premises on which they were placed to the same condition as before their placement. All work shall be done in a workmanlike manner. Tenant understands that their rent shall continue until Leased Premises have been completely vacated of all Tenant's property, cleaned, repaired if necessary and key returned to Landlord. Tenant further understands that if Leased Premises are occupied by Tenant on the first of the month, rent is due and payable for the entire month.

## ARTICLE VI


6.01 Insurance: During the lease term, including any extensions thereof, Tenant shall maintain, at Tenant's cost, a comprehensive public liability insurance policy protecting Landlord against all claims or demands that may arise or be claimed on account of Tenant's use of the Leased Premises, in an amount of at least \$1,000,000.00 for injuries to persons in one accident, \$1,000,000.00 for injuries to any one person, and \$1,000,000.00 for damages to property. The

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insurance shall be written by a company or companies acceptable to Landlord, authorized to engage in the business of general liability insurance in the state of Florida. Tenant shall deliver to Landlord annual certificates demonstrating that insurance is paid up and copies of the insurance policies issued by the insurance companies. Tenant further agrees to maintain at all times during the lease term, at Tenant's cost, broad-coverage fire and casualty insurance on its property (including inventory) and to provide Landlord with a copy of the policy and a certificate issued by the insurance company demonstrating that insurance is paid up. At its option, Landlord may request Tenant to obtain a certified statement by each insurance carrier containing a clause providing that the insurance carrier will give Landlord 30 days' written notice before any cancellation shall be effective. The insurance policies shall be provided by Tenant and shall be for a period of at least one year. If Tenant fails to furnish policies or certificates showing policies to be paid in full as provided in this Lease, Landlord may obtain the insurance, and the premiums on that insurance will be considered additional rental to be paid by Tenant to Landlord on demand. All insurance provided by Tenant as required by this Section 6.01 shall be carried in favor of Landlord and Tenant as their respective interests may appear. In the case of insurance against damage to the Leased Premises by fire or other casualty, the policy shall provide that loss, if any, shall be adjusted with and be payable to Landlord. If requested by Landlord, any insurance against fire or other casualty shall provide that loss shall be payable to the holder under a standard mortgage clause. Rent insurance and use and occupancy insurance may be carried in favor of Tenant, but Tenant, by executing this Lease, assigns the proceeds to Landlord to be held by Landlord as security for the payment of the rent and any additional rent under this Lease until restoration of the Leased Premises. All insurance shall be written with responsible companies that Landlord shall approve, and the policies shall be held by Landlord or, when appropriate, by the holder of any mortgage, in which case copies of the policies or certificates of insurance shall be delivered by Tenant to Landlord. All policies shall require 30 days' notice by registered mail to Landlord of any cancellation or change affecting any interest of Landlord.

6.02 Waiver of Subrogation: Whenever (a) any loss, costs, damage or expense resulting from fire, explosion or any other casualty or occurrence is incurred by either of the parties to this Lease in connection with the Leased Premises, and (b) such party is then covered (or is required under this Lease to be covered) in whole or in part by insurance with respect to such loss, costs, damage or expense, then the party so insured hereby releases the other party from any liability it may have on account of such loss, costs, damage or expense to the extent of any amount recovered by reason of such insurance, and waives any right of subrogation which might otherwise exist on account thereof, provided that such release of liability and waiver of the right to subrogation shall not be operative in any case where the effect thereof is to invalidate such insurance coverage or increase the cost thereof (provided, that in the case of increased costs, the other party shall have the right, within thirty (30) days following written notice, to pay such increased costs, thereupon keeping such release and waiver in full force and effect). Landlord and Tenant shall use their respective best efforts to obtain such a release and waiver of subrogation from their respective insurance carriers and shall obtain any special endorsements, if required by their insurer, to evidence compliance with the aforementioned waiver.

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## ARTICLE VII

7.01 Casualty: Rent shall not abate in the event of a casualty loss to part or all of the Leased Premises. Tenant may wish to obtain business loss insurance in the event of a casualty loss.

7.02 Condemnation: Tenant shall, if more than twenty percent (20%), or either party shall if more than forty percent (40%), of the Leased Premises shall be taken or appropriated by any public or quasi-public authority under the power of eminent domain, or conveyed or leased in lieu of such taking or appropriation, have the right, at its option, to terminate this Lease on the later of (a) the date when title or right of possession shall vest, or (b) after sixty (60) days after advance written notice of termination to the other party. If either party so terminates the Lease, Tenant shall be entitled to a refund of all Rent paid for any period beyond said date; Landlord shall be entitled to any and all income, rent, award or any interest therein whatsoever which may be paid or made in connection with such public or quasi-public use or purpose; and Tenant shall have no claim against Landlord for the value of any unexpired Term of this Lease. Tenant shall be entitled, to the extent provided under the general law, to obtain from the condemning authority the value of its leasehold improvements, business interruption and moving expenses. If twenty percent (20%) or less of the Leased Premises is taken, or more than twenty percent (20%) of the Leased Premises is taken and Tenant does not elect to terminate as herein provided, the rental thereafter to be paid shall be equitably reduced.

7.03 Maintenance and Repairs: Each party shall bear the responsibility for maintenance and repairs as follows:

(a) Landlord shall be responsible for maintenance and repairs to the roof and exterior walls. The costs of such maintenance and repairs shall be treated as Common Area costs pursuant to Section 7.05 hereof.

(b) Tenant shall be responsible for all other maintenance and repairs, including but not limited to electrical, plumbing, doors, windows, and heat and air and ventilating systems.

(c) Tenant shall promptly pay when due, as Additional Rent, Tenant's its pro rata share of the Common Areas charges, as set forth in Section 7.05 below.

(d) In the event Tenant fails to timely make any repair or perform maintenance as required hereunder, Landlord may (but shall not be required to) make such repairs or perform such maintenance and Tenant shall pay as Additional Rent the amount of such repairs promptly upon receipt of a bill from Landlord.

### 7.04 Common Area.

(a) In addition to the Leased Premises hereinabove mentioned, Tenant and any agents, employees, successors, assigns, licensees, invitees, subleases, concessionaires, customers, suppliers, and patrons of Tenant shall have the nonexclusive right in common with others entitled thereto to use and enjoy throughout the term of this Lease, the Common Areas of the Center (as "Center" is defined in Section 4.04 hereof), to wit: such areas, improvements, space, equipment, and special

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services in or at the Center as determined by Landlord from time to time to be devoted to the general use of all the tenants of the Center and their employees, customers, and other invitees, including without limitation, all parking areas, driveways, entrances, exits, roadways, landscaped areas, lighting facilities, curbs, truck routes, loading docks, retaining walls, exterior of outside walls of the building(s), roofs, canopies, and downspouts of building(s), pedestrian malls, hallways, stairs, ramps, washrooms, water, and sewage and storm water systems, accommodation areas such as sidewalk, grass plots, ornamental planting, entry monuments and signs, directional signals, and the like (the "Common Areas").

(b) Landlord shall from time to time designate appropriate portions of the parking area as areas for the parking of motor vehicles of employees, agents, and concessionaires of tenants and occupants of the Center. Tenant shall comply with such designations and shall require employees, agents, and concessionaires to comply with such designations made by Landlord from time to time, and authorizes Landlord to have towed, at Tenant's expense, those cars that fail to comply with such designations. Landlord will use its best efforts to require the employees, agents, and concessionaires of other tenants and occupants of the Center to comply therewith.

(c) The Common Areas shall be subject to the exclusive control and management of Landlord, and Landlord shall have the right to establish and modify, change, and enforce uniform and nondiscriminatory rules and regulations with respect to the commons areas, and Tenant agrees to abide by and conform with such rules and regulations. Landlord shall have the right to close any part of the Common Areas for such time or times as may, in the opinion of Landlord, be necessary to prevent a dedication thereof or the accrual of any rights of any persons, but any such closing or restriction shall be for limited times only and in the manner that will not interfere with Tenant's use, enjoyment, and occupancy of the Leased Premises during normal business hours. Landlord may, from time to time, close off any part of the parking areas for such time as the Landlord deems necessary for the benefit of all of the tenants in the Center or in the event of any emergency or any unusual conditions, and the Landlord's reasonable determination of the need therefore shall be conclusive and binding on all persons whomsoever.

#### 7.05 Common Area Charges.

(a) As additional fixed minimum rental for each calendar year of the term of this Lease and any renewal thereof, Tenant covenants and agrees to pay as Additional Rent the Tenant's pro rata share of the Common Area costs with respect to the Center.

(b) Common Area costs shall include all of Landlord's costs and expenses of every kind and nature of operating, managing, insuring, equipping lighting, decorating, repairing, cleaning, replacing, reconstructing, insuring, maintaining, securing, and protecting the Common Areas plus a reasonable sum for depreciation of equipment actually used, and for overhead costs equal to 11.32536 percent (i.e., 5,057/44,652) of the total of the foregoing expenses. It is understood that Landlord may cause any or all of said services to be provided by an independent contractor or contractors. At Landlord's option, periodic inspection and changing of filters in HVAC units within Tenants' spaces in the Center may be included in the Common Areas charges.

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(c) Tenant's pro rata share of Common Areas costs shall be determined by multiplying the total of the aforesaid Common Areas costs by a fraction, the numerator of which is total leasable square footage of the first floor area of the Leased Premises and the denominator of which is the total leasable square footage of the first floor area of all buildings in the Center as specified above. Equitable adjustments shall be made so that only that pro rata part of Landlord's Common Areas costs shall be paid by the Tenant for fractions of the term at the beginning or end of the Lease that are included in the calendar year in which such costs are incurred. If any land or leasable structures shall be added to the Center, or if any land or leasable structures shall be eliminated from the Center, the Common Areas costs attributable thereto shall be appropriately adjusted. As of the date of this Lease, Tenant's pro rata share hereunder is 11.32536 percent (i.e., 5,057/44,652).

(d) The charge required hereunder shall be paid by Tenant to Landlord in monthly installments in such amounts as are reasonably estimated and billed by Landlord at the beginning of a twelve-month period commencing and ending on the dates designated by Landlord, each such installment being due on the first of each month. The parties hereby agree that the initial charge shall be based upon an estimate of \$2.50 per square foot per year. Within ninety days after the end of each twelve month period, Landlord shall make available for Tenant's inspection (and keep available for inspection for a period of six months) Landlord's records of expenses for such Common Areas costs for such preceding period, and the balance (or refund) due shall be paid promptly thereafter.

#### ARTICLE VIII

8.01 Default: The occurrence of any one or more of the following events shall constitute a default under this Lease:

(a) The failure by Tenant to make any payment of Rent or any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of fifteen (15) days from the date said payment is due.

(b) The material breach of any representation by Tenant, or the failure by Tenant to fulfill or perform, in whole or in part, any of its obligations under this Lease, other than the payment of any monetary obligations hereunder, where such failure shall continue for a period of ten (10) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that more than ten (10) days is reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within said ten (10) day period, and thereafter diligently prosecutes such cure to completion.

(c) The failure by Tenant to remove any lien filed against this leasehold estate, or the Leased Premises, by reason of Tenant's actions, within thirty (30) days after written notice to Tenant of any such filing.

(d) The abandonment, transfer, mortgage, assignment, or other encumbrance by Tenant of this leasehold estate, except as provided hereunder.

(e) The material breach of any representation by Landlord, or the failure of Landlord to fulfill or perform, in whole or in part, any of its obligations under this Lease, where such failure

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shall continue for a period of ten (10) days after written notice thereof by Tenant to Landlord; provided, however, that if the nature of Landlord's default is such that more than ten (10) days is reasonably required for its cure, then Landlord shall not be deemed to be in default if Landlord commences such cure within said ten (10) day period, and thereafter diligently prosecutes such cure to completion.

**8.02 Rights Upon Default:** If a default occurs and the party fails to take such curative action as required herein, then at any time thereafter and prior to the curing thereof, with or without further notice or demand, the other party may exercise any and all rights and remedies available to the other party under this Lease, at law, or in equity, including without limitation terminating this Lease. If Landlord elects to terminate this Lease, it may treat the default as an entire breach of this Lease and Tenant shall immediately become liable to Landlord for damages equal to the total of (i) the cost of recovering, and reletting (including without limitation the costs of lease commissions attributable to the unexpired portion of the Term of this Lease), (ii) all unpaid Base Rent, Additional Rent, and other amounts earned or accrued but unpaid through the date of such termination. If Landlord elects to terminate Tenant's right to possession of the Leased Premises without terminating the Lease, Landlord shall be obligated to rent the Leased Premises or any part thereof for the account of Tenant to any person or persons for such rent and for such terms and conditions as Landlord deems appropriate, and Tenant shall be liable to Landlord for the amount, if any, by which the Rent for the unexpired balance of the Term exceeds the net amount, if any, received by Landlord from such reletting, after deducting from the gross amount received by Landlord the costs of repossession, reletting, remodeling and other expenses incurred by Landlord. Such sum or sums shall be paid by Tenant in monthly installments on the first day of each month of the Term. Nothing herein shall limit Landlord's right to accelerate rents due for the balance of the term upon default in rent payment as provided in paragraph 3.02. Tenant, upon default, shall be entitled to remain in possession of the Leased Premises upon payment of the full amount of the accelerated rent or may be put out of possession for non-payment of the full amount of the accelerated rent.

**8.03 Costs:** If a default occurs, then the defaulting party shall reimburse the other party on demand for all costs reasonably incurred by the other party in connection therewith including, but not limited to, reasonable attorneys' fees, court costs and related costs, plus interest thereon from the date such costs are paid by the other party until the defaulting party reimburses the other party, at the rate specified in Section 8.04 below whether suit be brought or not, and if brought, all such costs incurred at both the trial and appellate levels.

**8.04 Interest:** All late payments of Rent, costs or other amounts due from Tenant under this Lease shall bear interest from the date due, until paid, at the rate of one and one-half percent (1-1/2%) per month until paid (or the highest rate permitted by law if this rate is less than 1.5% per month). The acceptance by Landlord of any late payment shall not be deemed to be a waiver by Landlord of its rights to insist upon performance of any other obligation under this Lease.

**8.05 Non-Waiver:** The failure of Landlord to seek redress for violations of, or to insist upon the strict performance of, any covenant or condition of this Lease shall not prevent a subsequent act or omission that would have originally constituted a violation of this Lease from having all the force and effect of an original violation. The receipt by Landlord of Rent with or without knowledge of the breach of any provision of this Lease shall not be deemed a waiver of such breach, shall not

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reinstate this Lease or Tenant's right of possession if either or both have been terminated, and shall not otherwise affect any notice, election, action or suit by Landlord. No act or thing done by Landlord during the Term shall be deemed an acceptance of a surrender of the Leased Premises, and no agreement to accept such surrender shall be valid unless expressed and in writing signed by Landlord.

