

Reporting Officer: PPO S Ash	Direct Line: 01253 478388	Unit Manager: G Phoenix	Direct Line: 01253 478381	File No: EBF/1730253
 Blackpool Council <small>BUILDING A BETTER COMMUNITY FOR ALL</small>	TRADING STANDARDS SERVICE REPORT OF ALLEGED OFFENCES			
NAME	Kailashen Gandhi			
	Dob: [REDACTED]			
ADDRESS/ REG.OFFICE	Home address: [REDACTED]			
TIME, DATE & PLACE	13:40 12/01/15 Abingdon News, Unit 13, Abingdon Street Market, Blackpool.			
ALLEGED OFFENCE(S)	See attached sheet			
ACT / SECTION	Section 92 (1) (c) of the Trade Marks Act 1994			
LAST DATE	No time limit – Best practice 12/01/16			
DATE SUBMITTED	6 th February 2015			
COURT				
DATE	PLEA			
PENALTY				
COSTS				
COMPENSATION				

INVESTIGATING OFFICERS REPORT

COMMENTS

OFFICER: STEVEN ASH

DEFENDANT/S: KAILASHEN GANDHI

REPORTING OFFICER'S COMMENTS

The defendant was unable to offer any convincing defence for her actions other than the somewhat contrived defence that she bought the vodka off a man who came into her shop, who had no identification, and who handed her a very generic invoice.

Mrs (and Mr) Gandhi have operated Abingdon News for 4 years and previously ran a hotel for 10 years according to Mrs Gandhi. It is inconceivable that she is so naïve as to not realise the risks involved in this sort of transaction.

The selling of counterfeit alcohol alongside genuine alcohol suggests that it is being sold to unsuspecting members of the public as genuine. This is a serious breach of trust on the part of a premise licence holder, a position of responsibility.

Given the deceptive quality of the offence, and the lack of credible excuse, or defence, and given the potential harm to the public, I am recommending a prosecution.

6/2/15.

TRADING STANDARDS MANAGER'S COMMENTS

*I agree with reporting officer
comment -*

proceeding

*This is also subject of
a previous review*

[Signature] 9/2/2015

INVESTIGATING OFFICERS REPORT

ALLEGED OFFENCES

OFFICER: STEVEN ASH

DEFENDANT/S: KAILASHEN GANDHI

That you on the 12th January 2015 at Abingdon News, Unit 13, Abingdon Street Market, Abingdon Street, Blackpool, with a view to gain for yourself or with intent to cause loss to another, and without the consent of the business 'A' which good, or new packaging, bore a sign identical to, or likely to be mistaken for a registered trademark, namely 'B' owned by 'C' such possession custody or control being with a view to selling, offering or exposing such goods for sale, such goods -

A	B	C
1 litre bottle of Glens Vodka X 6	Word registered trade mark no 003231107	Glen Catrine Bonded Warehouse Limited

Contrary to S.92 (1)(c) Trade Marks Act 1994

INVESTIGATING OFFICERS REPORT

SUMMARY OF EVENTS

OFFICER: STEVEN ASH

DEFENDANT/S: KAILASHEN GANDHI

This report concerns the selling of counterfeit Glen's vodka being sold as genuine.

Aggravating features

- The public's safety may have been compromised.
- The vodka was being sold as genuine, with other genuine spirits.
- There is no satisfactory defence, statutory or otherwise, for the offence. Mrs Gandhi relied on an "an anonymous man sold it to me" defence.
- The selling of counterfeit alcohol by licenced premises represents a massive breach of trust.
- The selling of counterfeit vodka is in direct contravention of the premise's licensing objectives.

Mitigating features

None

INVESTIGATING OFFICERS REPORT

LIST OF EXHIBITS AND WITNESSES

OFFICER: STEVEN ASH

DEFENDANT/S: KAILASHEN GANDHI

Witness

Will Produce

Steven John Ash
Trading Standards
Number One
Bickerstaffe Square
Blackpool
Tel: 01253 478388

SJA/AN/1 – Code B Notice of Powers
SJA/AN/2 – Letter to Mrs Gandhi
SJA/AN/3 - Receipt sent to Mrs Gandhi
SJA/AN/4 – Email response from Tom Taylor
SJA/AN/5 – Interview letter to Mrs Gandhi
SJA/Invoice/1 – Invoice handed over in interview
SJA/AN/6 – Covering letter from Tom Taylor
SJA/1 – Transcript of tape recorded interview

Thomas Keith Taylor
Quality Manager
Loch Lomond Group
7 Laigh Road
Catrine
Mauchline
Ayreshire
KA5 6SQ
Tel: 01290 551211

TKT/1 – Trade Mark Certificate EU003231107

Witness Statement

(CJ Act 1967, s.9 MC Act 1980, s.s.5A (3a) and 5B MC Rules 1981, r.70)

Statement of **Steven John Ash**

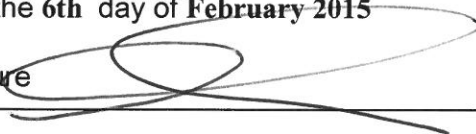
Age if under 18 **Over 18** (if over 18 insert "over 18"). Occupation **Public Protection Officer**

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the **6th** day of **February 2015**

