Testimony of
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New York State Liquor Authority

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Economic Development and the
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TESTIMONY SUBMITTED BY DENNIS ROSEN, CHAIRMAN, NEW YORK STATE LIQUOR AUTHORITY, TO THE NEW YORK STATE ASSEMBLY STANDING COMMITTEE ON ECONOMIC DEVELOPMENT, JOB CREATION, COMMERCE AND INDUSTRY, AND THE NEW YORK STATE STANDING COMMITTEE ON OVERSIGHT, ANALYSIS AND INVESTIGATION

Good morning Chairman Schimminger, Chairwoman Titus, and distinguished committee members. My name is Dennis Rosen and I am the Chair of the State Liquor Authority. Thank you for inviting me here today and providing me with the opportunity to testify.

I have submitted my full testimony, which I ask be made part of the hearing record. I will now give an opening statement and I look forward to answering any questions you may have. I would like to begin with some brief information on my background and then provide an update on current operations at the State Liquor Authority (“SLA”).

From September 2005 to December 2006, I was the lead attorney in the statewide investigation by the Attorney General’s Office into widespread violations of the Alcoholic Beverage Control (“ABC”) Law. The investigation concluded with many of the liquor industry’s largest wholesalers, manufacturers, and retailers agreeing to court orders which fined them a total of $4.6 million. More importantly, the orders also ended what were referred to as "pay-to-play" practices that had created an uneven playing field, putting companies that followed the law at a competitive disadvantage. The orders also set forth comprehensive guidelines for all industry members to adhere to, providing a degree of clarity that had been lacking.

At the time of my appointment to the Authority in August 2009, the SLA was criticized by the liquor industry, elected officials, newspapers across the state, the State Inspector General’s Office, and your own Law Revision Commission for its failure to process license applications in a timely manner. There was a statewide backlog of over 3,000 license applications, with downstate applications typically taking over a year to process and upstate ones averaging six to seven months.

Consequently, attacking the licensing delays has been a top priority. Today, the backlog that plagued this agency and burdened businesses for years has been eliminated upstate, where it consisted of about 1,000 applications. Upstate license applications are being processed in about 30 days, and the days of waiting month after month are over. While we still have a backlog downstate, it has been reduced by 80%, and licenses are being approved generally in three to five months, which is about eight months faster than they were a year and a half ago.

We have accomplished this while simultaneously reducing fulltime staff from 147 to 125 over the past 13 months and cutting overall agency spending by 15%. Notwithstanding a substantial reduction in personnel, which is exacerbated by technological deficiencies at the agency, we have instituted extensive revisions of licensing processes and implemented a
number of initiatives to prevent the backlog from returning upstate while continuing to reduce it downstate. For example, a reorganization of the Licensing Bureau included assigning certain senior experienced examiners only backlogged cases, while less senior staff are answering phones, typing letters, faxing, scanning and assuming all the lower level tasks. We have also imposed stricter guidelines on accepting applications. Examiners now perform an initial review at intake to eliminate accepting applications that are on their face incomplete, because acceptance of such applications had led to wasted staff time, adding to the backlog. If required information is not provided at the outset in compliance with the ABC Law, the application is rejected and the applicant may resubmit the application only after properly completing it. In the past, SLA examiners spent months going back and forth with applicants on applications that were incomplete, which was unfair to those who properly filled out their applications.

Our agency regulates approximately 70,000 licenses and permits statewide each year. So far in the 2010 calendar year, we have reviewed and processed 10,669 applications, with the Licensing Bureau issuing 5,613 licenses, processing 5,068 license change requests, and issuing 31,448 permits. During this period, the Licensing Bureau, which consists of a staff of 52, generated $43,584,941 in revenue, equating to over $800,000 per employee. This result was accomplished with 15% fewer fulltime employees than the agency had 13 months ago.

As I mentioned in my testimony earlier this year, we also initiated an Attorney Certification program to tackle the backlog. Briefly, this program allows attorneys filing applications to certify that statements and documents provided in an application are true and accurate and that the application meets all statutory requirements. The program has been a success, decreasing the processing times for all applications, certified or non-certified. The SLA has accepted 1,951 applications under this program since its implementation in September of 2009. We have approved 1,511 of these applications, collecting $4,042,838 in revenue. This is not a rubber stamp program. We audit a considerable number of these applications and have actually excluded about a dozen attorneys from the program for incomplete submissions. Further, the certification form clearly indicates that any material misrepresentation that an attorney falsely certifies as true carries potential liability of loss of their license to practice law and criminal prosecution.

Another initiative recently undertaken in our effort to do more with less is a partnership recently entered into with Wells Fargo Bank. Under the agreement, Wells Fargo provides lockbox remittance processing services for agency financial transactions. They retrieve SLA mail, prepare deposits, and provide remittance documents and reports for the agency, scanning approximately 13,000 items the SLA processes each month. Once fully implemented, Wells Fargo will process all of the roughly $55 million a year in fines and fees the SLA generates.

The lockbox service is being rolled out in phases, having started with Temporary Beer and Wine Permits (“TPAs”) on August 25, 2010. The next phase will involve processing all checks and correspondence arising from penalties imposed by the Board, to be followed by license renewals and, lastly, initial license applications. We expect that all SLA remittances will be processed by Wells Fargo by April, 2011. Already, the agency has been able to cut the staff
needed to process TPA’s in half. Moreover, this partnership imposes no direct costs on the SLA; Wells Fargo’s compensation is derived from access to agency account balances and increased cash flow. In addition, by outsourcing these functions, the SLA will be withdrawing from the business of banking, scanning and other clerical functions, allowing our examiners to focus on reviewing applications.