## ARTICLE IX

9.01 Entry by Landlord: Landlord, its agents, employees and representatives, shall at all reasonable times have the right to enter the Leased Premises provided prior notice is given to Tenant, for the purpose of and to: inspect the same; supply any service to be provided by Landlord to Tenant hereunder; show said Leased Premises to prospective purchasers, mortgagees or Tenants; post notices of nonresponsibility; alter, improve or repair the Leased Premises, or for any other purpose that Landlord may reasonably deem necessary or desirable, without abatement of rent. Landlord shall, at Tenant's request, utilize identification provided by Tenant and/or consent to utilization of an escort during such inspections, provided, however, Tenant hereby waives any claim for damages, or for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Leased Premises, and any other loss occasioned thereby, except for damages resulting from Landlord's gross negligence or willful misconduct. Landlord shall have the right to use any and all means which Landlord may deem proper to obtain access and entry to the Leased Premises in an emergency without liability to Tenant except for any failure to exercise due care for Tenant's property. Additionally, one hundred eighty (180) days prior to the expiration of the primary term of this lease, or any extension thereof, Landlord shall have the right to place a FOR SALE and/or FOR RENT sign up to four feet by eight feet (4' x 8') on Leased Premises offering property for sale or lease and Landlord shall have the right to show property to prospective Tenants or purchasers during normal business hours.

9.02 Subordination and Nondisturbance: This Lease and all rights of the Tenant hereunder are subject and subordinate to any and all mortgages or other security instruments which do now or hereafter encumber the Leased Premises, or any interest of Landlord therein, and to any and all advances made on the security thereof, and to any and all increases, renewals, modifications, consolidations, and extensions of any such leases, mortgages and/or security instruments, provided that the Landlord under any such mortgage shall agree that Tenant's rights under this Lease shall not be disturbed by any action taken under such mortgage so long as Tenant shall attorn to such Landlord under such mortgage. No further writing from Tenant shall be necessary to evidence such subordination; however, within ten (10) days after written request from Landlord, Tenant agrees to execute such Subordination, Non-disturbance and Attornment Agreement as may be reasonably required provided same contains a non-disturbance agreement customarily used in the industry.

9.03 Attornment: If any mortgage is terminated or foreclosed, Tenant shall, upon request, attorn to the mortgagee or purchaser at such foreclosure sale, as the case may be, and execute instrument(s) confirming such attornment; provided, however, that if this Lease was approved and accepted in writing by such mortgagee, Tenant's attornment shall be conditioned upon the agreement by such successor to Landlord's interest not to disturb Tenant's possession hereunder during the Term so long as Tenant performs its obligations under this Lease. In the event of such a termination or foreclosure and upon Tenant's attornment as aforesaid, Tenant will automatically

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become the Tenant of the successor to Landlord's interest without change in the terms or provisions of this Lease.

9.04 Quiet Enjoyment: Upon Tenant's paying the rent required hereunder, and observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Leased Premises for the entire Term hereof, subject to all of the provisions of this Lease.

## ARTICLE X

10.01 Estoppel Certificate: Tenant shall, at any time and from time to time upon not less than ten (10) days prior written notice from Landlord, execute, acknowledge and deliver to Landlord an estoppel certificate in such form as may be reasonably required by Landlord from time to time. Such certificate shall be made for the benefit of and may be relied upon by Landlord, any prospective purchaser or transferee of Landlord's interest hereunder or of Landlord's property, or any current or prospective mortgagee of all or any portion of the real property of which the Leased Premises are a part.

## ARTICLE XI

11.01 Notice: Except as otherwise provided herein, any statement, notice or other communication which Landlord or Tenant may desire or be required to give to the other shall be in writing and shall be deemed sufficiently given or rendered if hand delivered, or if sent by registered or certified mail, addressed at the address(es) first hereinabove given or at such other address(es) as the other party shall designate from time to time by prior written notice, and such notice shall be effective when the same is received or mailed as herein provided. Until further notice, the same shall be sent as follows:

Landlord: Northampton Dixie Property, LLC  
2915 Kerry Forest Pkwy., Suite 101  
Tallahassee, Florida 32309

Tenant: THE RED ELEPHANT NO. 2, LLC  
Attn. Bradford Lewis  
401 E. Virginia Street  
Tallahassee, FL 32301

11.02 Joint Obligation: If there be more than one Tenant, the obligations hereunder imposed upon Tenants shall be joint and several.

11.03 Captions: The captions in this Lease are inserted only as a matter of convenience and for reference, and they shall have no effect upon the construction or interpretation of any provision hereof.

11.04 Time: Time is of the essence of this Lease, including, particularly each and all of its provisions in which performance is a factor.





11.05 Parties and Successors: Tenant may not assign this Lease or sublease the Leased Premises without the prior written consent of the Landlord, such consent to not be unreasonably withheld. No assignment shall relieve Tenant from liability hereunder unless expressly so stated. Subject to the limitations and conditions set forth elsewhere herein, this Lease shall bind and inure to the benefit of the respective heirs, legal representatives, successors and permitted assigns and/or sublessees of the parties hereto. The term "Landlord", as used in this Lease, so far as the performance of any covenants or obligations on the part of Landlord under this Lease are concerned, shall mean only the owner of the Leased Premises at the time in question, so that in the event of any transfer of title to the Leased Premises, the transferor shall be relieved of all liability and obligations of the Landlord arising under this Lease from and after the date of such transfer.

11.06 Recordation: Tenant may not record this Lease, but either party may record a memorandum hereof.

11.07 Prior Agreements and Amendments: This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreements or understandings pertaining to any such matters shall be effective for any purpose. Any agreement hereafter made between Landlord and Tenant shall be ineffective to modify, release or otherwise affect this Lease, in whole or in part, unless such agreement is in writing and signed by the party to be bound thereby.

11.08 Severability: Any provision of this Lease which shall prove to be invalid, void, or illegal shall in no way affect, impair or invalidate any other provision hereof and such other provisions shall remain in full force and effect.

11.09 Cumulative Remedies: No remedy or election hereunder shall be deemed exclusive, but shall, wherever possible, be cumulative with all other remedies at law and in equity.

11.10 Governing Law; Attorneys' Fees: This Lease, and all transactions contemplated hereby, shall be governed by, construed and enforced in accordance with the laws of the State of Florida. In the event legal action is taken by Landlord or Tenant to enforce its rights under this Lease, all costs and expenses, including without limitation reasonable attorneys' fees, at both trial appellate levels, incurred by the prevailing party shall be paid by the nonprevailing party in addition to any other relief to which the prevailing party may be entitled.

11.11 Memorandum of Adjustments: All adjustments to the terms and provisions of this Lease may be accomplished by a memorandum executed by Landlord and Tenant prior to the Commencement Date.

11.12 Prorations: Any monthly payment due to Landlord hereunder which is for a period of less than one (1) month shall be prorated based upon a thirty (30) day month.

11.13 Exhibits: The exhibits attached to this Lease are hereby incorporated herein and made a part hereof for all purposes. The breach of any representation, warranty, or duty made or undertaken by a party through such an exhibit shall be deemed a default under this Lease.

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11.14 Limitation on Mechanics' Liens: The interest of the Landlord shall not be subject to liens for improvements made by the Tenant and Tenant shall notify any and all contractors, subcontractors, laborers and materialmen of such limitation.

11.15 Owners' Association Dues and Assessments: If the Leased Premises come within the jurisdiction of a homeowners or property owners association, then Tenant shall be responsible for the payment of any and all assessments by any such association, including late fees, interest or penalties. Any special assessments by any governmental authority shall be borne and paid equally by Landlord and Tenant. Should Landlord or Tenant default in the payment of any amounts to be paid hereunder, then the other party may pay said amount to be charged to the defaulting party.

11.16 Covenants and Restrictions. This Lease is subject to all covenants, reservations, restrictions, and easements of record relating to the Leased Premises, including those enforceable with respect to the Leased Premises by any owners association, and Tenant shall abide by all such applicable covenants and restrictions and all rules of such association. Without limited the generality of the foregoing, this Lease and the leasehold interest granted hereby are subject to that certain Indenture of Establishment of Protective Covenants, Conditions and Restrictions and Grants of Easements recorded in Book 1454, Page 441, Public Records of Leon County (the "Indenture"), as same may be amended from time to time. In the event of any express inconsistencies between this Lease and the Indenture, as amended, the Indenture shall govern and control; provided, however, that in the event of any express inconsistencies between the Indenture, as amended, and any of the following provisions of this Lease, the provisions of this Lease shall govern and control: Section 4.03 (Leasehold and Personal Property Taxes), Section 4.04 (Real Estate Taxes), Section 4.05 (Taxes and Other Governmental Charges), Section 7.04 (Common Area), or Section 7.05 (Common Area Charges). Tenant acknowledges that the land and improvements that constitute the Center (as defined herein) are a subset of the land and improvements that are covered by the Indenture.

11.17 Real Estate Commissions: The parties represent to each other that neither of them has employed the services of a real estate broker during the negotiation of this agreement and that no real estate commission is payable on account of this agreement.

EXECUTED the day and year first above written.

Jill Nowak

Signature of Witness

Jill Nowak

Printed Name of Witness

M. A. Frost

Signature of Witness

MARK A. FROST

"LANDLORD"

By: [Signature]

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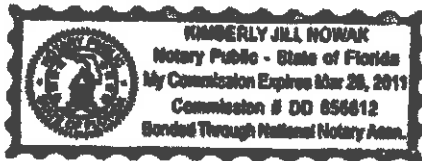
[Signature]

Printed Name of Witness

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 1<sup>ST</sup> day of November, 2007, by Roger K. Hobbs, who [check one]: is personally known to me has produced \_\_\_\_\_ as identification, and he acknowledged executing this Lease for such corporation, freely and voluntarily, under the authority vested in him by said corporation.

Kimberly Jill Nowak  
Notary Public, State of Florida  
Notary Public's Stamp:





Signature of Witness

Printed Name of Witness

Signature of Witness

Printed Name of Witness

By:

Signature  
on behalf of Red  
Elephant W.L.C

The foregoing instrument was acknowledged before me this 31 day of October, 2007, by John Silwaning, who [check one]: is personally known to me, has produced \_\_\_\_\_ as identification, and he acknowledged executing this Lease for such corporation, freely and voluntarily, under the authority vested in him by said corporation.

Notary Public, State of Florida  
Notary Public's Stamp:



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EXHIBIT "A"  
[SKETCH OF FLOOR LAYOUT]

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EXHIBIT "B"  
OPTION TO RENEW

Tenant, provided it has met all terms and conditions of this Lease and is not in default, is hereby granted an option to renew this Lease under the same terms and conditions (except for those hereinbelow specified) for a period of three (3) separate five (5) year extensions at the same sixty cent (\$.60) per square foot per year increases. In order for Tenant to be able to exercise each option to extend this Lease, Tenant must give Landlord written notice of its intention to exercise the option at least sixty (60) days prior to the expiration of this Lease.

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A handwritten signature, possibly reading "JAS", is located at the bottom right of the page.

**EXHIBIT "C"**  
**USE OF PREMISES**

The Leased Premises shall be used solely and exclusively for the operation of a restaurant and bar and for activities incidental to and in furtherance of such operations, and for no other use. It is understood and agreed that Landlord retains all non-possessory rights with respect to the Leased Premises not specifically set over to Tenant's use in accordance herewith, and it is further understood and agreed that Landlord retains the right, to the exclusion of the Tenant, to lease such non-possessory portions of the Leased Premises as are not set over to Tenant's use to other Tenants.

A handwritten signature, possibly reading "J. L.", is located in the bottom right corner of the page.

EXHIBIT "D"  
WORK AGREEMENT  
[Copy to be attached]

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Exhibit "D"

**WORK AGREEMENT**

This Work Agreement is made as of October 31, 2007, NORTHAMPTON DIXIE PROPERTY, LLC, a Florida limited liability company ("Landlord") the address of which for purposes of notice hereunder is 2915 Kerry Forest Pkwy., Suite 101, Tallahassee, Florida, 32309, and THE RED ELEPHANT NO. 2, LLC, a Florida limited liability company ("Tenant") the address of which for purposes of notice hereunder is 401 E Virginia Street, Tallahassee, FL 32301. The parties acknowledge that they are contemporaneously entering into a certain Lease Agreement dated October 31, 2007 (the "Lease") for premises (the "Premises") known as 2910 Kerry Forest Parkway, Suite C-3, Tallahassee, Florida, 32309.

**1. LANDLORD'S WORK; TENANT'S WORK.**

(A) Landlord covenants and agrees that prior to the delivery of possession of the Premises (as defined in the Lease) it will, at its sole cost and expense, construct, alter, repair, or provide the following work ("Landlord's Work") upon the Premises, all of good materials and workmanship and in conformity with all applicable requirements of law or duly constituted authority: Landlord will provide the Premises, as described in the Lease, finished to the following specifications: taped and mudded, paint ready walls; concrete flooring; 3/4" water service stubbed up at rear of Premises; 4" sewer service stubbed up at rear of Premises; 200 amp, 3-phase minimal electrical panel with disconnect and minimal lights attached at rafters; and fire sprinklers turned up. Landlord shall commence Landlord's Work promptly after the execution and delivery of this Lease and complete the work with due diligence, and shall, in any event, substantially complete Landlord's Work on or before Dec 31, 2007, subject to not reasonably avoidable.

(B) Tenant desires to perform certain improvements to the Premises in connection with Tenant's initial occupancy of the Premises ("Tenant's Work"). The Tenant's Work shall be in accordance with the provisions of this Work Agreement, and to the extent not expressly inconsistent with the provisions of this Work Agreement, in accordance with the provisions of the Lease. Performance of the Tenant's Work shall not serve to abate or extend the time for the commencement of rent under the Lease.

**2. COST OF TENANT'S WORK.**

(A) Except as provided below, Tenant shall pay all costs (the "Costs of the Tenant's Work") associated with the Tenant's Work whatsoever, including without limitation, all permits, inspection fees, construction management fees due to Landlord's representative as well as any Tenant representative, fees of space planners, architects, engineers, and contractors, utility connections, the cost of all labor and materials, bonds, insurance, and any structural or mechanical work, additional HVAC equipment or sprinkler heads, or modifications to any building mechanical, electrical, plumbing or other systems and equipment or relocation of any existing sprinkler heads, either within or outside the Premises required as a result of the layout.

design, or construction of the Tenant's Work. Of the Costs of the Tenant's Work, Landlord shall reimburse Tenant up to the maximum amount of \$185,000.00 (the "Improvement Allowance"). The Improvement Allowance does not include: office furniture, equipment, cubicles, electrical power to cubicles, non-building standard lighting, telephone lines, telephone systems, telephone equipment, computer lines, computers, data lines or any cabling (other than standard electrical wiring within the Building) or any other item that would be considered personal property.

(B) Proceeds from the Improvement Allowance shall be disbursed by Landlord as follows:

(1) Subject to the provisions of this Agreement, the Landlord will reimburse and the Tenant, in accordance with its representations set forth in this Agreement, will accept the amount of the Improvement Allowance as follows:

(a) The proceeds of the Improvement Allowance shall be disbursed as construction progresses once a month in amounts which at the election of the Landlord shall be 90% of either

(i) the amount of the Improvement Allowance multiplied by the percentage of completion of construction then attained, or

(ii) the estimated total cost of construction to the Tenant of the Improvements as determined from time to time by the Architect, multiplied by the percentage of completion of construction then attained, less, in each case, amounts theretofore disbursed, under the Improvement Allowance plus

(iii) 100% of non-construction costs approved or to be approved by Landlord.

