



*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150-2358*

Jean M. Lorizio, Esq.
Chairman

DECISION

**PATNAS, INC. D/B/A SOUTH SIDE TAVERN
73-75 LIBERTY STREET
QUINCY, MA 02169
LICENSE#: 1006-00043
VIOLATION DATE: 2012 to 2017
HEARD: 3/28/2019**

Patnas, Inc. d/b/a South Side Tavern (the "Licensee" or "Patnas" or "South Side Tavern") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("Commission" or "ABCC") held a hearing on Tuesday, March 26, 2019 regarding alleged violations¹ of:

- 1) M.G.L. Ch. 138, § 23: Transfer of the privilege of a license without proper approval;
- 2) M.G.L. Ch. 138, § 15A: Failure to disclose all persons who have a direct or indirect beneficial interest or financial interest in said license;
- 3) 204 CMR 2.05 (1) Permitting Gambling.

The violations are alleged to have occurred on various dates from 2012 to 2017. Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Di Cicco's Report.

The following documents are in evidence:

1. Investigator Di Cicco's Amended Investigative Report;
2. Licensee's 2013 ABCC License Renewal;
3. Licensee's 2014 ABCC License Renewal;
4. Licensee's 2015 ABCC License Renewal;
5. Licensee's 2015 City of Quincy License Renewal;
6. Licensee's 2016 ABCC License Renewal;
7. Licensee's Internal Checklist;

¹ The Investigative Unit announced at the start of the hearing that although the hearing notice and Investigative Report cited four violations, it was only moving forward with the last three counts. The violation of M.G.L. c. 138, § 64: License issued under this chapter by the local licensing authorities in violation of M.G.L. c. 138, § 16A was withdrawn.

8. Photo of Safe at the Licensed Premises;
9. Photo of Office Door inside Licensed Premises;
10. Photo of Box of Dice with Envelope;
11. Photo of Box of Dice, U.S. Currency, and Envelope;
12. Photo of Post-It® Note;
13. Photo of Interior of Licensed Premises;
14. Suffolk Superior Court Indictments;
15. Docket Sheet for Suffolk Superior Court Case 1784-CR-00677;
16. Licensee's Transfer Application – Disapproved, 7/7/2011;
17. Licensee's Transfer Application – Approved, 2/23/2012;
18. Affidavit of John J. Manning, IV;
19. Licensee's Articles of Organization as filed with the Secretary of the Commonwealth ("SoC"), 2/18/2010;
20. Licensee's 2011 Annual Report filed with the SoC, 3/11/2011;
21. Licensee's 2012 Annual Report filed with the SoC, 6/27/2012;
22. Licensee's 2013 Annual Report filed with the SoC, 2/4/2013;
23. Licensee's 2014 Annual Report filed with the SoC, 3/3/2015;
24. Licensee's 2015 Annual Report filed with the SoC, 1/31/2015;
25. Licensee's 2016 Annual Report filed with the SoC, 1/31/2016;
26. Licensee's 2017 Annual Report filed with the SoC, 1/31/2017;
27. Horizon Beverage Company Invoices for Patnas, Inc.;
28. Martignetti Companies Invoices for Patnas, Inc.;
29. M.S. Walker Invoices for Patnas, Inc.;
30. Horizon Beverage Company Customer Portal User Account Sign-Up Form, 1/5/2017;
31. Martignetti Companies Credit Application for Patnas, Inc.;
32. Patnas Check to Horizon Beverage Co., 11/28/2016;
33. Audio Recording of Suffolk Superior Court Criminal Plea Colloquy by John Manning IV in the matter of Commonwealth v. Patnas, Inc., Docket No. 1784-CR-00677;
34. Licensee's Stipulation of Facts.

There is one (1) audio recording of this hearing.