In the course of reorganizing the agency we have brought in highly experienced professionals. As recommended by the Law Revision Commission, we hired an Internal Auditor to critically analyze every procedure by which the agency conducts business. To better focus on issues in our New York City office, which had been the target of a number of investigations by the Inspector General’s Office, we moved a Deputy CEO position from Albany to New York City, and reorganized Counsel’s Office so that our General Counsel is also based in New York City. In addition, we hired a Director of Enforcement with 30 years experience as a police professional, including serving as the first female Chief of Police in Indiana. Having these quality professionals has enabled us to stretch our resources by forging partnerships with local law enforcement agencies across the state.

We have also refocused our enforcement priorities, as the number of investigators and legal staff has decreased to 55 from 63 just over a year ago. The Deputy CEO who was hired to oversee our New York City Office has considerable law enforcement experience and contacts, arising from years of experience as a former prosecutor in the Manhattan District Attorney’s Office and the New York State Attorney General’s Office. As a result, in 2010 agency personnel partnered with local and federal law enforcement to aggressively investigate and prosecute the most serious violations of the ABC Law. These include underage drinking, sales to intoxicated persons, and taking action against licensees who are a detriment to the quality of life in our neighborhoods. We also regularly collaborate with law enforcement agencies across the state in joint task forces and operations such as the M.A.R.C.H. Program (Multi Agency Response to Chronic Hotspots), which includes New York City agencies such as the NYPD and Health, Buildings and Fire departments, and the IMPACT Program (Integrated Municipal Police Action Community Team) in 17 sites across the state designated as IMPACT locations, which includes various Federal, State and Local law enforcement agencies that share intelligence and work in a cooperative effort to address problems in high crime areas. SLA Enforcement is also a partner in NYSIC (New York State Intelligence Center), which is the central depository agency responsible for the collection, analysis and maintenance of criminal intelligence for New York State. Our enforcement personnel also act as agency liaisons with numerous university, college, community and neighborhood groups, coalitions and associations. As a result of these joint efforts, our Enforcement Unit opened 3,599 and closed 3,906 cases in 2010. It also participated in 112 joint actions/stings as well as conducting scores of trainings throughout the state. These efforts led to the termination of 476 licenses, 121 license suspensions, and 16 Emergency Orders of Summary Suspensions in 2010. In addition, with a staff of eight lawyers, the SLA imposed $7,028,375 in penalties for the calendar year thus far, equating to about $900,000 per attorney.
The SLA has instituted a number of other technological and operational solutions designed to make the agency more efficient. In partnership with the Division of the Budget, the SLA is embarking on a comprehensive computer upgrade, the SLA Revitalization Project. We are one of six agencies participating in the statewide E-Licensing initiative. However, because the SLA’s technology is so markedly outdated, we have been investing in a number of technologies in order to ready the agency for this initiative. In addition, systems, such as the agency’s wholesale platform, which will not be addressed by E-licensing, are being upgraded in order for the agency to maintain its statutory obligations. The SLA is also moving forward with the implementation of an agency call center utilizing the services and product offerings of the CIO/OFT. By consolidating resources with other state agencies and converting existing voice systems to VOIP, the SLA will not only leverage greater efficiency using reduced staff, but even provide increased service. As one of the state’s key revenue generating agencies, it is imperative that the SLA continue to modernize and streamline its systems. In addition, within the next two or three months, we expect to have in place a Geographic Information System (“GIS”) which can be used to find just about any pertinent geographical location information, e.g., all the licenses, churches, schools, etc. within a specific area will be readily ascertainable. This system will be available on our website for the general public’s convenience, and will be of particular usefulness to New York City community boards that may be concerned about the number of liquor licenses in an area or the proximity of a proposed licensed establishment to a church or school.

The investment in GIS software is an example of the agency striving for greater transparency and increased input from all of our stakeholders. To that end, I have regularly met with representatives of the many community boards in New York City. I have also called on many elected officials who have indicated that they have issues or concerns regarding the agency, and I have met on an ongoing basis with every segment of the liquor industry. In addition, this past August we completed our review of approximately 1,700 divisional orders, bulletins, and circulars, as recommended by the Law Revision Commission. For years the SLA had been justly criticized by the Law Revision Commission and others for relying on these directives, most of which were not published or available for licensees to examine. After an exhaustive six month review by agency staff, the SLA Board voted to rescind 1,592 of the outdated directives, many dating back as far as the 1930’s. The 125 directives that remained were scanned and posted on the agency website for public comment. In addition, pursuant to the Governor’s Executive Order 25, we are well into the process of repealing, updating or modifying approximately 70 SLA rules, which is a step in the direction of eliminating the burden of unreasonable and anachronistic regulation that has unfairly fallen on the shoulders of the businesses we regulate.

In closing, I should point out that the SLA is the third highest revenue generating agency in the state. The revenue we raise exceeds our expenditures by about $35 million annually. In addition, at the conclusion of fiscal year 2009-2010, we spent almost $1 million less than our budget provided for, and projections for 2010-2011 indicate that that will most likely be repeated. For many years, while the agency’s surplus certainly benefited the average taxpayer,
the industry we regulate was terribly shortchanged because of the appalling backlog of applications. While no one, including me, will claim we’ve reached a state anywhere near perfection at this agency, former vehement critics of the SLA, as well as impartial observers, have gone on record as stating that they believe the agency is now headed in the right direction. I do believe our licensees, as well as the communities in which they operate, have benefited from our efforts, and we intend to continue to do the very best we can to serve them.

Again, thank you for the opportunity to appear before you today. I shall be pleased to answer any questions, or address any comments or criticisms, you might have.