(b) The final disbursement shall be made upon completion of Tenant's Work and satisfaction of the conditions set forth in subsection C of this Section 2.

(2) Landlord shall not be obligated to make any disbursements for labor or materials not yet incorporated into the Improvements.

(3) The percentage of completion of construction at any time and the estimated total cost of construction shall be determined by the Landlord based upon advice from the Architect.

(4) All disbursements are to be made at the principal office of the Landlord, or at such other place as the Landlord may designate. Requests for disbursements shall, at the option of Landlord, be submitted five days prior to the date of the requested disbursement.

(5) Landlord may make all disbursements directly or by joint check to the general contractor, any subcontractor, and supplier, and any professional, and the execution of this Agreement by the Tenant shall, and hereby does, constitute an irrevocable direction and authorization to disburse the funds, no further direction and authorization from Tenant shall be necessary to warrant such direct disbursements and all such disbursements shall satisfy pro tanto the obligations of Landlord hereunder, regardless of the disposition thereof by any person to whom such payment is made.

(5) The making of any disbursement by Landlord shall not be deemed an acceptance or approval by Landlord (for the benefit of Tenant or any third party) of the work done or Improvements constructed.

(C) Landlord shall not be required to disburse any portion of the Improvement Allowance unless, with respect to the portion to be funded, the work has been completed in accordance with the "Space Plan" and "Working Drawings" approved by Landlord in writing in accordance with the provisions of this Work Agreement, and Tenant has submitted all invoices, lien waivers, affidavits of payment, certificates of occupancy and all other evidence that Landlord may reasonably require showing that the cost of portion of the Tenant's Work for which disbursement is sought has been satisfactorily completed, paid for and that no construction or other liens have been or may be filed against the Property or the Premises arising out of the design or performance of the Tenant's Work.

(D) Landlord may issue checks to fund the Improvement Allowance jointly to Tenant, its general contractor, and, at Landlord's option, to any subcontractors or suppliers. Landlord shall have no responsibility to Tenant for remaining allowance funds that have not been utilized during the initial build out and any unspent allowance will be deemed forfeited. Notwithstanding anything to the contrary in this Work Agreement, any funds remaining and unspent toward Tenant's Work as of December 31, 2008 shall be retained by Landlord without further obligation to Tenant.

### 3. SPACE PLAN AND SPECIFICATIONS.

(a) Tenant shall be improving the Premises to make it suitable for use as a restaurant and bar. All work shall be completed within ninety (90) days from the beginning of construction and the Premises substantially ready for occupancy.

(b) No later than ten (10) days after the date of this Work Agreement set forth above, Tenant shall submit two (2) sets of a space plan, prepared by a licensed architect or interior designer ("Space Plan"), to Landlord for approval.

(c) Landlord shall, within ten (10) days after receipt thereof, either approve the Space Plan, or disapprove the Space Plan advising Tenant of the reasons for its disapproval. In the event Landlord disapproves the Space Plan, Tenant shall modify the Space Plan, taking into account the reasons given by Landlord for its disapproval, and shall submit two sets of the



revised Space Plan to Landlord within five (5) days after receipt of Landlord's initial disapproval.

#### **4. WORKING DRAWINGS AND ENGINEERING REPORT.**

(a) No later than ten (10) days after receipt of Landlord's approval of the Space Plan, Tenant shall submit to Landlord for approval two (2) sets of "Working Drawings" (as defined in Section 14 of this Work Agreement), and a report (the "Engineering Report") from Tenant's mechanical, structural and electrical engineers indicating any special heating, cooling, ventilation, electrical, heavy load or other special or unusual requirements of Tenant.

(b) Landlord shall, within twenty (20) working days after receipt of the Working Drawings and Engineering Report, either approve the Working Drawings and Engineering report, or disapprove them, advising Tenant of the reasons for disapproval. If Landlord disapproves of the Working Drawings or Engineering Report, Tenant shall modify and submit revised Working Drawings, and a revised Engineering Report, taking into account the reasons given by Landlord for disapproval, within five (5) days after receipt of Landlord's initial disapproval.

#### **5. LANDLORD'S APPROVAL.**

Landlord shall not unreasonably withhold approval of any Space Plans, Working Drawings, or Engineering Report submitted under this Work Agreement if they provide for a customary office layout, with typical office finishes and materials, are compatible with the Building's shell and core construction, and no modifications will be required for the Building electrical, heating, air-conditioning, ventilation, plumbing, fire protection, life safety, or their systems or equipment, and will not require any structural modifications to the Premises, whether required by heavy loads or otherwise.

#### **6. SPACE PLANNERS, ARCHITECTS, ENGINEERS, AND CONTRACTORS.**

The Space Plan, Working Drawings, Engineering Report and the Tenant's Work, shall be prepared and performed by licensed, bonded, reputable and qualified space planners, architects, engineers and contractors selected by Tenant and approved by Landlord. Such approval shall be granted or denied within fifteen (15) days after Landlord receives from Tenant a written request for approval, containing a reasonable designation of the proposed party's background, references and qualifications.

#### **7. CHANGE ORDERS.**

No changes, modifications, alterations or additions to the approved Space Plan or Working Drawings may be made without the prior written consent of the Landlord after written request by Tenant. In the event that the Premises are not constructed in accordance with the approved Space Plan and Working Drawings, then Tenant shall not be permitted to occupy the Premises until the Premises reasonably comply in all respects with the approved Space Plan and Working Drawings; in that case, the Rent shall nevertheless commence to accrue and be payable as otherwise provided in the Lease.

## **8. COMPLIANCE.**

Tenant's Work shall comply in all respects with: (a) the state, county, city or other laws, codes, ordinances and regulations, as each may apply according to the rulings of the controlling public official, agent or other such person; (b) applicable standards of the National Board of fire Underwriters and National Electrical Code; and (c) building material manufacturer's specifications.

## **9. GUARANTEES.**

Each contractor, subcontractor and supplier participating in Tenant's Work shall guarantee that the portion of the Tenant's Work for which he or she is responsible shall be free from any defects in workmanship and materials for a period of not less than one (1) year from the date of completion of its work. Every contractor, subcontractor, and supplier shall be responsible for the replacement or repair, without additional charge, of all work done or furnished in accordance with its contract which shall become defective within one (1) year after completion of its work. The correction of the work shall include, without additional charge, all additional expenses and damages in connection with the removal or replacement of all or any part of Tenant's Work, and/or the Property or work which may be damaged or disturbed by the removal or replacement of the Tenant's Work. All such warranties or guarantees as to materials or workmanship of or with respect to Tenant's Work shall be contained in the contract or subcontract, which shall be written so that the warranties or guarantees shall inure to the benefit of both Landlord and Tenant, as their respective interests may appear, and can be directly enforced by either. Tenant covenants to give Landlord any assignment or other assurances necessary to effect such right of direct enforcement. Copies of all contracts and subcontracts shall be furnished to Landlord promptly after the contracts and subcontracts are executed.

## **10. PERFORMANCE.**

(a) Tenant's Work shall be commenced within fifteen (15) days after Landlord approves the Working Drawings, and shall after that be diligently prosecuted to completion, subject to delays for reasons beyond Tenant's control (except financial matters). All Work shall conform with the Working Drawings approved by Landlord in writing, and Landlord may periodically inspect the Work for compliance.

(b) Tenant's Work shall be performed in a thoroughly safe, first-class and workmanlike manner in conformity with the approved Space Plan and Working Drawings, and shall be in good and usable condition at the date of completion.

(c) Tenant shall be required to obtain all necessary permits and pay all permit fees with respect to Tenant's Work, and the permits and proof of payment shall be shown to Landlord prior to commencement of the Work.

(d) Each contractor and subcontractor shall be required to obtain prior written approval from the Landlord for any space, whether outside the Premises or within the Property, which a

contractor or subcontractor desires to use for storage, handling, and moving of its materials and equipment, as well as for the location of any facilities for its personnel.

(e) The contractors and subcontractors shall be required to remove from the Premises and dispose of, at least once a week and more frequently as Landlord may direct, all debris and rubbish caused by or resulting from the construction. At the time of completion of Tenant's Work, the contractors and subcontractors shall remove all surplus materials, debris and rubbish of whatever kind remaining within the Property which has been brought in or created by the contractors and subcontractors in the performance of Tenant's Work. If any contractor or subcontractor shall neglect, refuse or fail to remove any such debris, rubbish, surplus material or temporary structures within thirty (30) days after notice to Tenant for Landlord with respect thereto, Landlord may cause the debris, rubbish, surplus material or temporary structures to be removed, by contract or otherwise as Landlord may determine expedient, and charge the cost of removal to Tenant as Additional Rent under the Lease.

(f) Tenant shall obtain and furnish Landlord all approvals with respect to electrical, water and telephone work as may be required by the respective company supplying the service. Tenant shall obtain utility service, including meter, from the utility company supplying service, unless Landlord elects to supply utility service or meters.

(g) Landlord shall have the right to require Tenant to furnish bonds or other security in form and amount reasonably satisfactory to Landlord for the prompt and faithful performance and payment for Tenant's Work.

(h) Landlord's acceptance of Tenant's Work as being completed in accordance with the approved Space Plan and Working Drawings shall be subject to Landlord's inspection and written approval. Tenant shall give Landlord twenty (20) days' prior written notification of the anticipated completion date of Tenant's Work.

(i) Tenant shall deliver to Landlord within ten (10) days after completion of construction of Tenant's Work and in any event before commencement of the initial term of the Lease a Waiver and Release of Lien Upon Final Payment from all lienors, and a Contractor's Final Payment Affidavit pursuant to section 713.06, Florida Statutes.

(j) Tenant shall, at its cost and expense, construct, purchase, install and perform any and all items of Tenant's Work, stock its merchandise, and employ its personnel so as to obtain any governmentally required certificate of occupancy and to occupy the Premises as soon as possible, and in all cases on or before the date required for occupancy under this Work Agreement or under the Lease.

(k) Copies of "as built" drawings shall be provided to Landlord no later than thirty (30) days after completion of Tenant's Work.

(l) Landlord's approval of Tenant's plans and specifications, and Landlord's recommendations or approvals concerning contractors, subcontractors, space planners, engineers

or architects, shall not be deemed a warranty as to the quality or adequacy of the Work, or the design of the Work, or of its compliance with laws, codes and other legal requirements.

(m) Tenant shall conduct its labor relations and relations with employees so as to avoid strikes, picketing, and boycotts on or about the Property. If any employees strike, or if picket lines or boycotts or other visible activities objectionable to Landlord are established, conducted or carried out against Tenant, its employees, agents, contractors, subcontractors or suppliers, in or about the Property, Tenant shall immediately close the Premises and remove or cause to be removed all such employees, agents, contractors, subcontractors and suppliers until the dispute has been settled.

(n) Tenant's contractors shall comply with the rules and regulations of the Property and Landlord's requirements respecting the manner of delivery, handling materials, equipment and debris.

## **11. INSURANCE.**

All contractors and subcontracts shall carry Worker's Compensation Insurance covering all of their respective employees in the statutory amounts. Tenant shall carry Employer's Liability Insurance in the amount of at least \$1,000,000 per occurrence, and comprehensive general liability insurance of at least \$1,000,000 combined single limit for bodily injury, death, or property damage. The insurance policies shall cover Landlord and Tenant, as additional insured, as well as the contractors and subcontractors. Tenant shall carry builder's risk insurance coverage respecting the construction and improvements to be made by Tenant, in the amount of the anticipated cost of construction of Tenant's Work (or any guaranteed maximum price). All insurance carriers shall be rated at least 4<sup>th</sup> and 5<sup>th</sup> in Best's Insurance Guide. Certificates for all such insurance shall be delivered to Landlord before the construction is commenced or contractor's equipment is moved onto the Property. All policies of insurance must require that the carrier give Landlord twenty (20) days' advance written notice of any cancellation or reduction in the amounts of insurance. In the event that during the course of Tenant's Work any damage shall occur to the construction and improvements being made by Tenant, then Tenant shall repair the same at Tenant's cost.

## **12. LIENS.**

Tenant shall keep the Property free from any mechanic's, materialman's or similar liens or other such encumbrances in connection with the Work, and shall indemnify and hold Landlord harmless from and against any claims, liabilities, judgments, or costs (including attorneys' fees) arising in connection therewith. Tenant shall give Landlord notice at least twenty (20) days prior to the commencement of the Work (or such additional time as may be necessary under applicable laws), to afford Landlord the opportunity of posting and recording appropriate notices of non-responsibility. Tenant shall remove any such lien or encumbrance by bond or otherwise within ten (10) days after written notice by Landlord, and if Tenant shall fail to do so, Landlord may pay the amount necessary to remove the lien or encumbrance, without being responsible for investigation of the validity of the lien or encumbrance. The amount paid shall be deemed

Additional Rent under the Lease payable on demand, without limitation as to other remedies available to Landlord under the Lease. Nothing contained in this Work Agreement shall authorize Tenant to do any act that shall subject Landlord's title to the Property to any liens or encumbrances, whether claimed by operation of law or express or implied contract. Any claim to a lien or encumbrance on the Property arising in connection with the Work shall be null and void, or at Landlord's option shall attach only against Tenant's interest in the Property and shall in all respects be subordinate to Landlord's title to the Property.

### **13. INDEMNITY.**

Tenant shall indemnify, defend and hold harmless Landlord (and Landlord's principals, partners, agents, trustees, beneficiaries, officers, employees and affiliates) from and against any claims, demands, losses, damages, injuries, liabilities, expenses, judgments, liens, encumbrances, orders, and awards, together with attorneys' fees and litigation expenses arising out of or in connection with the Work, or Tenant's failure to comply with the provisions Work Agreement, or any failure by Tenant's contractors, subcontractors or their employees to comply with the provisions of this Work Agreement, except to the extent caused by Landlord's intentional or negligent acts.

### **14. CERTAIN DEFINITIONS.**

(a) For purposes of this Work Agreement, "Space Plan" means a floor plan, drawn to scale, showing:

(1) demising walls, corridor doors, interior partition walls and interior doors, including any special walls, glass partitions or special corridor doors;

(2) any restrooms, kitchens, computer rooms, file rooms and other special purpose rooms, and any sinks or other plumbing facilities, or other special facilities or equipment;

(3) any communications system, indicating telephone and computer outlet locations; and

(4) any other details or features required to reasonably delineate the Work to be performed.