FINDINGS OF FACT

After conducting a hearing and reviewing all evidence, the Commission finds the following:

1. Patnas, Inc. d/b/a South Side Tavern (the "Licensee" or "Patnas" "South Side Tavern") is a Massachusetts corporation located at 73-75 Liberty Street, Quincy, Massachusetts. Patnas holds a M.G.L. c. 138, § 12 all alcoholic beverages license. (Exhibits 1, 17)
2. Commission records indicate the license was approved on February 23, 2012. The only approved officer, director, and stockholder is John Manning IV. Mr. Manning is also the approved Manager of Record. (Exhibit 17, 18)
3. Massachusetts Secretary of the Commonwealth, Corporations Division shows Patnas, Inc. filed its Articles of Organization on February 18, 2010, listing Manning as the only officer and director of the corporation. (Exhibits 19, 20 – 26)

4. On April 5, 2017, at approximately 10:30 a.m., Investigators Lordan, Temple, and Di Cicco, along with Chief Investigator Frederick Mahony conducted an investigation of the business operation of Patnas, Inc. d/b/a South Side Tavern to determine the manner in which its business was being conducted. During this same time, members of the Massachusetts State Police ("MSP Troopers") were executing a search warrant of the licensed premises. (Exhibit 1)
5. When Investigators and Troopers entered the licensed premises, they encountered two individuals. Chris Corbett informed Investigators that he was the head cook and ran the kitchen. Jean Demulis informed Investigators that she was a bartender. (Exhibit 1)
6. Investigators observed an office located in the basement of the premises. The office door had a name plate bearing the name of Sean Conroy. (Exhibits 1, 9)
7. At approximately 11:20 a.m., Investigators spoke to Demulis who stated that she had worked at South Side Tavern since it opened. Demulis further stated that her bosses were John Manning, Sean Conroy, as the manager, and Patrick Dolbeare, who was a silent partner. (Exhibit 1)
8. Demulis stated to Investigators that Dolbeare handled the operations and the building; Manning was the general manager; and Conroy opened and closed the bar, ordered all the alcoholic beverages, and managed the employees. Investigators asked when Conroy would be at the premises. Demulis stated Conroy had already been there that morning. (Exhibit 1)
9. Also on April 5, 2017, Investigators Lordan and Di Cicco, while inside the licensed premise, observed a wooden box, containing a small basket, on the bar. The basket held five die. The box held an envelope which contained \$249.00 in U.S. Currency. The envelope had writing on both sides indicating dates, cash amounts and signatures. (Exhibit 10)
10. Based on their training and experience, Investigators recognized these items were consistent with illegal gambling. Investigators also observed the establishment was authorized to have Massachusetts State Lottery gaming on the premises. (Exhibit 1)
11. Investigators asked Jean Demulis about the items found at the bar. Demulis informed Investigators that it cost one dollar to play and a person could play once a day or once more when a new bartender came on duty at the shift change. Demulis stated that if a person rolled a Yahtzee (all five die the same), the person would win the pot. Demulis stated when a pot was won, ten percent was kept back to begin a new pot. (Exhibit 1)
12. Investigators left the premises and followed up on the information they had received from Demulis. A review of Commission records and the Secretary of the Commonwealth's Corporations Division website showed John Manning as the only approved officer, director, stockholder, and manager of record. There were no other applications showing any changes to the ownership, beneficial interest or manager of record. (Exhibits 16 – 26)
13. Later, on April 5, 2017, at approximately 2:00 p.m., Investigators Temple and Di Cicco returned to South Side Tavern. As they approached the entrance, Investigators observed

two individuals, a man and a woman, exiting the premises. Investigators entered and spoke to Jean Demulis about the management of the restaurant. Demulis confirmed what she had stated earlier that Manning oversees operations while Conroy is responsible for the day-to-day operations, and Dolbeare is there three to four times a week. (Exhibit 1)

