

Exhibit C-14

Full Service Restaurants (Average Check per Person \$25 and Over)
Statement of Income and Expenses - Ratio to Total Sales*

Submitted to the Regulatory Fairness Board by
Mr. Richard Grotton,
President of the Maine Restaurant Association,
February 24, 2012

44

	Affiliation					
	Single Unit - Independent			Multi-Unit -Company Operated		
	Lower Quartile	Median	Upper Quartile	Lower Quartile	Median	Upper Quartile
Sales						
Food	67.4%	71.8%	79.4%	68.8%	72.9%	76.0%
Beverage	20.6	28.2	32.6	24.0	27.1	31.2
Total Sales	100.0	100.0	100.0	100.0	100.0	100.0
Cost of Sales						
Food	29.8	32.9	37.4	27.3	29.8	36.1
Beverage	24.5	30.0	36.2	24.1	26.4	31.3
Total Cost of Sales	28.3	32.4	35.6	26.3	28.6	35.1
Gross Profit	64.4	67.6	71.7	64.9	71.4	73.7
Operating Expenses						
Salaries and Wages (Including Employee Benefits)	27.1	33.3	41.6	31.6	36.1	41.7
Direct Operating Expenses	2.8	7.4	13.7	4.6	5.5	6.4
Music and Entertainment	0.0	0.1	1.1	0.0	0.0	0.1
Marketing	1.1	1.8	3.6	2.0	2.7	3.0
Utility Services	2.1	3.2	4.5	2.9	3.8	4.8
Restaurant Occupancy Costs	**	6.5	9.6	**	**	6.4
Repairs and Maintenance	0.8	1.4	2.2	0.7	0.9	1.7
Depreciation	**	0.9	2.4	**	1.0	2.6
Other Expense/(Income)	0.0	0.0	0.2	**	**	**
General & Administrative Expenses	0.0	1.4	5.5	3.5	4.9	6.2
Corporate Overhead	0.0	2.7	6.5	3.1	4.0	5.5
Total Operating Expenses	59.0	66.9	78.6	58.5	64.2	72.7
Interest Expense	0.0	0.4	1.4	0.0	0.0	0.4
Other Expenses	0.0	0.2	1.8	**	**	**
Income (Loss)						
Before Income Taxes	(2.6%)	1.0%	5.2%	1.3%	3.7%	8.9%

Note: Computations include respondents that provided zeroes and numerical amounts. Computations for operating expenses also include imputed zeroes, when applicable.

* All ratios are based as a percentage of total sales except food and beverage costs, which are based on their respective sales.

** Insufficient data



Maine Innkeepers Association

REPRESENTING MAINE'S BED & BREAKFAST, CAMPS, COTTAGES, HOTELS, INNS, MOTELS & RESORTS SINCE 1921

Secretary Summers and distinguished members of the Maine Regulatory Fairness Board, my name is Greg Dugal and I represent the Maine Innkeepers Association and thank you for the opportunity to speak to you today. The very existence of this Board in its current format is cause for celebration. It is wonderful to think that we have an outlet to share concerns about rules and regulations and proposed legislation and statute, that is populated with business leaders like yourselves who will listen to both sides of the story. We applaud you for this effort.

Many efficiencies and much access have been created in the last year or so. Thanks go out to the administration, the constitutional officers and the Legislature. Many of our issues have been addressed by new legislation to modify or eliminate many hospitality oriented problems. Most notably to the innkeepers of Maine would be the creation of the Office of Small Business Ombudsman. Jay Martin has been a very effective advocate for my members when he has been asked to assist. As we all know the morass of state government can be very difficult to negotiate for an individual or small business. Again in that same vein, the changes and upgrades to the Taxpayer Advocate's role at the Department of Administration and Financial Services (DAFS) provides an outlet for individuals and small business to pursue questions about their taxable status and judgments rendered against them by the Bureau of Revenue Services, hopefully, without the need of a lawyer and have the ability to file an appeal with an impartial appeals officer also hired by the DAFS Commissioner. Lastly, but equally as important are the Governor's Business Account Executives housed in DECD. Deb Neumann and Jaimie Logan have been invaluable resources for small businesses to gain the information they need to make good business decisions and assist small start-ups in gaining the appropriate knowledge to forego multiple issues after their initial investment.