(b) For purposes of this Work Agreement, "Working Drawings" means fully dimensioned, permissible, architectural construction drawings and specifications, and any required engineering drawings (including mechanical, electrical, plumbing, air-conditioning, ventilation and heating). In addition, "Working Drawings" shall include any applicable items described above for the Space Plan, and if applicable:

(1) electrical outlet locations, circuits and anticipated usage of electrical outlets;

(2) reflected ceiling plan, including lighting, switching, and any special ceiling specifications;

- (3) duct locations for heating, ventilating and air-conditioning equipment;
- (4) details of all millwork;
- (5) dimensions of all equipment and cabinets to be built;
- (6) furniture plan showing details of space occupancy;
- (7) keying schedule;
- (8) lighting arrangement;
- (9) location of print machines, equipment in lunch rooms, concentrated file and library loadings and any other equipment or systems (with brand names wherever possible) which require special consideration relative to air-conditioning, ventilating and air conditioning equipment and requirements;
- (10) weight and location of heavy equipment, and anticipated loads for special usage rooms;
- (11) demolition plan;
- (12) partition construction plan;
- (13) type and color of floor and wall-coverings, wall paint and any other finishes, and any other details or features required to completely delineate the Tenant's Work to be performed.

#### **15. TAXES.**

Tenant shall pay, prior to delinquency, all taxes, charges or other governmental impositions (including without limitation, any real estate taxes or assessments, sales tax or value added tax) assessed against or levied on Tenant's fixtures, furnishings, equipment and personal property located in the Premises and the Tenant's Work to the Premises under this Agreement. Whenever possible, Tenant shall cause all such items to be assessed and billed separately from the property of Landlord. In the event any such items shall be assessed and billed with the property of Landlord, Tenant shall pay its share of the taxes, charges or other governmental impositions to Landlord within thirty (30) days after Landlord delivers a statement and a copy of the assessment or other documentation showing the amount of the impositions applicable to Tenant.

#### **16. INCORPORATION INTO LEASE; DEFAULT.**

The parties agree that the provisions of this Work Agreement are incorporated by this reference into the Lease fully as though set forth in the Lease. In the event of any express

inconsistencies between the Lease and this Work Agreement, this Work Agreement shall govern and control. If Tenant shall default under this Work Agreement, Landlord may order that all Tenant's Work being performed in the Premises be stopped immediately, and that no further deliveries to the Premises be made, until the default is cured, without limitation as to Landlord's other remedies. Any amounts payable by Tenant to Landlord under this Work Agreement shall be paid as Additional Rent under the Lease. Any default by the other party under this Work Agreement shall constitute a default under the Lease and shall be subject to the remedies and other provisions applicable to that party under the Lease. If Tenant shall default under the Lease or this Work Agreement and fail to cure the default within the time permitted for cure under the Lease, at Landlord's option, all amounts paid or incurred by Landlord towards the Improvement Allowance shall become immediately due and payable as Additional Rent under the Lease.

#### **17. COLLATERAL ASSIGNMENT OF CONSTRUCTION CONTRACT, SUBCONTRACTS, PLANS, AND SPECIFICATIONS, AND PERMITS**

(A) Collateral Assignment. Tenant assigns to Landlord Tenant's entire right, title, interest, in and to: (i) all construction and other contracts pertaining to Tenant's Work, and all addenda, modifications, and amendments (collectively, the "Contract"); and (ii) any plans, specifications, drawings, and design documents pertaining to the Project, if any, and all addenda, modifications, change orders, and amendments thereto (the "Plans and Specifications"), and grants to Landlord, its successors and assigns, a security interest in the Contract and the Plans and Specifications and in all Tenant's rights and remedies under the Contract, to provide additional security for Tenant's performance of its obligations under this Work Agreement and under the Lease (the "Secured Obligations"). Although Tenant and Landlord intend this to be a present assignment of Tenant's interest in the Contract and Plans and Specifications, Landlord agrees that, so long as no default exists under any of the Secured Obligations, Tenant may continue to exercise the rights and powers granted to Tenant in the Contract.

(B) Tenant's Default under Work Agreement or Lease. In the event of the occurrence of any event of default under this Work Agreement or the Lease, Landlord shall have the right and option, in its sole discretion, to exercise the rights, benefits, and privileges in the Contract and the Plans and Specifications under this Assignment upon written notice to Contractor. Neither this Assignment nor any action or actions on the part of Landlord shall constitute an assumption by Landlord of any of the obligations of Tenant under the Contract, and Tenant shall continue to be liable for all obligations under the Contract. Tenant agrees to protect, defend, indemnify, and hold Landlord harmless from and against any and all loss, cost, liability or expense, including but not limited to attorney's fees, costs, and expenses (including attorney's fees, costs, and expenses incurred as a result of any appeal), resulting from any failure of Tenant to perform and observe, at the time and in the manner provided in the Contract, each of the covenants, agreements, and obligations of Tenant contained in the Contract.

(C) Tenant's Default under Contract. Upon the occurrence of any event of default under the Contract, Landlord shall have the right, in its sole discretion, to take in its name or in the name of Tenant or otherwise, any action that Landlord may at any time or from time to time reasonably determine to be necessary to cure any default under the Contract, but under no

circumstances shall Landlord be obligated to take any such action. Landlord shall incur no liability on account of any action taken in good faith by it or on its behalf or otherwise under this Assignment, whether or not the same shall prove to be improper, inadequate, or invalid, in whole or in part, and Tenant agrees to protect, defend, indemnify, and hold Landlord harmless from and against any and all loss, cost, liability, or expense, including but not limited to attorney's fees, costs, and expenses (including attorney's fees, costs, and expenses incurred as a result of any appeal), in connection with any such action or actions. This Assignment shall constitute Tenant's irrevocable direction to and full authority for Contractor to act at Landlord's written direction, notice, or demand and to otherwise perform on Landlord's behalf under the Contract after an event of default has occurred under the Loan. Contractor shall be fully protected by Tenant in Contractor's reliance on and compliance with any written request, notice, or demand made by Landlord with respect to the Contract and the Plans and Specifications, or for performance of any undertaking under them, and shall have no right or duty to inquire as to whether any event of default under the Work Agreement or the Lease has actually occurred or is then existing.

(D) Attorney-in-Fact. Tenant irrevocably constitutes and appoints Landlord as its true and lawful attorney-in-fact, empowered to act in Tenant's name or in Landlord's name or otherwise, to enforce all rights of Tenant under the Contract. This power of attorney, being coupled with an interest, is irrevocable, but shall not become operative except on the occurrence of an event of default under this Work Agreement or the Lease.

(E) Additional Assignment. Tenant additionally assigns to Landlord all right, title, and interest in and to any and all permits, licenses, allocations, approvals, certificates, and consents previously or subsequently issued by any governmental or private authority or agency relating to the Project or the Plans and Specifications, naming Tenant or Contractor, or in which either has an interest, and all of Tenant's and Contractor's right, title, and interest in and to any subcontracts or agreements for services, labor, or materials pertaining to the Project, and all claims and rights with respect to non-performance or breach of the contracts and agreements.

(F) Representations and Warranties of Tenant. Tenant represents and warrants that it has full power and authority to make this Assignment. Tenant covenants to make all required payments and otherwise perform its obligations under the Contract, and to give immediate notice to Landlord of any notice of default served upon Tenant with respect to its obligations under the Contract, and at Tenant's sole cost and expense, to enforce or secure the performance of each and every obligation of Contractor to be kept or performed under the Contract. Tenant further covenants that it shall make no changes in or amendments to the Contract or the Plans and Specifications, including, but not limited to, any addenda, modifications, or change orders, without the Landlord's prior written consent, except for change orders or extras, if any, that are specifically allowed by this Work Agreement, and Tenant shall not tender or accept a surrender or cancellation of the Contract, or further assign or create any further encumbrance or hypothecation of Tenant's interest under the Contract, without the Landlord's prior written consent.



Kimberly Jill Nowak  
Signature of Witness

Kimberly Jill Nowak  
Printed Name of Witness

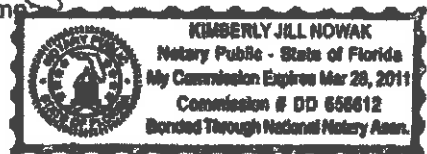
M. N. Frost  
Signature of Witness

MARIL A. FROST  
Printed Name of Witness

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 1st day of November, 2007, by Roger K. Hobbs, who [check one]: is personally known to me has produced \_\_\_\_\_ as identification, and he acknowledged executing this lease for such corporation, freely and voluntarily, under the authority vested in him by said corporation.

Kimberly Jill Nowak  
Notary Public, State of Florida  
Notary Public's Stamp



Jeffrey Hanson  
Signature of Witness

Jeffrey Hanson  
Printed Name of Witness

Kathleen J. Armstrong  
Signature of Witness

Kathleen J. Armstrong  
Printed Name of Witness

"TENANT"

By: John DeLong signing  
on behalf of Red  
Elephant LLC.

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 31 day of October, 2007, by John Schraaen, who [check one]: is personally known to me has produced \_\_\_\_\_ as identification, and he acknowledged executing this lease for such corporation, freely and voluntarily, under the authority vested in him by said corporation.

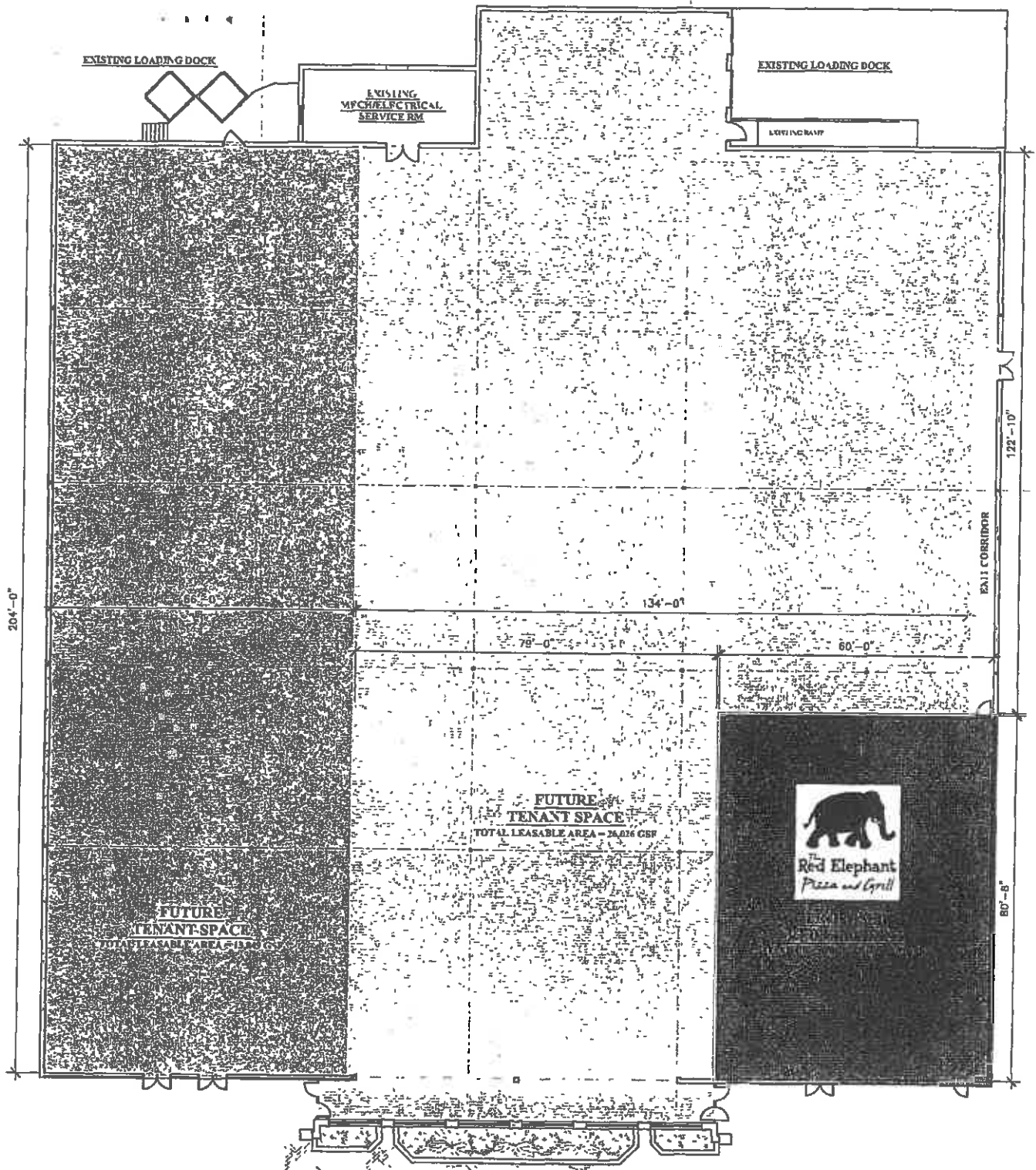


Kathleen Joyce Armstrong  
Notary Public, State of Florida  
Notary Public's Stamp.

EXHIBIT "A"  
[SKETCH OF FLOOR LAYOUT]

DTA8

A handwritten signature or set of initials, possibly reading 'DJA', written in a cursive style.



**TENANT SPACE PLAN - OPTION 1**  
**NORTHAMPTON SHOPPING CENTER**  
 ADAPTIVE RE-USE OF EXISTING BUILDING

**2910 KERRY FOREST PARKWAY**  
 TALLAHASSEE, FLORIDA

Netco Design Group  
 1111 N. GULF BLVD.  
 SUITE 200  
 TALLAHASSEE, FL 32301  
 TEL: 904.224.1111  
 FAX: 904.224.1112





STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Charlie Crist, Governor  
Chuck Drago, Interim Secretary

03/27/2008  
ID NBR: 8235756 FILE NBR: 166736

RED ELEPHANT NO. 2 LLC (THE)  
401 E VIRGINIA STREET  
ATTN: BRADFORD LEWIS  
TALLAHASSEE, FL 32301 UNITED STATES  
2910 KERRY FOREST PARKWAY UNIT C3  
TALLAHASSEE, FL 32309

YOUR APPLICATION FOR A LICENSE WITH THE DIVISION OF  
ALCOHOLIC BEVERAGES AND TOBACCO HAS BEEN APPROVED.  
PLEASE REMIT THE AMOUNT AS SHOWN BELOW WITH THIS LETTER.  
ONCE FULL PAYMENT HAS BEEN RECEIVED, THE LICENSE CAN BE  
ISSUED. IF THIS LETTER IS NOT RETURNED WITH YOUR PAYMENT  
A DELAY IN PROCESSING WILL OCCUR.