14. While Investigators were interviewing Demulis, Corbett interrupted them and pulled Demulis away to speak to her in the back-kitchen area. Upon their return, Corbett informed Investigators that neither of them know anything about the ownership structure, and repeated that Demulis did not know anything. (Exhibit 1)
15. Investigators informed Corbett that his behavior and his attempt to silence Demulis could be considered to be hindering and delaying an investigator. Corbett agreed to speak with Investigators off of the main floor. (Exhibit 1)
16. Corbett informed Investigators that the couple who left the premises as the Investigators entered were Sean Conroy and his wife. Corbett stated that Conroy instructed him not to answer any questions about the ownership structure and tell Investigators that he did not wish to speak with them. Investigators asked Corbett to describe Conroy's role at the restaurant. Corbett stated that Conroy ran the day-to-day operations of the establishment. (Exhibit 1)
17. Investigators reviewed the administrative files and renewal applications of the Quincy Licensing Board and the ABCC for South Side Tavern. The Licensee's current email address is listed as seanconroy88@gmail.com. Prior to 2015 and 2016 renewals, Licensee's email was listed as info@sstavern.com. (Exhibits 1, 2 - 6)
18. Investigator Di Cicco contacted various alcoholic beverages distributors and requested documents relating to South Side Tavern. A Horizon Beverage Company Massachusetts Customer Portal User Sign-Up Form lists Sean Conroy as the owner of South Side Tavern. Horizon also provided several checks made out to Horizon drawn on the Licensee's Eastern Bank account and which appear to be signed by Conroy. (Exhibits 1, 27 - 32)
19. A credit application obtained from Martignetti Companies lists Sean Conroy as manager and accounts payable contact for South Side Tavern but indicates Mr. Manning is the owner. (Exhibit 31)
20. On Friday, June 2, 2017, Investigator Di Cicco contacted John Manning to arrange for an interview. Manning stated he would be available for an interview but wanted to bring his attorney with him. Di Cicco and Manning agreed to meet on Wednesday, June 7, 2017 at 1:00 p.m. in the ABCC office. (Exhibit 1)
21. On Monday, June 5, 2017, Investigator Di Cicco called Mr. Manning to confirm their appointment. He was unable to reach him and left Mr. Manning a voicemail message. At approximately 4:15 p.m., Attorney Brad Bailey contacted Investigator Di Cicco. Attorney Bailey stated that he advised Mr. Manning not to answer any questions about the ownership of the business. Bailey said there was another investigation in which Manning was involved. Investigator Di Cicco informed Bailey that he would inform Chief Investigator Mahony of this message. (Exhibit 1)

22. On June 8, 2017, at approximately 12:20 p.m., Investigators Temple and Di Cicco entered the licensed premises to interview Sean Conroy. Investigators spoke to the bartender on duty, Doris Dejesus who informed them that Conroy was not on the premises. Dejesus stated that Conroy usually comes by in the morning. (Exhibit 1)
23. Investigators asked if Patrick Dolbeare, John Manning or Chris Corbett were available. Dejesus stated the none of the men were available. Dejesus confirmed that Manning, Dolbeare, and Conroy were the owners of the establishment. (Exhibit 1)
24. Investigators then made contact with Conroy. Corbett stated that he had not seen Dolbeare. Corbett informed Investigators that Conroy is his boss and confirmed Conroy's cell phone number to Investigators. (Exhibit 1)
25. As Investigators left the licensed premises, they called Conroy on his cell phone number, but there was no answer. Investigator Di Cicco left Conroy a voice message with his name, job title, and phone number, and asked that Conroy return his call. (Exhibit 1)
26. Investigators had reviewed Commission files and discovered that Conroy is a stockholder and the manager of record for Camden SST Inc. d/b/a South Side Tavern ("Camden SST") located at 941 Washington Street, Braintree, Massachusetts.
27. At approximately 1:15 p.m., Investigators Temple and Di Cicco entered the licensed premises of Camden SST and asked to speak with Conroy. A hostess informed Investigators that Conroy was not in and she contacted her boss. (Exhibit 1)
28. Investigators then met with Matthew Kielty, who stated that he was one of the owners. Kielty then made contact with Conroy. Kielty informed Investigators that Conroy did not wish to talk to them, and they should contact Conroy's attorney, Bob Griffin. Kielty provided Investigators with a number for Attorney Griffin, and the Investigators left the premises. (Exhibit 1)
29. Investigators contacted Attorney Griffin and asked to interview Conroy. Griffin informed Investigators that Conroy would not speak to anyone at this time and would invoke his 5th Amendment right. (Exhibit 1)
30. On June 28, 2018, in Superior Court case No. 1784-CR-00677, Patnas, Inc. and Mr. Manning pled guilty to charges of Organizing & Promoting Illegal Gambling, Delivery To/From Person Engaged in Illegal Gambling, Conspiracy to Register Bets, Money Laundering and Keeping a Place for Registering Bets. (Exhibits 14, 15)
31. Per order of the Superior Court, the Licensee was closed for the month of September 2018. (Exhibit 33)
32. Patnas, Inc. was fined \$50,000.00 as a result of the guilty plea. (Exhibit 33)
33. Mr. Manning, through his attorney, admitted that due to family responsibilities, he had been spending less and less time at the licensed premise and relied on Mr. Conroy to oversee much of the daily business at the premise.