Maine Regulatory Fairness Board Testimony
Friday, February 24, 2012

Sometimes unintended consequences occur when state public policy changes are made with the best of intentions. Today I want to tell you about a change in the public safety policies that threatened the existence of a 140 year old small business in Maine and has the potential to close many more thousands of businesses in Maine. Basically we are talking about the right of local fire chiefs to reopen and reinterpret permits approved and issued many years previously.

Naturally The Cliff House has had many local inspections and state approvals over the many years of its operation. In fact, because we have built several phases under a master plan approved under the Site Location of Development Act in 1976 we have had Maine architects design and obtain approvals from the Fire Marshall's office on multiple occasions.

Recently the State of Maine delegated certain rights of inspection to the local fire chiefs and removed them from the Fire Marshall's office. In turn the towns delegated inspections on these same matters to the local fire chiefs for the express purpose of the proper issuance of licenses without which a business cannot operate. No standards or rights of an impartial appeal were included in this transfer of authority.

As early as 2007 we sought a letter of opinion from our attorneys at Verrill Dana that under NFPA 101 an "approved existing installation shall be permitted to be continued in use." We sought concurrence at that time from RB Allen, our primary fire safety contractor, and Hanover Insurance who holds our property and casualty insurance. All 3 agreed on this interpretation and its applicability to The Cliff House.

In 2011 the local fire chief sought our compliance with the current 75 decibels at the pillow standard and threatened to hold up our licenses because of this. The NFPA 101 code is updated every 3 years and therefore the reason for the grandfather section of the code. The Town Manager intervened and our licenses were approved the very week we were due to open.

We sought a meeting with the town to resolve this for future years. While a meeting was set it was cancelled at the last moment, and never rescheduled. We would note that York has 2 fire chiefs and 2 departments. Neither chief is an employee of the Town, but is elected by the volunteer fire fighters in his department.

At our request the next inspection was scheduled for November 21, 2011 in preparation for our 2012 season, our 140th. This inspection did not go well again. The Town Manager made a brief appearance, but didn't go on the inspection. However, a representative from the Fire Marshall's office was here. He also felt free to open older approved existing permits, but never offered a written opinion.

After intercepting an email from the fire chief to people in and out of town hall stating that we had failed our inspection, we went to Verrill Dana in early January and this resulted in a letter to the Town Manager which reiterated our position that we had an approved existing fire alarm system and added the doctrine of equitable estoppel. Equitable estoppel prevents Chief Bridges from disavowing the decisions of his predecessors. We also had Norris who installed the original systems and RB Allen who has the preventive maintenance contract to attest that the fire alarm system is as originally designed, approved, and installed. Further we noted that to achieve current code standards at The Cliff House would require an investment of more than \$150,000. We also noted that other properties with similar systems built around the same time in the local chief's district were NOT subject to these requirements.

Such a mandate to obtain our licenses could close the hotel and involve the loss of 125 jobs, the breaking of multiple contracts for business booked for the 2012 season, and the loss of taxes for both the state and the municipality. We advised the town that we would seek relief in the courts if we couldn't formulate an agreement by the end of January. We had every expectation that we would prevail in court, but at significant expense.

On January 24, we did achieve an agreement with the local fire chief that called for us to voluntarily invest \$30,000. by purchasing a Firelink 11 fire alarm system chosen by the fire chief to be installed over 4 years after approval by the State Fire Marshal's office and in return he would approve our inspection and we could obtain our licenses to open. Additionally and most importantly the agreement stated that Chief Bridges agreed that The Cliff House has always had and still has an approved existing fire alarm system. Our licenses were duly issued by the town that same week.

However, on February 12 the local fire chief finally issued his inspection report on his November 21 visit and again listed a series of violations including the audible fire alarm standard. He ignored the agreement he signed on January 24.