LICENSE NUMBER	SERIES	APPLICATION NUMBER
BEV4703542	4COP	416675

ISSUE PERMANENT LICENSE (FROM TEMP)

TOTAL TO SUBMIT \$910.00

PLEASE REMIT YOUR PAYMENT, IN FULL, WITHIN 14 DAYS  
FROM THE DATE OF THIS LETTER, TO THE ADDRESS LISTED BELOW:

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
BUREAU OF REVENUE  
1940 NORTH MONROE STREET  
TALLAHASSEE, FLORIDA 32399-0783

**DBPR ABT-6001 – Division of Alcoholic Beverages and Tobacco Application for Alcoholic Beverage License and Tobacco Permit**



**STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL  
REGULATION  
1940 North Monroe Street  
Tallahassee, FL 32399-0783**

**NOTE – This form must be submitted as part of an application packet**

*If you have any questions or need assistance in completing this application, please contact the Department of Business and Professional Regulation or your local district office. Please submit your completed application and required fee(s) to your local district office. This application may be submitted by mail, through appointment, or it can be dropped off. A District Office Address and Contact Information Sheet can be found on AB&T's page of the DBPR web site at the link provided below*

<http://www.state.fl.us/dbpr/abt/contact/index.shtml>

SECTION 1 - CHECK TRANSACTION REQUESTED	
Trade Name (D/B/A) <u>The Red Elephant - Kerry Forest</u>	
Transaction Type: <input checked="" type="checkbox"/> New License	Do you wish to purchase a Temporary License? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Series Requested <u>4COP</u>	Type Requested <u>SRX</u>
SECTION 2 - CHECK LICENSE CATEGORY	
<input checked="" type="checkbox"/> Retail Alcoholic Beverages <input type="checkbox"/> Beer/Wine/Liquor Wholesaler	<input type="checkbox"/> Alcoholic Beverage Manufacturer <input type="checkbox"/> Retail Tobacco Products <input type="checkbox"/> Passenger Waiting Lounge

SECTION 3 - LICENSE INFORMATION				
If the applicant is a corporation or other legal entity, enter the name as registered with the Secretary of State on the line below				
Full Name of Applicant		Corporate Document #		
The Red Elephant Pizza + Grill				
Trade Name (D/B/A)		The Red Elephant <del>PIZZA</del> NO. 2 LLC		
FEIN Number or Social Security Number*		Business Telephone Number		
		850-222-7492		
Contact Person			Phone Number	
John Schrawang				
Location Address (Street and Number)				
2910 Kerry Forest Parkway Unit C-3				
City	County	State	Zip Code	
Tallahassee	Leon	Fla	32309	
Mailing Address (Street or P.O. Box)				
401 E Virginia St				
Section / Name (Attention: - Optional)				
Bradford Lewis				
City	State	Zip Code		
Tallahassee	Fla	32301		

**\*Social Security Number**

Under the Federal Privacy Act, disclosure of Social Security numbers is voluntary unless a Federal statute specifically requires it or allows states to collect the number. In this instance, disclosure of social security numbers is mandatory pursuant to Title 42 United States Code, Sections 653 and 654; and sections 409.2577, 409.2598, and 559.79, Florida Statutes. Social Security numbers are used to allow efficient screening of applicants and licensees by a Title IV-D child support agency to assure compliance with child support obligations. Social Security numbers must also be recorded on all professional and occupational license applications and are used for licensee identification pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform Act), 104 Pub.L.193, Sec. 317. The State of Florida is authorized to collect the social security number of licensees pursuant to the Social Security Act, 42 U.S.C. 405(c)(2)(C)(i). This information is used to identify licensees for tax administration purposes.

4006  
166736

4090  
188282



Division of Alcoholic Beverages and Tobacco  
Bureau of Licensing  
Eileen Klinger, Chief  
1940 North Monroe Street  
Tallahassee, Florida 32399

Phone 850 488 8284  
Fax 850 921 7800  
[www.MyFlorida.com/dbpr](http://www.MyFlorida.com/dbpr)  
[www.MyFloridaLicense.com](http://www.MyFloridaLicense.com)

## MEMORANDUM

TO: Bureau of Enforcement, Tallahassee

FROM: Penny MacMillan, Regulatory Specialist II, Tallahassee District Office

SUBJECT: Site Inspection

DATE: February 27, 2008

\*\*\*\*\*

Licensee: Red Elephant No. 2 LLC (The)  
DBA: Red Elephant Pizza & Grill (The)  
License No.: BEV4703542 4COP-SRX

1. PLEASE CONDUCT A SITE INSPECTION.

LOCATION ADDRESS - 2910 Kerry Forest Pkwy #C-3  
Contact person: John Schrowang  
Phone: (850) 222-7492

**DBPR ABT-6023 – Division of Alcoholic Beverages and Tobacco Special License Inspection Form**



**STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL  
REGULATION  
1940 North Monroe Street  
Tallahassee, FL 32399-0783**

*If you have any questions or need assistance in completing this application, please contact the Department of Business and Professional Regulation. Please submit your completed application to your local district office. Submission may be done by mail, through appointment or dropped off at your local district office. A District Office Address and Contact Information Sheet can be found on AB&T's page of the DBPR web site at the link provided below.*

<http://www.state.fl.us/dbpr/abt/contact/index.shtml>

SECTION 1: APPLICANT INFORMATION			
Full Name of Applicant (if this is a corporation or other legal entity, enter the name as registered with the Secretary of State) Red Elephant No. 2 LLC			
Trade Name (D/B/A) Red Elephant Pizza & Grill (The)		Telephone Number 850-222-7492	
Current Location Address 2910 Kerry Forest Pkwy #C-3			
City Tallahassee		State FL	Zip Code 32309

SECTION 2: TO BE COMPLETED BY THE DIVISION PERSONNEL
Full Name of Applicant: Red Elephant No. 2 LLC (The)

**Food Service – Special Restaurant License**  
**Square footage of entire premises to be licensed**

- Includes any space used exclusively in the operation of the restaurant, including but not limited to, kitchens, food service areas, pantries, storage rooms, offices and bathrooms.
- Must be contiguous and under the management and control of a single, licensed restaurant establishment.

**The premises is:**

- ☐ at least 1,800 sq. ft.      ☒ at least 2,500 sq. ft.      ☐ at least 3,000 sq. ft.  
☐ at least 4,000 sq. ft.      ☐ at least 5,000 sq. ft.

**Number of patrons that can be seated and served at one time**

- Tables and seating must be located within the square footage floor space and under permanent cover, which may include canopies, roll back awnings, etc., which are permanently attached to the building. Seats must be actually set up at time of inspection/verification and must not exceed the occupancy load established by the local fire authority.
- Tables must be adequate size to accommodate the service of full course meals in accordance with the number of chairs or other seating facilities provided at the table.
- Seating at counters used to serve food can be included in the minimum seating requirements.
- Must have on the premises all equipment for the service of full course meals to the applicable number of patrons at one time. A full course meal includes a salad or vegetable, entrée, beverage and bread which must be available at all times alcoholic beverages are being served.

**The premises can seat:**

- ☐ at least 100 persons      ☐ at least 125 persons  
☒ at least 150 persons      ☐ at least 200 persons

**Lodging – Special Hotel/Motel/Motor Court License**  
**Number of guest rooms available for rental**

- Must be licensed as a public lodging establishment by the Division of Hotels and Restaurants.

**The premises consists of:**

- ☐ at least 50 rooms      ☐ at least 75 rooms  
☐ at least 80 rooms      ☐ at least 100 rooms

*Carrie Bruce*

Division of Alcoholic Beverages & Tobacco Inspector (Please Print)

*Carrie M. Bruce*

*3/24/08*

Signature

Date

Comments.

**SECTION 5 - DESCRIPTION OF PREMISES TO BE LICENSED**  
**AB&T AUTHORIZED SIGNATURE REQUIRED**

Trade Name (D/B/A) \_\_\_\_\_

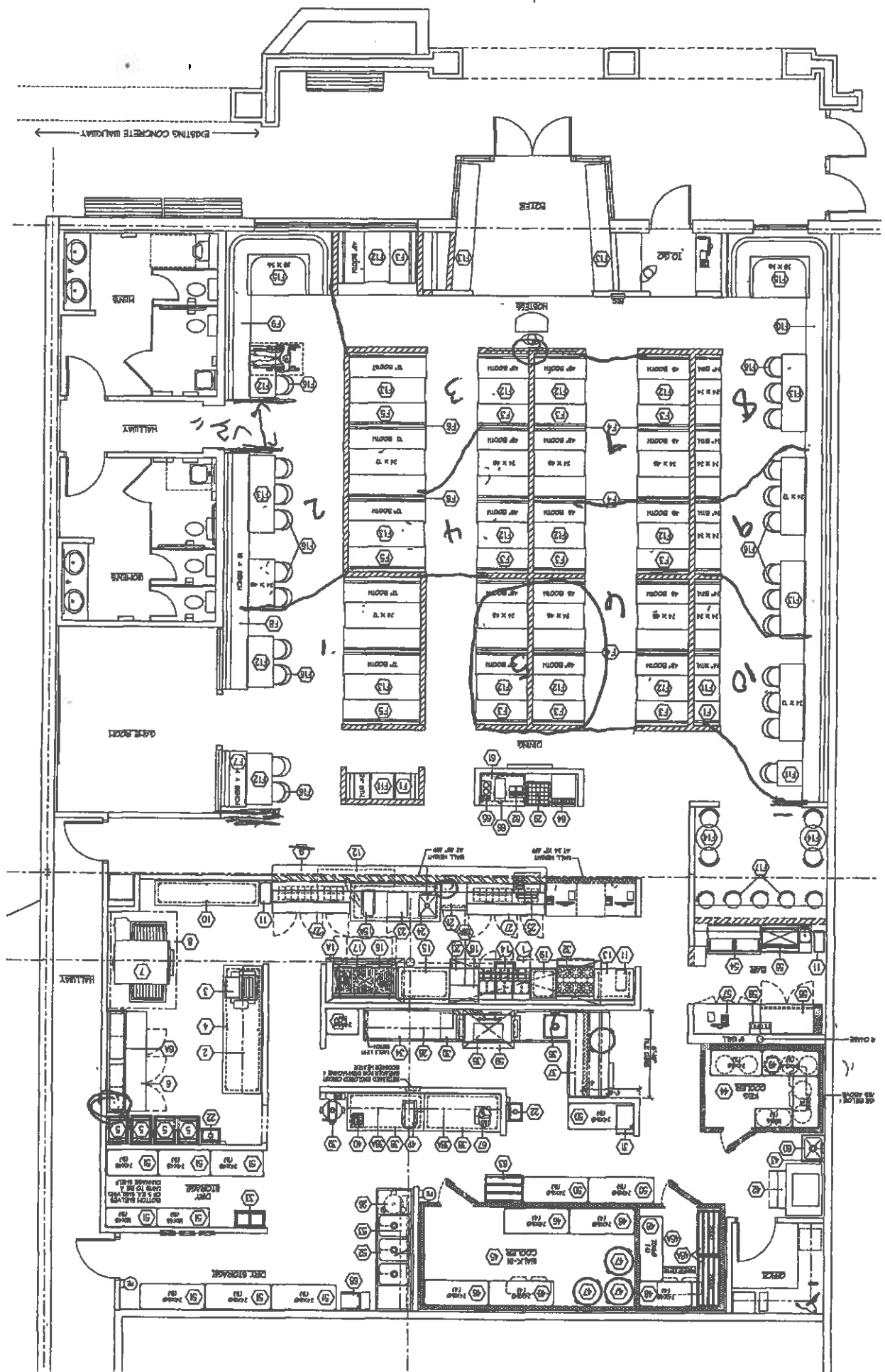
- |    |  |  |   |
|----|--|--|---|
| 1. | Yes <input type="checkbox"/>   | No <input checked="" type="checkbox"/> | Is the proposed premises movable or able to be moved?   |
| 2. | Yes <input type="checkbox"/>   | No <input checked="" type="checkbox"/> | Is there any access through the premises to any area over which you do not have dominion and control? |
| 3. | Neatly draw a floor plan of the premises in ink, including sidewalks and other outside areas which are contiguous to the premises, walls, doors, counters, sales areas, storage areas, restrooms, bar locations and any other specific areas which are part of the premises sought to be licensed. A multi-story building where the entire building is to be licensed must show each floor plan. No architectural drawings are accepted. |  |   |



DBPR Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

☐ Approved ☐ Disapproved

Comments \_\_\_\_\_



**TO BE COMPLETED BY THE DEPARTMENT OF REVENUE**

**Trade Name (D/B/A)**

## The Real Elephant Pizza Grill

The named applicant for a license/permit has complied with the Florida Statutes concerning registration for Sales and Use Tax.

1. This is to verify that the current owner as named in this application has filed all returns and that all outstanding billings and returns appear to have been paid through the period ending \_\_\_\_\_ or the liability has been acknowledged and agreed to be paid by the applicant. This verification does not constitute a certificate as contained in Section 212 10 (1), F.S. (Not applicable if no transfer involved).
2. Furthermore, the named applicant for an Alcoholic Beverage License has complied with Florida Statutes concerning registration for Sales and Use Tax, and has paid any applicable taxes due.

**Signed**

Mark B. Cooper

Date \_\_\_\_\_

02/05/08

**Title**

## TAX SPECIALIST I

**Department of Revenue Stamp.**

FL DEPARTMENT OF REVENUE  
2410 ALLEN ROAD  
TALLAHASSEE, FL 32312-6000

THE RED ELEPHANT, LLC.

CO #1397111

RECEIVED  
DEPT. OF REVENUE  
TALLAHASSEE  
JUN 10 1960  
FEB -5 P 2.5

SECTION 7 - ZONING			
TO BE COMPLETED BY THE ZONING AUTHORITY GOVERNING YOUR BUSINESS LOCATION			
Trade Name (D/B/A) <u>The Real Elephant Pizza + Grill</u>			
Street Address <u>2910 Kerry Forest Parkway Unit C-3</u>			
City <u>Tallahassee</u>	County <u>Leon</u>	State <u>Fla</u>	Zip Code <u>32309</u>
<p>Are there outside areas which are contiguous to the premises which are to be part of the premises sought to be licensed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If this application is for issuance of an alcoholic beverage license where zoning approval is required, the zoning authority must complete "A" and "B." If zoning is not required, the applicant must complete section "B."</p> <p>A The location complies with zoning requirements for the sale of alcoholic beverages or wholesale tobacco products pursuant to this application for a Series <u>4cop SKX</u> license.</p> <p>Signed <u>Jay P. Schuch</u> Date <u>2/05/08</u></p> <p>Title <u>SP Planner</u></p> <p>B. Is the location within the limits of an "Incorporated City or Town?" <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, enter the name of the city or town <u>Tallahassee</u></p>			

Approved contingent upon satisfactory  
opening inspection.

SECTION 8 - HEALTH TO BE COMPLETED BY THE DIVISION OF HOTELS AND RESTAURANTS OR COUNTY HEALTH AUTHORITY OR DEPARTMENT OF HEALTH OR DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES				
Trade Name (D/B/A) <u>The Red Elephant Pizza Grill</u>				
Street Address <u>2910 Kerry Forest Parkway Unit C-3</u>				
City <u>Tallahassee</u>	County <u>Leon</u>	State <u>Fla</u>	Zip Code <u>32309</u>	
The above establishment complies with the requirements of the Florida Sanitary Code				
Signed <u>Richard D. Zell</u>		Date <u>02/27/2008</u>		
Title <u>Sanitation and Safety Specialist</u>		Agency <u>Div. of Hotels and Restaurants, State of Florida</u>		

SECTION 9 - CONTRACTS OR AGREEMENTS			
These questions must be answered about this business for every person or entity listed. Copies of agreements must be submitted with this application.			
1.	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is there a management contract, franchise agreement, or service agreement in connection with this business?
2.	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there any agreements which require a payment of a percentage of gross or net receipts from the business operation?
3.	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Have you or anyone listed on this application, accepted money, equipment or anything of value in connection with this business from a manufacturer or wholesaler of alcoholic beverages?