Tick if witness evidence is visually recorded
(supply witness details on rear)

Signature



I am the above named and am employed as a Public Protection Officer within the Trading Standards (Enforcement) Section of the Public Protection Division. In this role I am authorised to enforce the provisions of the Trade Marks Act 1994. On the 12th January 2015 I was part of a multi-agency operation with Blackpool's Health and Safety Section and the Police. We were visiting a series of Off Licences to offer advice and inspect their premises as appropriate. At 13:40 we entered Abingdon News, Unit 13, Abingdon Street Market, Abingdon Street, Blackpool. The only person in attendance was the husband of premise licence holder, Arvind Gandhi. I introduced myself and asked to go behind the counter. I identified the Glen's Vodka and visually inspected it for signs of authenticity. There were a few visual clues that suggested the vodka was counterfeit. I expressed my concerns to Mr Gandhi and informed him that I would be seizing the bottles. As I was in conversation with Mr Gandhi, the premise licence holder, Kailashen Gandhi entered the premise. I advised her of my suspicions and handed a Code B notice of Powers to Mr Gandhi. I seized the bottles, six in total, and left the premises. The bottles were immediately transferred to secure storage and an exhibit to be sent to the producer for an opinion was selected and sealed with Tag: 00539228. I produce a copy of the Code B Notice of Powers as exhibit SJA/AN/1. On the 13th January 2015 I sent a letter and receipt to Mrs Gandhi, copies of which I produce as exhibits SJA/AN/2 – 3. On the 14th January 2015 I sent an exhibit of the seized Glen's Vodka to Tom Taylor, Quality Manager of the Loch Lomond Group, which produces Glen's Vodka. On the 21st January 2015 I

Signature



Signature witnessed by

emailed Tom Taylor to confirm that he had received the exhibit. He confirmed he had and that the sample was counterfeit. I produce this email was exhibit SJA/AN/4. Later that day I hand delivered a letter to Abingdon News, where Mr Gandhi was in attendance. I explained that the vodka was counterfeit and that Mrs Gandhi was invited to attend a formal interview. I produce a copy of this letter as exhibit SJA/AN/5. On the 26th January 2015 I received a 'phone call from Mr Gandhi wanting to rearrange the interview. The interview was subsequently arranged for 10:30 AM Thursday 29th January 2015. On the 28th January 2015 a man called on behalf of Mr Gandhi. I could hear Mr Gandhi in the background; this man explained that Mr Gandhi wanted the opportunity to seek legal advice. I agreed and gave Mr Gandhi 7 days in which to make further contact with me. On the 2nd February 2015 Mr Gandhi telephoned me and an interview was subsequently arranged for the Wednesday, 4th February 2015 at 12:00. At the appointed time Mrs Gandhi turned up to be interviewed. During the course of the interview she gave me an invoice that she claimed had been given to her by a man who called into her shop in December 2014, just before Christmas, and sold her 8 bottles of Glen's vodka for £12 each. I referred to this invoice in the interview, and produce this invoice as exhibit SJA/Invoice/1. I sealed a copy of the interview tape and this was transferred to our secure tape library. Later that day I hand delivered the working copy of the interview tape to the person who transcribes our tapes. On the 5th February 2015 I received the bottle of Glen's vodka that I had sealed with Tag: 00539228 and that was now sealed with Tag: CBWT004978 from Tom Taylor of Loch Lomond Group. He included with this exhibit a covering letter advising that the vodka was counterfeit and his witness statement. I produce the covering letter as exhibit SJA/AN/6. On the 6th February 2015 I received an emailed transcription of the interview. I exhibit a copy of this transcript as exhibit SJA/1.

Signature



Signature witnessed by



Blackpool Council

Trading Standards (Enforcement),
Enforcement and Quality Standards Division,
125 Albert Road, Blackpool,
Lancs. FY1 4PW
Tel: 01253 478381

Address of Premises Abraham St. New
Abraham St. Market

POWERS UNDER WHICH SEARCH IS MADE

- Warrant (Copy attached)
or
 E Statutory Power Under Trade Marks Act 1994
or
 With written consent of a person entitled to grant entry
(only applicable where statutory powers not exercised)

I hereby consent to the Trading Standards Group searching the above named premises.

Signature _____ Age _____

Name _____

Status relative to premises _____

OFFICER IN CHARGE OF SEARCH

Name Steve A4 Designation PPB

Time/Date of Search 12/1/15 13:40

Summary of Officer's Statutory Powers

This notice should only be regarded as a summary as it is impractical to list all powers in full for each statute. The powers will vary between each statute. A copy of the appropriate legislation may be consulted at the above address.

POWER TO ENTER PREMISES AND INSPECT GOODS OR EQUIPMENT

CONSUMER CREDIT ACT 1974, CONSUMER PROTECTION ACT 1987, FAIR TRADING ACT 1973, FOOD SAFETY ACT 1990, GENERAL PRODUCT SAFETY REGULATIONS 1994, HALLMARKING ACT 1975, PACKAGE TRAVEL PACKAGE HOLIDAYS, PACKAGE TOURS REGULATIONS 1992, POISONS ACT 1972, TRADE MARKS ACT 1994, VIDEO RECORDINGS ACT 1984, CONSTRUCTION PRODUCTS REGULATIONS 1991, WEIGHTS AND MEASURES ACT 1985, THE CONSUMER PROTECTION FROM UNFAIR TRADING REGULATIONS 2008, THE BUSINESS PROTECTION FROM MISLEADING MARKETING REGULATIONS 2008.