The State of Maine needs to make clear that approved existing fire alarm systems are permitted in the thousands of buildings built prior to the last upgrade of NFPA 101. Otherwise millions of dollars in new investment would be required to bring these buildings up to current code, the insurance on these buildings would be questioned, and potentially the risk of building in Maine would be prohibitive for new investment.

Kathryn M Weare
Innkeeper
The Cliff House

Martin, Jay

From: john stewart <thegreenhouse420js@gmail.com>
Sent: Friday, February 10, 2012 1:38 PM
To: Martin, Jay
Subject: Medical Marijuana Rules

Follow Up Flag: Follow up
Flag Status: Flagged



Mr. Martin,

I am writing to you today to explain our position on the Medical Marijuana Law and rule making by the DHHS, dept. of licensing and regulatory services.

I have included links to the original peoples law,

http://www.mainelegislature.org/legis/bills/display_ps.asp?ld=975&PID=1456&snum=124 the amendment of the law by the 124 legislature and Governor Baldacci,

http://www.mainelegislature.org/legis/bills/display_ps.asp?ld=1811&PID=1456&snum=124 and the amendment passed last year by the 125 legislature and signed into law by Governor LePage.

<http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0951&item=3&snum=125> also here is the link to the DHHS DLRS Rules established after the Baldacci Amendment that are still in place on their web page. <http://www.maine.gov/dhhs/dlrs/mmm/index.shtml> (see link bottom of DLRS page).

I will try to explain this as concisely as possible, I believe that the rules governing the program have been and are outside of the authority granted to the Dept by Title 5, chapter 375, sub chapter 2-a,

<http://www.mainelegislature.org/legis/statutes/5/title5sec8071.html>.

The citizens initiated bill passed in November of 09, LD1811 Baldacci's Bill signed into law in 2010, and last years LD 1296 signed by Gov. LePage granted authority to the Dept. to issue rules governing the program in accordance with Title 5, ch.375 sub ch.2-a, Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, sub-chapter 2-a.

Routine technical rules are procedural rules that establish standards of practice or procedure for the conduct of business with or before an agency and any other rules that are not major substantive rules as defined in paragraph B. Routine technical rules include, but are not limited to, forms prescribed by an agency; they do not include fees established by an agency except fees established or amended by agency rule that are below a cap or within a range established by statute. <http://www.mainelegislature.org/legis/statutes/5/title5sec8071.html>

Specifically I believe that the Dept. may not have the legal authority to establish fees for caregivers because the Legislature failed to assign Major Substantive rule making authority to the department, see Legislative action para. 1 Title 5 Ch.375

1. Legislative action. All new rules authorized to be adopted by delegation of legislative authority that is enacted after January 1, 1996, including new rules authorized by amendment of provisions of laws in effect on that date, must be assigned by the Legislature to one of 2 categories and subject to the appropriate level of rule-making procedures as provided in this sub-chapter. The Legislature shall assign the category and level of review to all rules at the time it enacts the authorizing legislation. The Legislature may assign different categories and levels of review to different types of rules authorized by the same legislation.

The current bill does have a provision (sec. 22MRSA para.2425 sub para. 3) for the establishment of a fee for registry identification card and for renewal fees but they are not capped and it only says that the department

may establish a sliding scale based upon the patients family income. A sliding scale that has no cap is a pretty broad interpretation of the term 'with in a range'. Also the department is to use the fees to implement the chapter, the current law limits the departments activities with caregivers to just issuing a registry identification card and maintaining a data base. We do not believe that a registry identification card should cost \$300 per patient for up to 5 patients or \$1500 per year. We believe that this is an abuse of the intent of the law and needs to be suspended immediately.