## SECTION 10 - CORPORATE FELONY CONVICTION

Trade Name (D/B/A)

Has the applicant corporation been convicted of a felony in this state, any other state, or by the United States in the last 15 years?

☐ Yes ☒ No

If the answer is "Yes," please list all details including the date of conviction, the crime for which the corporation was convicted, and the city, county, state and court where the conviction took place

**(Attach additional sheets if necessary)**

**SECTION 11 - SPECIAL LICENSE REQUIREMENTS  
(DOES NOT APPLY TO BEER AND WINE LICENSES)**

Please check the appropriate "Special Alcoholic Beverage License" box of the license for which you are applying. Fill in the corresponding requirements for each Special License type.

☐ Quota Alcoholic Beverage License      ☒ Special Alcoholic Beverage License  
☐ Club Alcoholic Beverage License

This license is issued pursuant to § 61.20 (4)(a), Florida Statutes or Special Act, and as such we acknowledge the following requirements must be met and maintained

SEATING FOR 160 OR MORE PATRONS AT TABLES. 2550  
SQUARE FT. FLOOR SPACE UNDER PERMANENT ROOF WITHIN  
A BUILDING. 61% OF GROSS SALES DERIVED FROM FOOD AND  
NON-ALCOHOLIC BEVERAGES. SERVICE OF FULL COURSE MEALS  
AT ALL TIMES WHILE OPEN FOR BUSINESS. CONSUMPTION ON  
PREMISES ONLY SALES.

**Please initial and date**

Applicant's Initials JAS Date 2/27/8

# SECTION 6-- DISCLOSURE OF INTERESTED PARTIES

Note: Failure to disclose an interest, direct or indirect, could result in denial, suspension and/or revocation of your license.

Trade Name (D/B/A)

1. List below the names, titles and percentage of stock held for all officers, directors, stockholders, managing members and general partners of the corporation or other legal entity for which this license or permit is being sought. Attach extra sheets if necessary. If the applicant is a limited partnership or limited liability company, attach a list of all limited partners and members.

Title/Position	Name	Stock %
President	John Schrowang	29.05
Vice President		
Secretary		
Treasurer		
Director(s)		
Stockholder(s)	Super Holdings	47.3
	Sam Childers	9.05
Managing Member(s)	George Husum	6.00
	C Five Partners	4.20
General Partner(s)	K 3 Investments	4.30
Bar Manager (Fraternal Organizations of National Scope only)		

2. Are there any persons not listed above who have guaranteed or co-signed a lease or loan, or any person or entity who has loaned money to the business that is not a traditional lending institution?

☐ Yes ☒ No

If yes, you must list the person(s) or entity and indicate which of the below applies.

Name	Guarantor	Co-signer	Lender	Interest Rate (List)
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

SECTION 13. AFFIDAVIT OF APPLICANT  
NOTARIZATION REQUIRED

Trade Name (D/B/A)

"I, the undersigned individually, or if a corporation for itself, its officers and directors, hereby swear or affirm that I am duly authorized to make the above and foregoing application and, as such, I hereby swear or affirm that the attached sketch or blueprint is substantially a true and correct representation of the premises to be licensed and agree that the place of business, if licensed, may be inspected and searched during business hours or at any time business is being conducted on the premises without a search warrant by officers of the Division of Alcoholic Beverages and Tobacco, the Sheriff, his Deputies, and Police Officers for the purposes of determining compliance with the beverage and retail tobacco laws "

"I swear under oath or affirmation under penalty of perjury as provided for in Sections 559.791, 562.45 and 837.06, Florida Statutes, that the foregoing information is true and that no other person or entity except as indicated herein has an interest in the alcoholic beverage license and/or tobacco permit, and all of the above listed persons or entities meet the qualifications necessary to hold an interest in the alcoholic beverage license and/or tobacco permit."

STATE OF Florida

John Schrowang

APPLICANT SIGNATURE

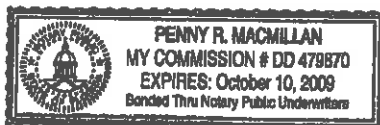
COUNTY OF Leon

APPLICANT SIGNATURE

The foregoing was ( ) Sworn to and Subscribed OR ( ☒ ) Acknowledged Before me this 5 Day  
of Feb, 2008. By John Schrowang who is ( ☒ ) personally known to  
me OR ( ) who produced \_\_\_\_\_ as identification.

Penny R. Macmillan  
Notary Public

Commission Expires \_\_\_\_\_



**MacMillan, Penny**

---

**From:** Lowery, Pam  
**Sent:** Wednesday, February 27, 2008 3:44 PM  
**To:** MacMillan, Penny  
**Cc:** McGlamory, Balinda  
**Subject:** RE: Background checks

Nothing found.

---

**From:** MacMillan, Penny  
**Sent:** Wednesday, February 27, 2008 1:34 PM  
**To:** Lowery, Pam  
**Subject:** Background checks

Lewis, Bradford Rawlins

[REDACTED]  
10/30/1976

Husum, George Theodore

[REDACTED]  
2/16/1962

Childers, Samuel S

[REDACTED]  
12/02/1959

Schrowang, John

[REDACTED]  
2/01/1963

Canun, Edward Glen

[REDACTED]  
6/22/1960

Lewis, John R

[REDACTED]  
10/15/1942

Kramer, Michael B

[REDACTED]  
11/27/1966

They are ALL current licensees. Thank you

Penny MacMillan  
Regulatory Specialist II  
Division of Alcoholic Beverages & Tobacco  
Tallahassee District Licensing  
850-488-4271 s/c 278-4271

2/27/2008

# SECTION 9 - CURRENT LICENSEE UPDATE DATA SHEET

This section is to be completed for all current alcoholic beverage and/or tobacco license holders listed on the application

Trade Name (D/B/A) Red Elephant (the)

Last Name Schrowang First John Middle

Current License Number(s) 4703449

Date of Birth 2 / 1 / 1963 Social Security Number\*

Street Address

City State Zip Code

Last Name Canup First Edward Middle Glen

Current License Number(s) 4703449

Date of Birth 6 / 22 / 1960 Social Security Number\*

Street Address

City State Zip Code

Last Name Lewis First John Middle R

Current License Number(s) 4703449

Date of Birth 10 / 15 / 1942 Social Security Number\*

Street Address

City State Zip Code

Last Name Kramer First Michael Middle B

Current License Number(s) 4703449

Date of Birth 11 / 27 / 1966 Social Security Number\*

Street Address

City State Zip Code

### SECTION 9 - CURRENT LICENSEE UPDATE DATA SHEET

This section is to be completed for all current alcoholic beverage and/or tobacco license holders listed on the application

Trade Name (D/B/A)

Red Elephant (The)

Last Name Lewis

First

Bradford Rawlins

Middle

P

Current License Number(s)

4703449

Date of Birth

11 / 30 / 1976

Social Security Number\*

Street Address

City

State

Zip Code

Last Name

Husum

First

George

Middle

Theodore

Current License Number(s)

4703449

Date of Birth

2 / 16 / 1962

Social Security Number\*

Street Address

City

State

Zip Code

Last Name

Childers

First

Samuel

Middle

S

Current License Number(s)

4703449

Date of Birth

12 / 02 / 1959

Social Security Number\*

Street Address

City

State

Zip Code

Last Name

First

Middle

Current License Number(s)

Date of Birth

/ /

Social Security Number\*

Street Address

City

State

Zip Code

FOR DIVISION USE ONLY - DO NOT WRITE BELOW THIS LINE			
Trade Name (D/B/A)			
CODE:		FEIN NUMBER	
City	County		
TYPE		FEE	
		TOTAL	
Approved by _____ Date _____ Audited _____ Unaudited _____			
District Office Date Stamp			
District Office Received Date Stamp <b>FEB 27 2008</b>  Division of Alcoholic Beverage & Tobacco Initials _____		District Office Accepted Date Stamp <b>ACCEPTED FOR PROCESSING</b> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <b>FEB 27 2008</b> </div> <b>TALLAHASSEE DISTRICT LICENSING</b>	

# EXHIBIT #2

## 2017029534





[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Detail By Document Number](#) /

## Detail by Entity Name

Florida Limited Liability Company  
THE RED ELEPHANT NO. 2, LLC

### Filing Information

<b>Document Number</b>	L07000107798
<b>FEI/EIN Number</b>	26-1293893
<b>Date Filed</b>	10/24/2007
<b>Effective Date</b>	10/24/2007
<b>State</b>	FL
<b>Status</b>	ACTIVE

### Principal Address

2910 KERRY FOREST PARKWAY  
TALLAHASSEE, FL 32309

Changed: 01/18/2010

### Mailing Address

8909 REGENTS PARK DR  
SUITE 420-1  
TAMPA, FL 33647

Changed: 02/17/2017

### Registered Agent Name & Address

PAUL, CARALYN  
8909 REGENTS PARK DR  
SUITE 420-1  
TAMPA, FL 33647

Name Changed: 02/17/2017

Address Changed: 02/17/2017

### Authorized Person(s) Detail

#### **Name & Address**

Title President

HANSON, JEFF  
8909 REGENTS PARK DR  
SUITE 420-1  
TAMPA, FL 33647

Title Manager

Sahlsten, Carl W  
8909 REGENTS PARK DR  
SUITE 420-1  
TAMPA, FL 33647

## Annual Reports

Report Year	Filed Date
2015	02/22/2015
2016	02/06/2016
2017	02/17/2017

## Document Images

<a href="#"><u>02/17/2017 – ANNUAL REPORT</u></a>	<a href="#">View image in PDF format</a>
<a href="#"><u>02/06/2016 – ANNUAL REPORT</u></a>	<a href="#">View image in PDF format</a>
<a href="#"><u>02/22/2015 – ANNUAL REPORT</u></a>	<a href="#">View image in PDF format</a>
<a href="#"><u>01/08/2014 – ANNUAL REPORT</u></a>	<a href="#">View image in PDF format</a>
<a href="#"><u>02/02/2013 – ANNUAL REPORT</u></a>	<a href="#">View image in PDF format</a>
<a href="#"><u>02/07/2012 – ANNUAL REPORT</u></a>	<a href="#">View image in PDF format</a>
<a href="#"><u>01/05/2011 – ANNUAL REPORT</u></a>	<a href="#">View Image In PDF format</a>
<a href="#"><u>01/18/2010 – ANNUAL REPORT</u></a>	<a href="#">View image in PDF format</a>
<a href="#"><u>02/19/2009 – ANNUAL REPORT</u></a>	<a href="#">View image in PDF format</a>
<a href="#"><u>06/13/2008 – ANNUAL REPORT</u></a>	<a href="#">View image in PDF format</a>
<a href="#"><u>10/24/2007 – Florida Limited Liability</u></a>	<a href="#">View image in PDF format</a>

# EXHIBIT #3

## 2017029534

**Department of Business and Professional Regulation  
Division of Alcoholic Beverages and Tobacco**

**SFS/SR - Inspection Form**

**Bureau of Law Enforcement**

Licensed Premises (DBA): RED ELEPHANT PIZZA & GRILL (THE)  
License Number: 4703542 Series: 4COP  
Owner Name: RED ELEPHANT NO. 2 LLC (THE)  
Establishment Address: 2910 KERRY FOREST PARKWAY UNIT C3  
TALLAHASSEE FL 32309

Inspection Date: Jun 21, 2017 11:20 - Jun 21, 2017 11:45  
Re-Inspection Date:  
License Expiration:  
Inspection Reason: Alcohol Random  
Business Phone: 850-222-7492  
**INSPECTION RESULT** Official Notice Issued

Does this Establishment have a Dual License?	NO
1 Is there an applicable special act governing the location of the licensed premises?	YES
2 Does the licensed premises have an outdoor service area or areas?	NO
3 Does the licensed premises have the required square footage of service area? (2,500 unless covered by general law or special act; or 4,000 if issued prior to 1958)	YES
4 Does the licensed premises have the required accommodations for the service and seating of patrons at tables at one time? (150 unless covered by general law or special act; or 200 if issued prior to 1958)	YES
5 If sketch available, does premises match diagram reflected on sketch submitted with the alcoholic beverage license application?	N/A
6 Is food served or consumed during the time the licensed premises are serving alcoholic beverages?	YES
7 Is there equipment to serve food?	YES
8 Is the alcoholic beverage license conspicuously posted?	YES
9 Does the business name (DBA) of the licensed premises match the business name (DBA) on the alcoholic beverage license?	YES
10 Does the physical address of the licensed premises match the location address on the alcoholic beverage license?	YES
11 Is the name of the licensee on all required or other licenses, permits, and certificates? (Department of Revenue, Occupational License, Hotels & Restaurants License, if applicable, Lottery Retail License, if applicable)	NO
12 If corporation or limited liability corporation; has any change of officer/managing member been disclosed to the Division?	NO
13 Does licensee employ only persons of legal age and not otherwise disqualified?	YES
14 Are all alcoholic beverage products obtained from a licensed distributor?	YES
15 If alcoholic beverages are stored or kept off the licensed premises, does the licensee possess an Off-Premises Storage Permit?	N/A
16 Are distilled spirits offered for sale 153 proof or less?	YES
17 If draft beer is sold, do the taps or spigots display on the handle in plain view of the consuming public, the name of the beer currently being served through the taps or spigots?	YES
18 If SR license series, is wine offered for sale in individual containers of one gallon or less or in 5.16 gallon reusable containers?	YES
19 If distilled spirits offered for sale in containers not in excess of 1.75 liters or 59.18 ounces?	YES
20 If SR license series, are malt beverages, packaged under one gallon, sold in container sizes of 32 ounces or less?	YES
21 Do all bottles appear free of refilling and misrepresentation?	YES
22 Does licensed premises have required 3M modifier if it has more than three separate rooms or enclosures in which permanent bars or counters are located from which alcoholic beverages are served for consumption?	N/A
23 Are all alcoholic beverages sold for consumption on the licensed premises only? (If license issued prior to 1958, packages sales are permitted.)	YES
24 Is licensee in compliance with Tied House Evil laws and rules based on observations during this inspection?	YES
25 If coin-operated amusement machines are on the licensed premises, does licensee have required DOR certificate for each machine?	YES
Sales Tax Registration #: If no - Number of Machines:	
26 Is the licensed premises in compliance with the Florida Clean Indoor Air Act?	YES
27 Other Violations	YES
28 Records Request	N/A
29 Is the retail tobacco products dealer permit conspicuously posted?	N/A
30 Is the required sign stating "The sale of tobacco products to persons under the age of 18 is against Florida Law. Proof of age is required for purchase." conspicuously posted?	N/A
31 Is the required sign stating "NOTICE TO CUSTOMER: FLORIDA LAW PROHIBITS THE POSSESSION OR SALE OF UNSTAMPED CIGARETTES. REPORT VIOLATIONS TO 1-866-540-7837. YOU MAY BE ELIGIBLE FOR A CASH REWARD." conspicuously displayed?	N/A
32 Is instructional material for assisting in determining legal age clearly visible to employees at checkout counter?	N/A
33 Are cigarette invoices maintained and kept on the licensed premises for a period of three years?	N/A
34 Are all other tobacco product invoices maintained and kept on the licensed premises for a period of three years?	N/A
35 Do all packages of cigarettes for sale have proper tax stamp affixed?	N/A

36 Are all cigarettes obtained from a licensed wholesaler?	N/A
37 Are all other tobacco products obtained from a licensed distributor?	N/A
38 Are cigarettes sold only in packages or cartons as received from the wholesaler?	N/A
39 If tobacco product sales are through vending machine, does the vending machine vendor/owner possess a retail tobacco products dealer permit (separate from licensed premises)?	N/A
40 Does the vending machine display at least one pack of each cigarette brand being sold through such machine?	N/A
41 Is the vending machine equipped with an operational lockout device which is under the control of the dealer or the dealer's agent or employee?	N/A
42 Is the sale or delivery of tobacco products under the direct control or line of sight of the licensee or licensee's agent or employee?	N/A

**Comment:**

HOTEL & RESTAURANT LICENSE NEEDS TO REFLECT RED ELEPHANT NO. 2 LLC, PLEASE CALL THEM AT 850 487 1395.