DISCUSSION

Licenses to sell alcoholic beverages are a special privilege subject to public regulation and control, Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 619 (1956), for which States have especially wide latitude pursuant to the Twenty-First Amendment to the United States Constitution. Opinion of the Justices, 368 Mass. 857, 861 (1975). The procedure for the issuance of licenses and required conduct of licensees who sell alcoholic beverages is set out in Massachusetts General Laws, Chapter 138.

Chapter 138 gives the Commission the authority to grant, revoke and suspend licenses. Chapter 138 was “enacted ... to serve the public need and ... to protect the common good.” M.G.L. c. 138, § 23. “[T]he purpose of discipline is not retribution, but the protection of the public.” Arthurs v. Bd. of Registration in Medicine, 383 Mass. 299, 317 (1981). The Commission is given “comprehensive powers of supervision over licensees.” Connolly, 334 Mass. at 617.

Every violation the Commission finds must be based on substantial evidence. See Embers of Salisbury, Inc. v. Alcoholic Beverages Control Comm'n, 401 Mass. 526, 528 (1988). “Substantial evidence” is “such evidence as a reasonable mind might accept as adequate to support a conclusion.” Id. Evidence from which a rational mind might draw the desired inference is not enough. See Blue Cross and Blue Shield of Mass. Inc. v. Comm'r of Ins., 420 Mass 707, 710

M.G.L. c. 138, § 23 – Transfer of the privilege of a license without proper approval

M.G.L. Ch. 138, § 15A: Failure to disclose all persons who have a direct or indirect beneficial interest or financial interest in said license

Implicit in the transfer of a license is the surrender of control. A “transfer of a business takes place when the person introduced to it runs the business for his own account.” Griffin’s Brant Rock Package Store, Inc. v. Alcoholic Beverages Control Commission, 12 Mass. App. Ct. 768, 771, 429 N.E.2d 62, 65 (1981).

While the Licensee stipulated to the facts in the Investigator’s Report, its contention is that 100% ownership has always remained with Mr. Manning and that no one else has ever had any indirect beneficial or financial interest in the business. Testimony was offered through counsel wherein the Licensee conceded that he had been less involved with the day to day operations of the premise given his family responsibilities² and he relied on employees to perform many of his duties.

The Appeals Court in Griffin’s stated that “[i]nvolvement of other interests falls short of a license transfer.” See id. at 774. In Griffin’s, as in the instant case, there was no evidence in the record of any person or entity other than those approved by the local board and the Commission holding any stock interest or serving as pledgee of any stock interest. The Court in Griffin’s goes on to state that, “[w]hile the record justifies the commission in having prudent suspicions of more than friendly interests by others, suspicions are an insufficient basis for licensing sanctions.” Id. at 773

² The Commission advises the Licensee that if he is not able to fulfill his responsibilities as manager of record he should consider appointing another person as manger and filing the required application with the local board.

(citing Wilkenfeld v. Meiklejohn, 216 So. 2d 237, 239 (Fla. Dist. Ct. App. 1968); Jenkins v. Beary, 241 So. 2d 866, 867 (Fla. Dist. Ct. App. 1970)).

Based upon a review of the evidence presented, the Commission does not find a transfer of the privilege of a license, or a failure to disclose all having a direct or indirect beneficial or financial interest in the license occurred.

204 CMR 2.05 (1) Permitting Gambling

It is undisputed that the Licensee permitted gambling on the licensed premise.

CONCLUSION

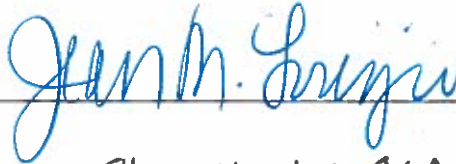
Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05 (1) Permitting Gambling. The Commission **suspends the license for a period of five (5) day of which five (5) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

The Commission finds no violation of:


1. M.G.L. Ch. 138, § 23: Transfer of the privilege of a license without proper approval; and
2. M.G.L. Ch. 138, § 15A: Failure to disclose all persons who have a direct or indirect beneficial interest or financial interest in said license.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



Elizabeth A. Lashway, Commissioner



Dated: September 24, 2019

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.

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Joseph Di Cicco, Investigator
Christopher Temple, Investigator
Lisa (Lordan) Watson, Investigator
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