Fees are defined by Title 5 as major substantive rules unless they are below a cap or with in a range, The medical marijuana law only provides for routine technical rules and only provides a cap on dispensary fees, The Citizens initiated bill capped the Dispensary fees at \$5,000, Gov. Baldacci's bill capped the dispensary fees at \$15,000, at no time have the fees for caregivers ever been with in a range or below a cap as established by statute. Based upon Title 5 I believe that the only legal way the dept. could establish a fee on caregivers is to petition the Legislature to propose an emergency bill, or, as it is the second session of the legislature, they could petition the Governor to submit a bill to amend the medical marijuana laws to give the department major substantive rule making authority or to set a range or cap , which would allow the dept to establish a fee under routine technical rules. Further if such action was taken and a bill was passed and signed by the Governor Title 5, Ch.375 defines a time line and specific rules for the establishment of Department rules.

3. Levels of rule-making process. In order to provide for maximum agency flexibility in the adoption of rules while retaining appropriate legislative oversight over certain rules that are expected to be controversial or to have a major impact on the regulated community, each agency rule authorized and adopted after January 1, 1996 is subject to one of 2 levels of rule-making requirements.

A. Routine technical rules are subject to the rule-making requirements of subchapter II only. [1995, c. 463, §2 (NEW).]

B. Major substantive rules are subject to the requirements of section 8072. After January 1, 1996, any grant of general or specific rule-making authority to adopt major substantive rules is considered to be permission only to provisionally adopt those rules subject to legislative review. Final adoption may occur only after legislative review of provisionally adopted rules as provided in section 8072.

The establishment or amendment of an agency fee by rulemaking is a major substantive rule, except for the establishment or amendment of a fee that falls under a cap or within a range set in statute, which is a routine technical rule.

§8071-A. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2011, c. 244, §3 (NEW).]

1. Legislative review session. "Legislative review session" means the regular session of the Legislature convening after the beginning of the legislative rule acceptance period. [2011, c. 244, §3 (NEW) .]

2. Legislative rule acceptance period. "Legislative rule acceptance period" means the period beginning on the July 1st preceding the convening of a regular session of the Legislature and ending at 5:00 p.m. on the 2nd Friday in January after the convening of that regular session of the Legislature.

The establishment of any agency rule that is major substantive is only provisional and must wait until July 1, 2012 to be give to the Legislature for review and the legislature may not act upon the proposed rules until after the second Friday in January, 2013, so the only way that I can see that the department has any right to impose a fee on caregivers is to wait until next year and see if the medical marijuana law is amended.

The Rules that are in place for the program currently that were written by former DLRS director Catherine

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Cobbs were all based upon a very liberal view of the rule making authority give to the department. Rules limiting a caregivers ability to hire more than one person and requiring that person to be background checked and many others are major substantive and do not fit the definition of routine technical proscribed in Title 5. The Department is quoting those rules to prospective caregivers today and those rules have been superseded by the current law, this creates confusion and could potentially harm law abiding citizens. The current law was crafted to include definitions and language to establish clarity and the parameters for the participants of the program. The patient and caregiver sections include enough clarity so that people can see what is allowed and what is not. We do not believe that a lengthy set of rules that limit a persons right grow or obtain their legal medication, or to freely associate with others in a patient/caregiver relationship are necessary. We believe that there should be an immediate suspension of the rules and fees until a thorough review of all agency rules can be completed and proper rule making is defined by statute. to ensure that the laws of the state of Maine are properly followed, and that the people are not unnecessarily burdened with agency rules that impede their quality of life or their ability to support their families.

One other section of the current law grants the authority to define the amount of non flowering plants a caregiver or patient may posses (sec. B-4. MRSA 2422, sub. 4 A) these plants are not useful as medicine but are necessary to grow and posses so that a caregiver or patient can get a plant mature enough to supply a usable amount of mature flowers. While we do not like the current rules adopted by the department there is a rule for the dispensaries that states in section

6.26.1 In addition to the six (6) live marijuana plants per registered patient, the registered dispensary may have plants in varying stages of processing or cultivation in order to ensure that the dispensary is able to meet the needs of its registered patients

We Feel that this is a reasonable rule because we are growing a living plant and there are many unknown factors in agriculture, bugs, molds, mildew, weather . We also think that if the dispensaries need this kind of allowance than the patients and caregivers should also be included into this rule.

I would be happy to work with you to review the rules and to discuss future rules and fees. Thank you for your time and your consideration of our problem