A duly authorised officer may at all reasonable times and on production if so requested of his credentials enter any premises, other than premises used solely as a dwelling and inspect goods. Officers authorised under the Weights and Measures Act 1985 may inspect and test any weighing or measuring equipment used for trade. They may weigh or otherwise measure or count goods.

TIMESHARE ACT 1992, PROPERTY MISDESCRIPTIONS ACT 1991, ESTATE AGENTS ACT 1979, POISONS ACT 1972.

If an officer has reasonable grounds to suspect an offence has been committed he may at all reasonable times and on production if so requested of his credentials enter any premises to determine whether an offence had been committed

PROCUREMENT OF SAMPLES FOOD SAFETY ACT 1990

An Officer may:

- purchase a sample of any food or substance capable of being used in the preparation of food
- take a sample of any food or substance appearing to have been sold or intended for sale for human consumption or is found on or in premises which the Officer has power of entry.
- take samples from any food source or contact material.
- take samples of articles or substances found on such premises which may be required as evidence in proceedings.

POWER TO REQUIRE OR REQUEST THE PRODUCTION OF BOOKS, DOCUMENTS OR RECORDS

PRICES ACT 1974 (AND ABOVE LEGISLATION)

An officer can request the production of documents relating to the business and may make copies.

FOOD SAFETY ACT 1990

An officer may inspect any records relating to a food business and have access to and inspect any computer which may be used in connection with the records.

DESCRIPTION OF EXHIBIT

Cole B - Notice of Powers

EXHIBIT IDENTITY MARK

I IDENTIFY THIS AS STAT/AN/11

SIGNATURE(S) _____

TRADING STANDARDS GROUP REGULATIONS, PROPERTY MISDESCRIPTIONS ACT 1991, TIMESHARE ACT 1992

108,
ACT 1973,
TATE
PACKAGE

If an Officer has reasonable cause to believe an offence has been committed he may require the production of books or documents ("records") and may make copies.

POWERS OF SEIZURE WEIGHTS AND MEASURES ACT 1985

An officer may seize and detain any weighing or measuring equipment if he has reasonable cause to believe it may be liable to be forfeited.

An officer may seize and detain goods or documents that he/she believes may be required as evidence.

THE CONSUMER PROTECTION FROM UNFAIR TRADING REGULATIONS 2008, HALL MARKING ACT 1973, VIDEO RECORDINGS ACT 1984, TRADE MARKS ACT 1994, FAIR TRADING ACT 1973 (*CONSUMER PROTECTION ACT 1987)(CONSUMER CREDIT ACT 1974)(TIMESHARE ACT 1992) PROPERTY MISDESCRIPTIONS ACT 1991, (ESTATE AGENTS ACT 1979)(*GENERAL PRODUCTS SAFETY REGULATIONS 1994) PACKAGE TRAVEL PACKAGE HOLIDAYS, PACKAGE TOUR REGULATIONS 1992.

If an officer has reasonable cause to believe an offence has been committed he may seize and detain goods in order to ascertain whether an offence has been committed, If an officer believes they may be required as evidence he may seize and detain any goods or documents ("goods or records") (goods, books or documents) (books and documents) (documents). In exercising his right to seize property, the officer may require any person having authority to do so, to break open any container and if that request is not complied with the officer may do it himself.

FOOD SAFETY ACT 1990

An officer may seize and detain any records which he has reason to believe may be required as evidence and where records are kept on computer, may require the production of the records in a form in which they may be taken away.

POLICE AND CRIMINAL EVIDENCE ACT 1984 (CODE B)

Rights of the Occupier/Owner of Property

- Searches must be made at a reasonable hour unless this might frustrate the purpose of the search. (Taken from Para 5.2 of Code B of the Codes of Practice)
- If any of your property is kept by an officer you are entitled, on request, to be provided with a list or description of the property within the reasonable time. Such applications may be made to the address given above. (Taken from Para 6.8 of Code B of the Codes of Practice)
- If you wish you or your representative will be allowed supervised access to your property so that you can examine it or have it photographed or copied.

Alternatively you may be provided with a photograph or copy. In either case you are responsible for the costs. Access etc will not be allowed if the officer in charge of the investigation believes that this would prejudice the investigation of an offence or any criminal proceedings. (Taken from Para 6.9 of Code B of the Codes of Practice)

Search Warrant

- A warrant authorises an entry on one occasion only. (Taken from Para 5.3 of Code B of the Codes of Practice)
- A copy of the warrant should, if practicable, be given to the occupier before the search begins. (Taken from Para 5.8 of Code B of the Codes of Practice)

Search with Consent

- If the occupier is not present, copies of the warrant and this notice should be left in a prominent place. (Taken from Para 5.8 of Code B of the Codes of Practice)
- A duly authorised officer of the Department may enter and search any premises with the written consent of a person entitled to grant entry to the premises. Where practicable the written consent will be recorded on this notice. (Taken from Para 4.1 of Code B of the Codes of Practice)
- Consent to a search must, if practicable, be given in writing on the front of this notice. (Taken from Para 4.1 of Code B of the Codes of Practice)
- Consent must not be obtained under duress. (Taken from Para 4.3 of Code B of the Codes of Practice)
- Where consent is withdrawn before the search is completed, the search must stop. (Taken from Para 4.3 of Code B of the Codes of Practice)
- If you reside in a lodging house or similar accommodation your landlord can consent to your room or rooms being searched if you are unavailable at the time and the matter is urgent. (Taken from Note of Guidance 4A to Code B of the Codes of Practice)

Compensation for Damage

- In appropriate cases, compensation may be payable for damage caused in entering and searching premises and any application should be directed to:-

The Chief Trading Standards Officer at the address above.

