

NOTICE OF SUSPENSION

February 23, 2011

Re: Essex County Liquors, Inc.
DBA: Alexander's
Premise: 246 Elliot Street
City/Town: Beverly, MA 01915
License #: 010000087
Heard: December 7, 2010

After hearing on December 7, 2010, the Commission finds violations of:

M.G.L. Ch.138 §23- Transfer of the privilege of a license without proper approval.

The above-captioned licensee's license is **suspended indefinitely forthwith** until further order from this Commission.

You are advised that you have the right to appeal this decision under M.G.L. c.30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION



Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Paul Capurso, Investigator
File

DECISION

Re: Essex County Liquors, Inc.
DBA: Alexander's
Premise: 246 Elliot Street
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Essex County Liquors, Inc. dba Alexander's (the "Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §15. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, December 7, 2010, regarding an alleged violation of M.G.L. c.138, §23 detailed in Investigator Paul Capurso's report.

The following documents are in evidence:

1. Investigator Paul Capurso's Report;
2. General Ledger Bogies Beer and Wine;
3. Invoices from Atlantic Importing Company; and
4. M.S. Walker, Inc. Invoices.

There is one (1) tape of this hearing.

FACTS

1. The Commission records for Essex County Liquors, Inc. show the corporate ownership structure, approved by the Commission on September of 2002, as Scott Belanger, President, Director, and fifty (50) percent shareholder and James Fortin, Treasurer, Clerk, Director, and fifty (50) percent shareholder.
2. On September 22, 2008, the Commission received an application to transfer the license from Essex County Liquors, Inc. to Vinifera Wine Company.
3. The corporate structure of Vinifera Wine Company has David C. Liddle as the Sole Officer, Director and shareholder.
4. The application was returned with no action to the Beverly Licensing Board (the "Local Board") because the applicant failed to answer the questions on Form A correctly.
5. On September 22, 2009, the Commission received a resubmitted application to transfer the license from Essex County Liquors, Inc. to Vinifera Wine Company.
6. This application was also returned with no action to the Local Board because the applicant failed to comply with Investigator Guarino's request for documents on October 20, 2009.
7. Each of the times the applications were submitted, they were also denied for failure to comply with Massachusetts state tax laws.

8. On May 15, 2010, the Investigation and Enforcement Division received a complaint regarding the ownership and unpaid taxes for this licensee.
9. On August 18, 2010, Investigator Guarino and Investigator Capurso investigated the licensee in order to determine the manner in which its business was being conducted.
10. Upon entering, the investigators identified themselves and asked to speak to the owner.
11. David Liddle identified himself as the owner and manager.
12. Mr. Liddle cooperated with the investigators and answered all their questions.
13. He stated that he purchased the business and took it over nearly three (3) years ago after signing a purchase and sales agreement with the owners of Essex County Liquors, Inc.
14. The purchase price was roughly \$125,000 of which most was owed to vendors.
15. Mr. Liddle stated he paid all the money on the advice of his attorney and took over ownership.
16. He has done all the hiring, buying and ordering of products, and bill paying, including the lease, for the premises.
17. The money for these expenses are all paid out of a Vinifera Wine Company account held at Citizens Bank where David Liddle is a sole signatory.
18. Mr. Liddle further stated he did not know he still needed to get approved by the Commission before taking control of the business.
19. The alcoholic beverage invoices, in the name of Essex County Liquors, Inc., has the customer's signature signed by David Liddle.
20. A review of the business ledger, which was provided by Mr. Liddle, shows payments made to vendors, payroll service and sales revenue for the business Vinifera Wine Company.
21. A review of invoices from Atlantic Importing Company for this account shows the signature of David Liddle as the customer.
22. Invoice number 212009 was paid from a Vinifera Wine Company checking account, check number 2718, dated September 21, 2010.
23. Invoice number 212795 was paid from a Vinifera Wine Company checking account, check number 2738, dated September 5, 2010.
24. A review of invoices from M.S. Walker, Inc. for this account shows the signature of David Liddle signing as the person who received the products.
25. Invoice numbers 556438 and 556439 were paid from a Vinifera Wine Company checking account, check number 2753, dated October 14, 2010.
26. Invoice number 562445 was paid from a Vinifera Wine Company checking account, check number 2764, dated October 21, 2010.

CONCLUSION

Based on the evidence, **the Commission finds the licensee violated M. G. L. c. 138, §23. Therefore, the license is INDEFINITELY suspended until a transfer by the Commission is approved.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Robert H. Cronin, Commissioner_____

Susan Corcoran, Commissioner_____

Dated: February 23, 2011

You have the right to appeal this decision to the Superior Courts under the provisions of Chapter 30A of the Massachusetts General Laws within thirty (30) days of receipt of this decision.

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Paul Capurso, Investigator
File