A CHANGE OF OFFICER APPLICATION MUST BE COMPLETED TO DISCLOSE CARL SAHLSTEN & JEFF HANSON (LETTER INDICATING JEFF HANSON IS NO LONGER WITH THE BUSINESS).

YOU HAVE UNTIL JULY 12, 2017 TO COMPLETE AND SUBMIT THE REQUIRED APPLICATION.

**VIOLATIONS**

**Code:3.01 Violation:** You are hereby notified that it is a violation of section 561.17(1), Florida Statutes, for any person to fail to submit to the division a sworn application before engaging in the business of manufacturing, bottling, distributing, selling, or in any way dealing in alcoholic beverages. Violations of this nature may result in criminal and/or administrative charges being filed.

**Corrective Action:** Any person, not disclosed or on file with the division, with a direct or indirect interest in the business shall file, with the district licensing personnel of the district of the division in which the place of business for which a license is sought is located, a sworn application on forms provided by the division.

**Comment:** 561.17(1)

**Code:3.02 Violation:** You are hereby notified that it is a violation of section 561.17(3), Florida Statutes, to fail to notify the division of a transfer of 10 percent of any financial interest, a change of executive officers or directors, or a divestiture or resignation of such interest or position, in a business holding a vendor license permitting the sale of any alcoholic beverages regardless of alcoholic content. Any such changes shall be contingent upon the express approval by the division of the persons holding or acquiring such interest or position. Violations of this nature may result in criminal and/or administrative charges being filed.

**Corrective Action:** Any person with a direct or indirect interest in the business shall file, with the district licensing personnel of the district of the division in which the place of business for which a license is sought is located, a sworn application on forms provided by the division.

**Comment:** 561.17(3)




Licensee or Owner Signature

MIKE ABBOTT

GM

850 668 7492

Jun 21, 2017 11:37



Inspector Signature

Penny Macmillan

Investigation Specialist II

2601 Blair Stone Road

Tallahassee, FL 32301

850 510 7573

Jun 21, 2017 11:36

# EXHIBIT #4

## 2017029534

## MacMillan, Penny

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**From:** MacMillan, Penny  
**Sent:** Thursday, July 13, 2017 3:14 PM  
**To:** 'homeoffice@redelephantpizza.com'  
**Subject:** RE: Red Elephant/ BEV4703542  
**Attachments:** ChangeofOfficer-Stockholder.pdf

It will be the same as last time, except the entity this one is held under is red Elephant No. 2, LLC.

Thank you.

-----Original Message-----

**From:** homeoffice@redelephantpizza.com [mailto:homeoffice@redelephantpizza.com]  
**Sent:** Thursday, July 13, 2017 3:12 PM  
**To:** MacMillan, Penny  
**Subject:** RE: Red Elephant/ BEV4703542

Can you please resend application and I will work on it.

Thanks,  
Caralyn

Caralyn Paul  
Red Elephant Pizza  
8909 Regents Park Dr. Suite 420; Office# 1 Tampa, FL 33647  
W: 813.994.4444  
F: 813.994.0099  
C: 813.469.0291

-----Original Message-----

**From:** MacMillan, Penny [mailto:Penny.MacMillan@myfloridalicense.com]  
**Sent:** Thursday, July 13, 2017 2:38 PM  
**To:** homeoffice@redelephantpizza.com  
**Subject:** Red Elephant/ BEV4703542

Caralyn,

Good afternoon. I issued a notice to the Red Elephant on Kerry Forrest Parkway on June 21, 2017, asking for a change of officer to be completed as I did for the other location. As of today, I do not see anything in our licensing system. Please let me know if this is being completed. If I need to resend the application, please let me know.

Thank you.

Sent from my iPad

## MacMillan, Penny

---

**From:** MacMillan, Penny  
**Sent:** Wednesday, July 26, 2017 1:37 PM  
**To:** 'homeoffice@redelephantpizza.com'  
**Subject:** RE: Red Elephant/ BEV4703542

Good afternoon. I do not see anything in the system as of today. Has the application been completed and mailed yet?

-----Original Message-----

**From:** homeoffice@redelephantpizza.com [mailto:homeoffice@redelephantpizza.com]  
**Sent:** Thursday, July 13, 2017 3:12 PM  
**To:** MacMillan, Penny  
**Subject:** RE: Red Elephant/ BEV4703542

Can you please resend application and I will work on it.

Thanks,

Caralyn

Caralyn Paul  
Red Elephant Pizza  
8909 Regents Park Dr. Suite 420; Office# 1 Tampa, FL 33647  
W: 813.994.4444  
F: 813.994.0099  
C: 813.469.0291

-----Original Message-----

**From:** MacMillan, Penny [mailto:Penny.MacMillan@myfloridalicense.com]  
**Sent:** Thursday, July 13, 2017 2:38 PM  
**To:** homeoffice@redelephantpizza.com  
**Subject:** Red Elephant/ BEV4703542

Caralyn,

Good afternoon. I issued a notice to the Red Elephant on Kerry Forrest Parkway on June 21, 2017, asking for a change of officer to be completed as I did for the other location. As of today, I do not see anything in our licensing system. Please let me know if this is being completed. If I need to resend the application, please let me know.

Thank you.

Sent from my iPad



DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO  
ADMINISTRATIVE CASE TRACKING FORM

LICENSE NUMBER: 4703542 CASE NUMBER: 2017029534

DBA: Red Elephant Pizza & Grill.

AGENT: MacMillan OFFICE: Tallahassee

<b>Administrative Case Activity</b>	<b>Date</b>	<b>Initials</b>
NOTICE OF INTENT TO FILE ADMINISTRATIVE CHARGES (OFFICIAL NOTICE)	06/21/17	PM
ADM. CASE REPORT SUBMITTED TO LIEUTENANT FOR APPROVAL	08/01/17	PM
ADM. CASE REPORT RETURNED TO AGENT FOR CORRECTION	08/02/17	FJA
ADM. CASE REPORT RESUBMITTED TO LIEUTENANT FOR APPROVAL	08/02/17	FJA
ADM. CASE REPORT APPROVED BY LIEUTENANT	08/02/17	FJA
ACP (ADMINISTRATIVE CASE PACKAGE) SUBMITTED TO LIEUTENANT FOR APPROVAL	08/02/17	FJA
ACP SUBMITTED TO CAPTAIN FOR APPROVAL/SIGNATURE	08/02/17	FJA
ACP RETURNED APPROVED/SIGNED BY CAPTAIN	8/2/17	RO
ADM. CASE REPORTED TO TCO/LEGAL BY SUBMISSION OF DAILY REPORT	08/03/17	FM
<b>Service of Administrative Case</b>		
ACP MAILED CERTIFIED RETURN RECEIPT	08/03/17	FM
ACP SERVED BY CERTIFIED RETURN RECEIPT		
ACP SERVED BY PERSONAL SERVICE BY:		
ACP 21-DAYS ENDS		
<b>Non-Service of Administrative Case</b>		
ACP RETURNED "UNDELIVERABLE" BY USPS		
ACP RETURNED "UNSERVED" BY :		
CASE RECOMMENDATION (ORDER OF CLOSURE) SENT TO TCO/LEGAL VIA ON-BASE		
<b>Response from Licensee</b>		
LICENSEE RESPONSE RECEIVED:		
<input type="checkbox"/> GUIDELINE STIPULATION <input type="checkbox"/> NON-GUIDELINE STIPULATION		
<input type="checkbox"/> INFORMAL HEARING <input type="checkbox"/> FORMAL HEARING		
CASE RECOMMENDATION SUBMITTED TO LIEUTENANT		
CASE RECOMMENDATION SUBMITTED TO CAPTAIN FOR APPROVAL		
CASE RECOMMENDATION RETURNED BY CAPTAIN		
CASE RECOMMENDATION & LICENSEE RESPONSE SENT TO TCO/LEGAL VIA ONBASE		
<b>Compliance Tracking</b>		
APPROVED STIPULATION/FINAL ORDER RECEIVED FROM TCO/LEGAL VIA ONBASE		
COPY OF APPROVED STIPULATION/FINAL ORDER RECEIVED BY LICENSEE		
CIVIL PENALTY DUE		
CIVIL PENALTY PAID		
LICENSE SUSPENSION FOR _____ DAYS		
LICENSE SUSPENSION BEGINS		
LICENSE SUSPENSION ENDS		
LICENSE REVOCATION		
OTHER CORRECTIVE ACTIONS DUE:		
<b>Case Closure</b>		
CASE DISPOSITION SENT TO TCO/LEGAL VIA ONBASE		

2017029534

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X <i>[Signature]</i></p>	
<p>1. Article Addressed to:</p> <p>RED ELEPHANT NO. LLC (THE) D/B/A RED ELEPHANT PIZZA &amp; GRILL (THE) 12302 MARBLEHEAD DR TAMPA, FL 33626</p>		<p>B. Received by (Printed Name)</p> <p>C. Date of Delivery</p>	
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p>	
		<p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>7006 3450 0003 0932 3362</p>	

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

8/26/17



**STATE OF FLORIDA**  
**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**  
**DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO**  
**INVESTIGATIVE REPORT**



<b>I N C I D E N T</b>	CASE#	DATE OF REPORT	DATE/TIME OF INCIDENT
	2017029534	08/01/2017	06/21/2017 / 11:20 AM
	LOCATION OF INCIDENT	CITY	COUNTY
	2910 KERRY FOREST PARKWAY UNIT C3	TALLAHASSEE	Leon
	TYPE OF LOCATION	BEVERAGE/TOBACCO LICENSE #	
	4COP SFS	BEV4703542	
	JUVENILE INVOLVED	USE OF FORCE	HATE CRIME
No	No	No	
TYPE OF REPORT	CONFIDENTIALITY REQUIRED		
ADMINISTRATIVE	No		
CROSS REFERENCE CASE #	ADMINISTRATIVE CASE FILED		
NO RELATED CASES FOUND	Yes		

<b>O F F E N S E</b>	OFFENSE(S)	FLORIDA STATUTE/FLORIDA ADMINISTRATIVE CODE
	: 03 - UNDISCLOSED INTEREST	561.17(3)
		FLORIDA STATUTE/FLORIDA ADMINISTRATIVE CODE
		FLORIDA STATUTE/FLORIDA ADMINISTRATIVE CODE
		FLORIDA STATUTE/FLORIDA ADMINISTRATIVE CODE
		FLORIDA STATUTE/FLORIDA ADMINISTRATIVE CODE

<b>D B A</b>	TYPE	NAME	RACE/SEX
		RED ELEPHANT PIZZA & GRILL (THE)	/
	HOME PHONE	ADDRESS	BUSINESS PHONE
	850-222-7492	2910 KERRY FOREST PARKWAY UNIT C3 TALLAHASSEE, FL 32309	
	SSN# or FEIN	BUSINESS ADDRESS	DL/ID#
	205136246		
	DATE OF BIRTH	LOCATION OF BIRTH	HAIR/EYE COLOR
		/	
HT/WT	SCARS/TATTOOS	OCCUPATION	
/			

INVESTIGATOR	REPORT STATUS
MACMILLAN, PENNY	Administrative
SUPERVISOR APPROVAL	DATE
/s/ Frank Anzalone	08/02/2017

CASE#  
2017029534

**Investigating Agent / Inspector:**

Penny MacMillan, Investigative Specialist  
2601 Blair Stone Road, C-306  
Tallahassee, FL 32301  
[penny.macmillan@myfloridalicense.com](mailto:penny.macmillan@myfloridalicense.com)  
(850)922-9903

**Assisting Agent / Inspector**

N/A

**Report of Investigation:**

On June 21, 2017, Investigation Specialist, Penny MacMillan of the Florida Division of Alcoholic Beverages and Tobacco (hereinafter referred to as ABT) initiated a routine inspection in Leon County at Red Elephant Pizza & Grill (The).

A review of the ABT licensing database revealed the following:

**Corporation/Licensee Name:** Red Elephant No. 2 LLC (The)  
**D/B/A:** Red Elephant Pizza & Grill (The)  
**Address:** 2910 Kerry Forest Parkway, Unit C3  
**City, State, Zip:** Tallahassee, Florida 32309  
**License Number:** 4703542  
**Series/License Type:** 4COP/SFS

**(Exhibit # 1)**

The ABT license file showed the following as managing members for Red Elephant No. 2 LLC (The):

- P – John Schrowang
- STKR – Super Holdings
- STKR – Sam Childers
- STKR – George Husum
- STKR – C Five Partners
- STKR – K 3 Investments

A review of the online database for the State of Florida, Department of State, Division of Corporations, showed the following as managing members for Red Elephant No. 2 LLC (The):

- P – Jeff Hanson
- MGR – Carl W. Sahlsten

**(Exhibit # 2)**

On June 21, 2017, at or about 11:20 AM, ISII MacMillan entered Red Elephant Pizza & Grill to conduct a routine inspection. During the course of the inspection, MacMillan advised the Manager, Mike Abbott, that a change of officer application would need to be completed to disclose two officers/directors that were added to the LLC and had not been disclosed to ABT. Abbott stated that he understood and would contact the corporate office to advise them that the application needed to be completed. MacMillan issued an official notice and will follow up on July 12, 2017. **(Exhibit # 3)**

On July 13, 2017, MacMillan checked Versa Regulation to see if any changes had occurred, no new officers/directors were added. MacMillan sent an email to Caralyn Paul in the corporate office to check the status of the change of officer application. Paul replied asking MacMillan to resend her the application. MacMillan emailed Paul the application. **(Exhibit # 4)**

On July 26, 2017, MacMillan emailed Paul to check the status of the application. As of August 1, 2017, MacMillan did not receive an e-mail or phone response. **(Exhibit # 4)**

On August 1, 2017, MacMillan phoned Robert Anderson, Supervisor of Licensing, to inquire if a change of officer application had been received. Anderson advised MacMillan that no application had been received. MacMillan proceeded to file administrative charges against the license for undisclosed interest.