A copy of the Codes of Practice can be consulted at the address above.

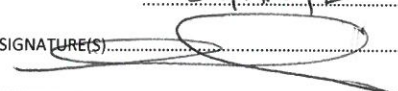
Date: 13th January 2015

Mrs K Gandhi
Abingdon News
Stall 13
Abingdon Street Market
16 – 20 Abingdon Street
Blackpool

Our Ref: SA/ 1730253
Direct Line: (01253) 478388
Email: steve.ash@blackpool.gov.uk

DESCRIPTION OF EXHIBIT
Letter to Mrs
Gandhi

EXHIBIT IDENTITY MARK
I IDENTIFY THIS AS SSA/AN/12

SIGNATURE(S)


Dear Mrs Gandhi

Trade Marks Act 1994

The Blackpool Trading Standards Section enforces the provisions of the above legislation.

On the 12th January 2015 I visited your premises, Abingdon News, Abingdon Street Market, with the Police and Blackpool Council's Health and Safety Section. The purpose of the visit was to carry out a routine multi agency inspection.

On inspection I noticed that selected bottles of Glen's vodka appeared to be counterfeit. Six Bottles were behind the counter and were exposed for sale. These bottles were consequently seized and will be subject to investigation to establish whether they are authentic or not. I enclose a receipt in respect of the seized bottles.

When the investigation into the authenticity of the vodka has been concluded I will be in contact to advise you of the next course of action. In the meantime if you wish to discuss this matter further, please do not hesitate to contact me.

Yours faithfully,

Steven Ash
Public Protection Officer,
Trading Standards Enforcement



425 Albert Road
Blackpool
Lancs
FY4 4PW

BLACKPOOL COUNCIL TRADING STANDARDS

Blackpool Council
BUILDING A BETTER COMMUNITY FOR ALL

Name: Abingdon News Date: 12/01/15
Address: Stall 13, Abingdon Street Market,
Abingdon Street, Blackpool

Seized: 6 x Batches of Glen's Vodka
under Trade Marks Act 1994

DESCRIPTION OF EXHIBIT

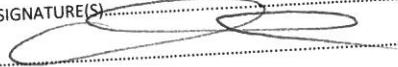
Receipt sent to Mr Galli

EXHIBIT IDENTITY MARK

I IDENTIFY THIS AS

SJA/AN/13

SIGNATURE(S)



No:

2032

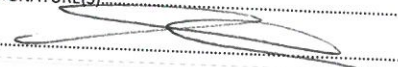
~~Inspector~~ / Authorised Officer:

P. S. Ash
[Signature] Ed. 478388

JB4875_02/07

Steven Ash

From: Steven Ash
Sent: 21 January 2015 13:07
To: Tom Taylor
Subject: RE: Glen's Vodka

DESCRIPTION OF EXHIBIT
Email from Tom
Taylor
EXHIBIT IDENTITY MARK
I IDENTIFY THIS AS SJJA/AO/4
SIGNATURE(S)


Hi Tom,

Thanks very much for that. Yes, I would appreciate two separate statements.

I take your point about getting them tested by our analyst.

Thanks again and best regards,

Steve.

From: Tom Taylor [<mailto:tom.taylor@lochlomondgroup.com>]
Sent: 21 January 2015 12:24
To: Steven Ash
Subject: RE: Glen's Vodka

Hi Steve,

I received the bottles that you sent and I can confirm that both are counterfeit and were not produced by our company.

I will provide Section 9 witness statements confirming my findings. Please let me know if require two separate statements as the seizures were from two premises as advised in your covering letter.

I would recommend that you send bottles to your Public Analyst for analysis to make sure that the contents are not detrimental to health.

We can carry out basic analysis in our Lab for strength, colour and other quality parameters etc. but we don't have the specialised equipment required for analysing counterfeit product for methanol, and other harmful chemicals that may be present.

Best regards

Tom Taylor
Quality Manager
Loch Lomond Group

01290 551211 Work
Tom.Taylor@lochlomondgroup.com

7 Laigh Road, Catrine, Mauchline
Ayrshire KA5 6SQ

From: Steven Ash [<mailto:Steven.Ash@blackpool.gov.uk>]
Sent: 21 January 2015 11:55
To: Tom Taylor
Subject: Glen's Vodka

Hi Tom,

I recently sent you 2 exhibits of Glen's vodka which I suspected were counterfeit. I just wanted to check that you had received them?

