

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

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In re: :

BIG BLACK DOG VICTULARS, INC. : BK No. 99-14240
Debtor Chapter 11

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TITLE: *In re Big Black Dog Victulars, Inc.*

CITATION:

ORDER

On the Debtor's Amended Motion for Reconsideration of this Court's December 17, 1999 Order denying its Motion to Compel the City of Woonsocket to turn over the Debtor's liquor license, we reverse our earlier rulings and now agree with the Debtor's argument as to jurisdiction. This Court initially was of the opinion that it lacked jurisdiction on Eleventh Amendment immunity grounds, and in rejecting the Debtor's argument we gave very broad scope to that provision. In retrospect, we agree that Eleventh Amendment protection extends *only* to "States and state officials in appropriate circumstances." *Mt. Healthy City School District Bd. of Education v. Doyle*, 429 U.S. 274, 280 (1977). Because the City of Woonsocket, a municipality, is not an arm of the State, it is not protected from suit by the Eleventh Amendment, *id.* at 280-81; *Gray v. Laws*, 51 F.3d 426,

430-31 (4th Cir. 1995), and the dispute in question is one within this Court's jurisdiction.

Accordingly, the Debtor's Motion to Compel the City of Woonsocket to turn over the Debtor's liquor license is scheduled for hearing on the merits on Thursday, February 10, 2000, at 9:30 a.m. A Joint Pre-Trial Order shall be filed on or before February 9, 2000.

Dated at Providence, Rhode Island, this 4th day of February, 2000.

/s/Arthur N. Votolato

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Arthur N. Votolato
U.S. Bankruptcy Judge