Due to Jeff Hanson and Carl Sahlsten, not being disclosed with ABT, administrative charges will be filed against the alcoholic beverage license of Red Elephant No. 2 LLC (The), D/B/A Red Elephant Pizza & Grill, for Undisclosed Interest, F.S. 561.17(3).

The investigation should be closed at this time.

**Witnesses:**

None.

**Statements:**

**Oral** - As related in the investigative report.

**Written** – None.

**Evidence:**

None.

**Exhibits / Attachments:**

- 1.) ABT Licensing File from On Base
- 2.) Division of Corporations printout
- 3.) Official notice issued on 06/21/2017
- 4.) E-mail correspondence



**STATE OF FLORIDA**  
**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**  
**DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO**  
**INVESTIGATIVE REPORT**



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INVESTIGATOR	REPORT STATUS
MACMILLAN, PENNY	Administrative
SUPERVISOR APPROVAL	DATE
/s/ Frank Anzalone	08/02/2017

CASE#  
2017029534

**Investigating Agent / Inspector:**

Penny MacMillan, Investigative Specialist  
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Tallahassee, FL 32301  
[penny.macmillan@myfloridalicense.com](mailto:penny.macmillan@myfloridalicense.com)  
(850)922-9903

**Assisting Agent / Inspector**

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**Report of Investigation:**

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The investigation should be closed at this time.

**Witnesses:**

None.

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**Oral** - As related in the investigative report.

**Written** – None.

**Evidence:**

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PAGE 3

RE: CASE NUMBER 2017029534

DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO

PETITIONER,

VS.

RED ELEPHANT NO. 2 LLC (THE)

D/B/A RED ELEPHANT PIZZA & GRILL (THE)

LICENSE NUMBER BEV4703542 SERIES 4COP

RESPONDENT.

### **STIPULATION (Settlement Agreement)**

Pursuant to s.120.57(4), F.S., the above named parties hereby enter into this stipulation as disposition of the attached administrative action, in lieu of any other administrative proceedings authorized in Chapter 120, F.S. The terms herein become effective only if and when the division accepts this stipulation as evidenced by an authorized signature. In considering this, the division may review all investigative materials regarding this action, past administrative penalties and violations, tax delinquencies, and failure to make timely payments to alcoholic beverage distributors by this license. If this stipulation is rejected, it shall not be used against either party and shall be considered a request for an administrative hearing.

### **STIPULATED FACTS**

- 1) Respondent admits the allegations of the administrative complaint are true.
- 2) During the time the violation(s) occurred, respondent was licensed as a vendor having been issued license number **BEV4703542** series **4COP**.

### **CONCLUSIONS OF LAW**

- 1) Respondent admits that the stipulated facts contained in the administrative complaint constitute violations of law and subject the license and/or permit to administrative penalties.

### **SETTLEMENT**

- 1) Respondent shall pay **\$500.00** as a civil penalty within **15** days after receipt of this accepted stipulation.
- 2) Respondent shall pay **\$N/A** in late penalties for delinquent tax reports within **N/A** days after receipt of this accepted stipulation, which will be for late reports received by the Division of Alcoholic Beverages and Tobacco.

PAGE 4

- 3) Respondent shall serve a **N/A** day suspension which shall begin on the first Monday that is not a legal holiday 15 days following the receipt of this accepted stipulation. During the suspension, the division shall post signs on the exterior and interior of the license premises indicating that respondent's license is suspended. Respondent agrees that it shall not deface, cover, remove, relocate, alter or damage any suspension signs posted by the division, nor permit others to do the same.
- 4) Respondent shall submit alcoholic beverage license/ tobacco permit number **N/A** for revocation effective **N/A** days after acceptance by the division.
- 5) Respondent shall reimburse investigative costs to the division in the amount of **\$N/A** and reimburse investigative costs to the **N/A** in a separate check, in the amount of **\$N/A** which shall both be remitted to your local district office of the Division of Alcoholic Beverages and Tobacco within **N/A** days following receipt of this stipulation.
- 6) Respondent shall forfeit all evidence seized related to this administrative complaint. The below listed items shall be returned to the respondent by petitioner within 15 days after receiving acceptance of this stipulation as follows:
- 7) Respondent waives the right to seek any attorney's fees or cost from the petitioner or its agents or employees in connection with this disciplinary proceeding.
- 8) Additional agreements: **Any person, not disclosed or on file with the Division, with a direct or indirect interest in the business shall file, with the district licensing personnel of the district of the division in which the place of business for which a license is sought is located, a sworn application in duplicate on forms provided to the district licensing personnel by the division within 15 days after receipt of this accepted stipulation.**
- 9) Respondent understands that the failure to comply with this stipulation, or any part of it, may result in additional penalties for violating an order of the division.
- 10) Have all violations cited in the attached administrative action been corrected as of this date?  
(☒) YES                      ( ) NO
- 11) The following corrective action plan has been taken by the respondent to prevent future violations of the same nature, as cited in the administrative action.

*WILL SUBMIT ANY FUTURE CHANGES. TIMELY.*

PAGE 5

12) If charges relate to drug violations or underage sales violations, the LICENSEE acknowledges that he/she is in compliance with sections 561.701 through 561.706, and sections 569.003 (Florida Responsible Vendor Act) and 569.008 (Retail Tobacco Products Dealer Qualifications), Florida Statutes.

( ) YES

( ) NO


N/A

PAGE 6

RE: CASE NUMBER 2017029534 RED ELEPHANT NO. 2 LLC (THE), D/B/A RED ELEPHANT  
PIZZA & GRILL (THE), LICENSE NUMBER BEV4703542 SERIES 4COP

**MUST SIGN IN THIS AREA**

Printed Name of Attorney

  
Signature of LICENSEE, Corporate Officer, or Attorney for  
LICENSEE

Email (optional)

CARL SAHLSTEN  
Printed Name of LICENSEE or Officer

Mailing Address

Email (Optional)

City State ZIP

12302 MARBLEHEAD DR  
Mailing Address

( )  
Area Code and Phone Number

TAMPA FL 33626  
City State ZIP


(813) 352-4004  
Area Code and Phone Number

**Corporation must complete the following paragraph to this stipulation now.**

Therefore, be it resolved, that on AUGUST 7, 2017, a meeting of the board of  
directors was held pursuant to legal notice and that the officer's signature appearing on this  
stipulation, executed in case number **2017029534** on behalf of this corporate respondent, is duly  
authorized, empowered and perfected to execute the stipulation on behalf of the corporation and is  
further empowered to execute any other documents necessary to fulfill the intent of the stipulation.

In witness thereof, I have set my hand and seal of this corporation this 7<sup>th</sup> day of  
AUGUST, 2017.

**MUST AFFIX SEAL OR FACSIMILE HERE**

 MANAGER  
(Must Sign) LICENSEE/Corporate Secretary Signature

**FOR OFFICE USE ONLY**

Director's or designee approval section

( ) Approved

( ) Disapproved

Signature

Date

Thomas R. Philpot, Director  
Alcoholic Beverages & Tobacco

PAGE 3

RE: CASE NUMBER 2017029534

DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO

PETITIONER,

VS.

RED ELEPHANT NO. 2 LLC (THE)

D/B/A RED ELEPHANT PIZZA & GRILL (THE)

LICENSE NUMBER BEV4703542 SERIES 4COP

RESPONDENT.

**STIPULATION**  
**(Settlement Agreement)**

Pursuant to s.120.57(4), F.S., the above named parties hereby enter into this stipulation as disposition of the attached administrative action, in lieu of any other administrative proceedings authorized in Chapter 120, F.S. The terms herein become effective only if and when the division accepts this stipulation as evidenced by an authorized signature. In considering this, the division may review all investigative materials regarding this action, past administrative penalties and violations, tax delinquencies, and failure to make timely payments to alcoholic beverage distributors by this license. If this stipulation is rejected, it shall not be used against either party and shall be considered a request for an administrative hearing.

**STIPULATED FACTS**

- 1) Respondent admits the allegations of the administrative complaint are true.
- 2) During the time the violation(s) occurred, respondent was licensed as a vendor having been issued license number **BEV4703542** series **4COP**.

**CONCLUSIONS OF LAW**

- 1) Respondent admits that the stipulated facts contained in the administrative complaint constitute violations of law and subject the license and/or permit to administrative penalties.

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- 6) Respondent shall forfeit all evidence seized related to this administrative complaint. The below listed items shall be returned to the respondent by petitioner within 15 days after receiving acceptance of this stipulation as follows:
- 7) Respondent waives the right to seek any attorney's fees or cost from the petitioner or its agents or employees in connection with this disciplinary proceeding.
- 8) Additional agreements: **Any person, not disclosed or on file with the Division, with a direct or indirect interest in the business shall file, with the district licensing personnel of the district of the division in which the place of business for which a license is sought is located, a sworn application in duplicate on forms provided to the district licensing personnel by the division within 15 days after receipt of this accepted stipulation.**
- 9) Respondent understands that the failure to comply with this stipulation, or any part of it, may result in additional penalties for violating an order of the division.
- 10) Have all violations cited in the attached administrative action been corrected as of this date?  
(☒) YES                      ( ) NO
- 11) The following corrective action plan has been taken by the respondent to prevent future violations of the same nature, as cited in the administrative action.

*WILL SUBMIT ANY FUTURE CHANGES. TIMELY.*

PAGE 5

12) If charges relate to drug violations or underage sales violations, the LICENSEE acknowledges that he/she is in compliance with sections 561.701 through 561.706, and sections 569.003 (Florida Responsible Vendor Act) and 569.008 (Retail Tobacco Products Dealer Qualifications), Florida Statutes.

( ) YES

( ) NO

N/A




PAGE 6

RE: CASE NUMBER 2017029534 RED ELEPHANT NO. 2 LLC (THE), D/B/A RED ELEPHANT  
PIZZA & GRILL (THE), LICENSE NUMBER BEV4703542 SERIES 4COP

**MUST SIGN IN THIS AREA**

Printed Name of Attorney

  
Signature of LICENSEE, Corporate Officer, or Attorney for  
LICENSEE

Email (optional)

CARL SAHLSTEN  
Printed Name of LICENSEE or Officer

Mailing Address

Email (Optional)

City State ZIP

12302 MARBLEHEAD DR  
Mailing Address

( )  
Area Code and Phone Number

TAMPA FL 33626  
City State ZIP

(813) 352-4004  
Area Code and Phone Number

Corporation must complete the following paragraph to this stipulation now.

Therefore, be it resolved, that on AUGUST 7, 2017, a meeting of the board of  
directors was held pursuant to legal notice and that the officer's signature appearing on this  
stipulation, executed in case number **2017029534** on behalf of this corporate respondent, is duly  
authorized, empowered and perfected to execute the stipulation on behalf of the corporation and is  
further empowered to execute any other documents necessary to fulfill the intent of the stipulation.

In witness thereof, I have set my hand and seal of this corporation this 7<sup>th</sup> day of  
AUGUST, 2017.

**MUST AFFIX SEAL OR FACSIMILE HERE**

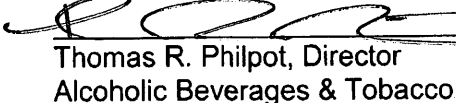
 MANAGER  
(Must Sign) LICENSEE/Corporate Secretary Signature

**FOR OFFICE USE ONLY**

Director's or designee approval section

( ☒ ) Approved

( ☐ ) Disapproved

Signature   
Thomas R. Philpot, Director  
Alcoholic Beverages & Tobacco

Date 09/21/2017



PAGE 7

RE: CASE NUMBER 2017029534

DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO

PETITIONER,

VS.

RED ELEPHANT NO. 2 LLC (THE)

D/B/A RED ELEPHANT PIZZA & GRILL (THE)

LICENSE NUMBER BEV4703542      SERIES 4COP

RESPONDENT

### ADMINISTRATIVE COMPLAINT

Comes now, the Division of Alcoholic Beverages and Tobacco, herein after referred to as "petitioner," and files this administrative complaint against **RED ELEPHANT NO. 2 LLC (THE)** herein after referred to as "respondent," and alleges:

1. Petitioner is the state agency charged with supervising businesses licensed under the Florida beverage, tobacco and tax, and tobacco products permit laws pursuant to sections 559.061, 561.07, 561.15, 561.19, 561.29, 561.501, 210.15, 210.16, 210.45, 210.50, 569.003, and 569.006, Florida Statutes.
2. Respondent is, and has been at all times material hereto, the holder of a valid license/permit, issued in the State of Florida, by the Division of Alcoholic Beverages and Tobacco. Respondent's last known mailing address is as follows:

**RED ELEPHANT NO. 2 LLC (THE)**  
**D/B/A RED ELEPHANT PIZZA & GRILL (THE)**  
**12302 MARBLEHEAD DR**  
**TAMPA, FL 33626**

And the division has not been notified of any other designated person or address for the service of process and notices authorized by Rule 61A-2.012, Florida Administrative Code.

3. Petitioner intends to revoke; suspend; annul; impose civil penalties, investigative costs, and late penalties; or any combination of these authorized penalties. This intended action is based on the below described facts or conduct.

PAGE 8

RE: CASE NUMBER 2017029534

DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO

VS.

RED ELEPHANT NO. 2 LLC (THE)

D/B/A RED ELEPHANT PIZZA & GRILL (THE)

LICENSE NUMBER BEV4703542

You, RED ELEPHANT NO. 2 LLC (THE), D/B/A RED ELEPHANT PIZZA & GRILL (THE), are charged with the following count(s):

1. On or about 06/21/2017, you, the aforementioned licensee, holding a license issued by the Division of Alcoholic Beverages and Tobacco, or your agent(s), officer(s), servant(s), or employee(s), to wit: RED ELEPHANT NO. 2 LLC (THE), failed to submit to the Division of Alcoholic Beverages and Tobacco, a sworn application, before such person who has a direct or indirect financial interest in the license, engaged in the business of manufacturing, bottling, distributing, selling, or in any way dealing in alcoholic beverages on your premises licensed under the Beverage Law, this act being contrary to and in violation of section 561.17(1), Florida Statutes, within 561.29(1)(a), Florida Statutes.

Signed this August 2, 2017

Thomas R. Philpot, Director  
Division of Alcoholic Beverages & Tobacco

/s/   
Ray Owens  
Law Enforcement Captain

Explanation of Service:

Date Served \_\_\_\_\_

Received By \_\_\_\_\_

Personal Service By \_\_\_\_\_ (sign)

Personal Service By \_\_\_\_\_ (print)

Service Location \_\_\_\_\_

Certified Mail # \_\_\_\_\_

\*Attach Receipt if Served by Mail.