Best regards,

Steve Ash (*BA Hons*)

Public Protection Officer

Trading Standards Enforcement | Public Protection Division | Community and Environmental Services Department |
Blackpool Council | Number One | Bickerstaffe Square | Talbot Road | Blackpool | FY1 3AH

T. 01253 478388

E. steve.ash@blackpool.gov.uk

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W: www.blackpool.gov.uk

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<http://www.blackpool.gov.uk/EmailDisclaimer/> This message has been scanned for inappropriate or malicious content as part of the Council's e-mail and Internet policies

DESCRIPTION OF EXHIBIT Interview letter

To Mrs Gandhi

EXHIBIT IDENTITY MARK

I IDENTIFY THIS AS ST/AN/15

SIGNATURE(S)

[Handwritten signature]

Date: 21st January 2015

Mrs K Gandhi
Abingdon News
Stall 13
Abingdon Street Market
16 – 20 Abingdon Street
Blackpool

Our Ref: SA/ 1730253
Direct Line: (01253) 478388
Email: steve.ash@blackpool.gov.uk

Dear Mrs Gandhi

Trade Marks Act 1994

I refer to my previous letter dated the 13th January 2015 and my visit of the 12th January 2015.

During this visit I seized a quantity of Glen’s vodka. I have now had confirmation that the vodka is counterfeit, it is therefore alleged that you have committed an offence contrary to the Trade Marks Act 1994.

The purpose of this letter is to invite you to attend a formal, tape recorded, interview. The interview will be conducted under caution in accordance with the Police and Criminal Evidence Act and will take place at the Municipal Buildings, Corporation Street, FY1 1NF at 11:00 AM, Friday, 30th January 2015.

The purpose of the interview is to give you a chance to explain your actions and to put forward any defences that you feel may be relevant. I strongly advise you to bring any paperwork that you wish to rely on (invoices etc). Please be aware that any comments you make in response to this letter, in writing or otherwise, will be made under caution. The caution reads -

You do not have to say anything, but it may harm your defence if you do not mention when questioned something which you later rely on in Court. Anything you do say may be given in evidence.

It may be advisable for you to seek independent legal advice whether or not you decide to respond to this letter. If you fail to respond to this letter or you fail to attend for interview, a report will be submitted to the Public Protection Manager for consideration of legal proceedings.

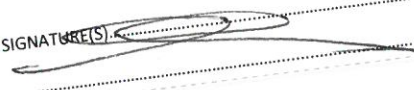
I would also draw your attention to the provisions of Section 34 of the Criminal Justice and Public Order Act 1994, which, under certain circumstances, enables a Court to draw inference from an accused person's failure to mention facts when questioned about a criminal offence.



Yours faithfully,

Steven Ash
Public Protection Officer,
Trading Standards Enforcement



DESCRIPTION OF EXHIBIT
 Invoice for Ms
 Gendri
 EXHIBIT IDENTITY MARK
 I IDENTIFY THIS AS SSA/Invoice/1
 SIGNATURE(S) 

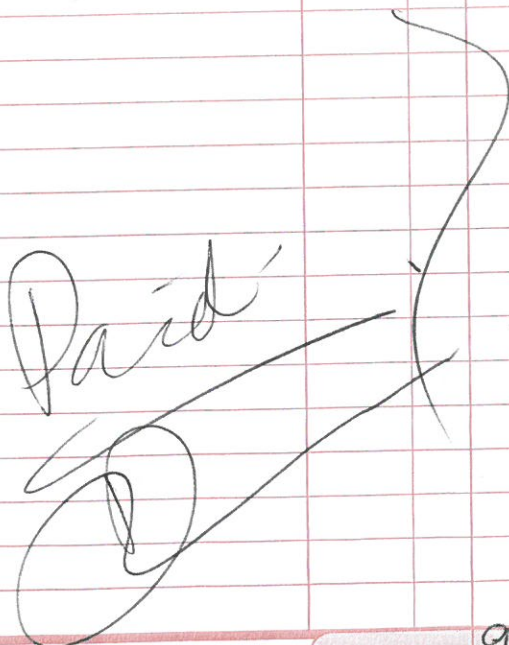
Invoice

SSA/Invoice/1

37655

From
 CASH - (INVOICE TO FOUNDED)
 To
 Dec 2014

Date Terms Order No.

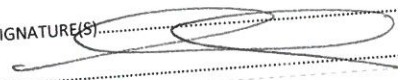
Quantity	Description	Unit Price	Total
8	GLEN'S VODKA	£12 each	
Paid 			

V.A.T. 96.00
 TOTAL TOTAL



LOCH LOMOND GROUP

Steven Ash
Community & Environmental Services Department
Blackpool Council
No. 1 Bickerstaff Square
Talbot Road
Blackpool
FY1 3AH

DESCRIPTION OF EXHIBIT
Casey's bottle from
on table
EXHIBIT IDENTITY MARK
I IDENTIFY THIS AS *SJA/AN/1*
SIGNATURE(S) 

3rd February 2015

Dear Mr Ash,

Counterfeit Glen's Vodka 1 Litre – Exhibits SJA/SM/1 & SJA/AN/1

As requested, I have enclosed signed statements for each of the above confirming that the exhibits are counterfeit and were not produced by our company.

I have attached a copy of the Trademark Certificate for the brand to each statement which I have identified as TKT/1.

I have sealed the bottles in the plastic bags, along with the original seals, which I hope that you find intact in the attached package which was returned to you by courier.

Yours sincerely,



Tom Taylor
Quality Manager
Loch Lomond Group

GLEN CATRINE BONDED WAREHOUSE
7 Laigh Road, Catrine, Ayrshire, Scotland, KA5 6SQ

RECORD OF TAPE RECORDED INTERVIEW

Person Interviewed: Kailasben Gandhi **Tape Reference no(s):-** SJA/1

Place of Interview: Municipal Buildings, Corporation Street

Date of Interview: 04/02/15

Time Commenced: 11.52 **Time Concluded:-** 12.05pm

Interviewing Officer(s): S Ash/S McKinney

Other Persons Present:

S Ash The date is the 4th February 2015, the time by the clock on the wall in the interview room is 11.52am. The interview is being tape recorded and is taking place in the Municipal Buildings, Corporation Street, Blackpool. At the conclusion of the interview you will be given a notice explaining how you can access a copy of the tapes. I am Steven Ash, I am a Public Protection Officer with Trading Standards, also present is...

S McKinney Shaun McKinney, Public Protection Officer.

S Ash For the tape, could you give your full name please?

K Gandhi Mrs Kailasben Gandhi

S Ash And your address?

K Gandhi 

S Ash And what is your date of birth?

K Gandhi 

S Ash And your place of birth?

K Gandhi India

S Ash Okay, the circumstances are, the reason you are here is because it is alleged that you, on the 12th January 2015 had in your possession, exposed for sale 6 bottles of Vodka, which were identical to Glen's Vodka and which bore the registered trade mark of Glen's Vodka and as such is contrary to section 92(1)(c) of the Trade Marks Act of 1994.

At this point I am going to have to caution you.

You do not have to say anything but it may harm your defence if you do not mention, when questioned, something which you later rely on in court, anything you do say may be given in evidence.

You are not under arrest and you may seek legal advice. You can also leave at any time. Do you understand the caution and what I have said to you?

K Gandhi

Yes

S Ash

You do, okay, so I will ask you some questions now, I know its not very pleasant but we will just try and be honest. There are no trick questions, okay?

Are you the premise licence holder of Abingdon Street News?

K Gandhi

Yes.

S Ash

And what is the full address of Abingdon News please?

K Gandhi

Abingdon News Street Market, Stall 13, 16/20 Abingdon Street.

S Ash

Are you a sole proprietor, is it a partnership with your husband or...?

K Gandhi

Yes, me and my husband, yes.

S Ash

Does your husband's name appear on any official documentation or is it... I realise its your husband and you have not brought him with you, but is he officially involved with the licence premise?

K Gandhi

No, just me.

S Ash

Just you, okay, its not a limited company or anything like that is it?

K Gandhi

No

S Ash

Okay. On the 12th of January 2015 I visited your premises in Abingdon Street Market to carry out a multi-agency inspection with Health and Safety and the Police, your husband was present, you arrived a short time later. Do you recall the visit? Do you remember when I came?

K Gandhi

Yes

S Ash

When I was inspecting your premises I examined six bottles of Vodka that appeared to be genuine Glen's vodka, but appeared counterfeit. I seized these bottles and it has been confirmed that they are counterfeit. Can you tell me how they came to be behind the counter for sale with other genuine bottled spirits, so how did

they arrive there? The bottles that I seized how did they end up behind the counter?

K Gandhi Before the Christmas someone came to my hotel and tried to sell me, ---came, I know him, then someone else came, I got another bottle again and then it was Christmas, before the Christmas and I had no time to go to cash and carry so I took from him, they looked the same and then sell in good faith-----

S Ash So, just to clarify for the tape machine, just before Christmas, the cash and carry was closed so...

K Gandhi I hadn't time...

S Ash You hadn't time...

K Gandhi Because my husband's sister had pneumonia and I wasn't able to go there so we didn't have time to go to cash and carry...

S Ash So, due to personal circumstances neither you or your husband had time to go to the cash and carry so someone turned up at your hotel, your home address?

K Gandhi No the shop address

S Ash The shop address sorry and they sold you, it looks like according to the receipts... for the tape Mrs Gandhi is handing me an invoice 37655 and it says cash, invoice to follow December 2014 and on the receipt is detailed a quantity of eight Glen's Vodka £12 each, paid and then a scribbled signature, total £96. Okay who made the transaction, who bought the Vodka?

K Gandhi I was there.

S Ash You were there, was your husband there as well?

K Gandhi No

S Ash Just you in the shop, can you describe this person?

K Gandhi He is like -Five and a half to six foot, English guy.

S Ash English, okay.

K Gandhi And he got a blue jacket on...

S Ash Blue jacket.

K Gandhi I can't remember his face but he had a blue jacket on...

S Ash Okay, did his jacket have any kind of logo?

K Gandhi I checked the -----Uk made in the back...

S Ash It said UK made at the back of the Vodka?

K Gandhi Yes I think so, yes.

S Ash Did he have any other paperwork?

K Gandhi Just this one.

S Ash Did he have any ID with him, this guy?

K Gandhi No he says he will send me the other invoice.

S Ash Have you dealt with him before?

K Gandhi No

S Ash So you have never seen him before, he walked in your shop... did he have a bag of Vodka or did he have it in a box?

K Gandhi One box and then some loose as well.

S Ash Some loose, do you still have the box?

K Gandhi No

S Ash And you paid him cash?

K Gandhi Yes

S Ash I took six bottles out so it looks like you sold two bottles of Glen's Vodka?

K Gandhi Yes

S Ash Can I keep this invoice or take a copy?

K Gandhi Yes

S Ash Ok, where do you normally get your spirits from?

K Gandhi Sometime Morrisons, sometime, what is it called? Bookers? And Aldi's sometimes, I was going to sell it over Christmas that is why I took it but I couldn't sell it.

S Ash Who is normally responsible for buying spirits, is it you or is it your husband?

K Gandhi My husband usually, its me made the mistake -----kind of mistake

S Ash So was it your husband who did the deal or was it you?

K Gandhi I was there.

S Ash You were there. Day to day, who runs the business? Is it you or your husband or both?

K Gandhi We both...

S Ash You both do it. Who would you say has control of the business, who is the controlling mind? Who makes the decisions?

K Gandhi Both of us do.

S Ash Both of you. Do you employ, do you have any members of staff?

K Gandhi No, can't afford.

S Ash No, I understand. Do you ever ask anybody to run the stall for you as a favour?

K Gandhi Pardon?

S Ash Do you ask anyone to look after the stall?

K Gandhi No, we don't go anywhere, because of this.

S Ash Okay, so going back to this invoice... I take it the invoice that was promised never followed?

K Gandhi No

S Ash You never got anything else, have you seen this guy ever again?

K Gandhi No

S Ash Did you notice what sort of vehicle he was driving?

K Gandhi No, I didn't see outside.

S Ash What sort of age, roughly, would you say he was?

K Gandhi 35

S Ash 35 so 5'6" to 6', 35 English, you think okay. Under the Trade Marks Act, in this case, its not up to me to prove what has happened. I think we have already established what has

happened but the offence is you had in your possession counterfeit Vodka for sale. I just want to give you the opportunity to put forward any kind of defence you might have, so do you have anything you want to say in your defence? You know, I don't know what, but is there anything you can think of that you want to say to me to excuse what you have done or to explain...?

K Gandhi Its my mistake that its done sorry about this, we get -----about it and I don't know why it has happened its one of -----in good faith, I thought it would be okay.

S Ash Did you question why, did you ever wonder why someone would be selling genuine spirits... What do you usually pay for a bottle of Glen's Vodka?

K Gandhi Similar

S Ash £12, okay. Is there anything else you want to add?

K Gandhi This is all my bills, yes and ----look at this, this one (Mrs Gandhi starts producing paperwork relating to proof of age traing etc)

S Ash That is mine (invoice).

K Gandhi No, this is yours its like either one litre-like -----very careful with the licence because look at this Aldi...

S Ash Let's look at the paperwork. For the benefit of the tape Mrs Gandhil would probably want to prove that she is responsible...

K Gandhi If anyone looks 20 not 20 we look 25 instead of ID.

S Ash I take your point, I see you have got a few documents here, however in respect of this offence, this isn't really relevant, so yes...

K Gandhi Not look 25 if no ID he looks anyway.

S Ash Okay. Mrs Gandhi wants to establish, on tape, that at this point she takes the Challenge 25 policy very seriously. I appreciate that, that will be argued as a separate issue if it comes to it. We are here just to discuss... we need to ask you questions about the Vodka, okay? Is there anything in there that is relevant to that?

K Gandhi And then he want to sell it now, because -----
enough now

S Ash Shaun is there anything you want to ask?

S McKinney Do you have CCTV?

K Gandhi Yes

S McKinney Its part of your licensing condition isn't it?

K Gandhi Yes

S McKinney How far does that go back?

K Gandhi I think its 28 days or something.

S McKinney 28 days so when we came, when my colleague came in on the 12th was it, 12th January, would it have been in the last 28 days prior to that that this young man has been in with your...?

K Gandhi No its -----28 from now isn't it?

S McKinney No, I understand that, but when he came in on the 12th?

K Gandhi I don't know.

S McKinney What I am saying to you is that when he came in on the 12th of January this year and took that Vodka from you, theoretically, this man that sold you the Vodka, came in that period 28 days prior to the 12th January this year you would have been able to show us the footage of that wouldn't you?

K Gandhi Ok

S McKinney All I am saying to you is that if you were trying to reason this away why you have got it, you could have done that by producing the CCTV footage and you have not so did you know this man, are you sure you didn't know this man?

K Gandhi No, I haven't seen him after then no, not realised about it.

S McKinney I mean its not even a proper receipt is it, you know when you look at these, I mean when it comes to...

K Gandhi It does say Vodka

S McKinney I appreciate that, but you have run this business for a number of years haven't you and you know that customs will come along and say "produce proper receipts" so realistically this receipt is worth nothing, you could have done it yourself, its pointless, its not even got a proper name on it, got no contact details, you look at that, that ----- on the top of it, its not a proper receipt so that is pointless, how long have you been in business?

K Gandhi This one is four and a half years.

S McKinney You have had that off licence four and a half years?

K Gandhi Yes

S McKinney What did you do before that?

K Gandhi I had a hotel

S McKinney Right, so in your hotel, how long have you been there?

K Gandhi Ten and a half years

S McKinney Ten and a half years. So when somebody rolls up at the door you don't buy do you?

K Gandhi No, its just I made a mistake, sorry.

S McKinney But its an extremely costly mistake. Supposing the stuff was dangerous?

S Ash Okay. Well unless you have anything else to add, I will exhibit this invoice as SJA/Invoice/1, and I will now hand Mrs Gandhi the Notice for the Interview that has been Tape Recorded, which we discussed earlier, if you want a copy of the tape, that explains how to do it. Okay the time, according the clock on the wall, is exactly 12.05pm and we are turning off the tape recorder.

STATEMENT OF WITNESS

(Criminal Procedure Rules 2005, r 27.1(1);
Criminal Justice Act 1967, s.9; Magistrates' Court Act 1980, s.5B)


Statement of: Thomas Keith Taylor

Age if Witness: Over 18


Occupation: Quality Manager

This statement consisting of two pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 2nd Day of February 2015

Signature: 

I am Thomas Keith Taylor and I have been employed by Glen Catrine Bonded Warehouse Ltd, 7 Laigh Road, Catrine, Ayrshire, KA5 6SQ as Quality Manager for twenty two years. In March 2014 the company changed ownership and now trades as Loch Lomond Group at the same address. I am employed as Quality Manager for the new company. In this capacity, I am familiar with the design, appearance, composition and quality of all genuine Loch Lomond Group products and I am authorised to speak on behalf of the company in relation to such matters. I can confirm that Glen's Vodka is a vodka brand for which Loch Lomond Group owns the Trade Mark Number EU003231107 and the brand was introduced in April 2003. I produce a copy of the Trademark Certificate and identify it as TKT/1. No other person, other than an agent authorised by our company, has permission to manufacture, produce or distribute any items bearing our trademark. On 16th January 2015 I received from Steven Ash, Public Protection Officer with Blackpool Council Trading Standards Enforcement, a plastic bag sealed with seal number 00539228. The bag contained a 1 Litre bottle that was labelled 'Glen's Vodka' and also had a self-adhesive label applied to it identifying it as exhibit SJA/AN/1. An accompanying letter from Steven Ash stated that the bottle was seized from a stall in Abingdon Street Market called Abingdon News, Unit 13, Abingdon Street, Blackpool, and requested that I examine it to establish if the product was genuine or counterfeit. I placed the sealed bag in secure storage and removed the bottle from it prior to examination. On examination, I came to the conclusion that

Signature: 

Statement of Thomas Keith Taylor – Continued

the bottle was counterfeit. My reasons for determining that it was not a genuine 1 Litre bottle of Glen's Vodka were as follows; The front and back labels on the counterfeit bottle appeared to be self-adhesive as there was no visible glue pattern. Genuine Glen's Vodka 1 Litre labels are applied by a Kosme Rotary Labelling Machine using a wet adhesive which produces a distinctive glue pattern on the back of the label (horizontal lines approximately 2mm apart). The print font used for the counterfeit cap was different from that on a genuine cap and the red colour and print were much duller. Genuine bottles of Glen's Vodka have a production lot code applied by laser or ink-jet at the time of filling to allow each bottle to be traced. There was no lot code on the counterfeit bottle. The spirit in the counterfeit bottle was tested in our Laboratory and was found to be organoleptically different from genuine Glen's Vodka and had an unpleasant odour. The alcoholic strength of the contents of the bottle was tested and found to be 33.3% vol. instead of 37.5% +/- 0.3% vol. for genuine Glen's Vodka. After examination of the counterfeit bottle, I placed it back in the plastic bag along with the original seal and sealed the bag with seal number CBWT 004978. The sealed bag was placed in suitable packaging and returned by courier to Steven Ash at Blackpool Council Trading Standards Enforcement. I can confirm that Abingdon News, Unit 13, Abingdon Street, Blackpool, is not an agent authorised by our company and has not been granted any licence or authority to use our trademarks. Counterfeiting of Glen's Vodka, or indeed any other brand, misleads consumers into purchasing poor quality products which do not meet our high quality and food safety standards or the expectations of the consumer. As the deception is often not obvious to the consumer, their quality perception of the product they have purchased will be attributed to the Glen's Vodka brand which is extremely detrimental to our company's reputation and brand equity.



Signature:



TKT/1



Intellectual Property Office

Current case details for Community Trade Mark Number: EU003231107

Printed On: 30 January 2015

Trade mark



Status: Registered

Relevant dates

Filing date: 18 June 2003

Date of entry in register: 07 December 2004

Renewal date: 18 June 2023

Priority details

Priority date: 18 December 2002
Priority country: United Kingdom
TM from which priority is claimed: 2319225

List of goods

Class 33: Alcoholic beverages, vodka, gin, white and dark rum.

Name and Address details

Holder's name: Loch Lomond Distillers Limited
12 Henrietta Street, London, United Kingdom, WC2E 8LH

Representative: KELTIE LLP
No. 1 London Bridge, London, United Kingdom, SE1 9BA

Publication details

First advert: Journal : 2004/018 Date of publication : 03 May 2004

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