

The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Steven Grossman
Treasurer and Receiver General

Kim S. Gainsboro, Esq.
Chairman

NOTICE OF CANCELLATION

December 14, 2011

Revere Businessmen's Association, Inc.
163 Squire Road
Revere, MA 02151
License #: 102200120
Heard: 05/31/2011

After a hearing was held on May 31, 2011, the Commission finds that the Revere Businessmen's Association, Inc. in violation of:

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

The above captioned licensee's license is canceled forthwith as of December 14, 2011.

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

Kim S. Gainsboro
Chairman

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



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DECISION

Revere Businessmen's Association, Inc.
163 Squire Road
Revere, MA 02151
License #: 102200120
Heard: 05/31/2011

Revere Businessmen's Association, Inc. (the "Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, May 31, 2011, regarding alleged violations of M.G.L. c.138, §23 detailed in Investigator Paul Capurso's violation report.

The following documents are in evidence:

1. Investigator Paul Capurso's Report dated March 24, 2011;
2. Letter dated March 8, 2011 from Janine T. Bandino;
3. Secretary of State Corporation Printout; and
4. Letter dated April 5, 2011 from Janine T. Bandino.

There is one (1) tape of this hearing.

FACTS

1. The records for the Revere Businessmen's Association, Inc. indicate the following corporate ownership structure approved by the Commission:
 - President: James Padova, Treasurer: Rosario C. Balliro, Clerk: John Ferrelli, Assistant Clerk: Sal Vitale, Director: Rosario C. Balliro, Director: Sam Aresco, Director: Sal Vitale, Director: John Ferrelli.
2. A recent search of the Secretary of State Corporate Database indicates that on February 11, 2011, a "Certificate of Change of Directors or Officers" was filed, changing the corporate structure to:
 - President: Tina Surabian, Treasurer: Tina Surabian, Clerk: James Carter, Assistant Clerk: Cariton Peters, Director: Stacie Prizio, Director: Joanne Russano, Director: Sal Vitale, Director: John Ferrelli.
3. On March 8, 2011, the Commission received a letter from Attorney Janine T. Bandino, in the letter Attorney Bandino identifies Tina Surabian as, "the new owner/manager of the Revere Businessmen's Association, Inc."

4. The letter further states, "Since she (Tina Surabian) has been manager, she had complied with all legal requirements concerning the club's license.
5. Specifically, she obtained dram shop insurance and premise liability insurance coverage.
6. On March 29, 2011, Investigators Doyle and Capurso entered the license premise, identified themselves and asked to speak to the owner.
7. The bartender later identified as Ms. Prizio, stated that the owner was not there.
8. When asked for the owners name Ms. Prizio stated, "Tina Surabian."
9. Investigator Capurso asked if Tina had any partners and Ms. Prizio stated, "No, she owns it herself."
10. Investigator Capurso asked Ms. Prizio to contact the owner so that he may speak with her.
11. Ms. Prizio then called and spoke with someone on the phone and handed the phone to Investigator Capurso.
12. Investigator Capurso then identified himself and asked who he was speaking to and a gentleman stated, "Joe."
13. Investigator Capurso asked if he was the owner and the person responded, "No. my girlfriend Tina is." Investigator Capurso then stated that he needed to speak with the owner and the person stated, "She's here but I handle everything, so you're better off talking to me," so Investigator Capurso asked the person for their full name and he stated Joe Bocchetti."
14. Investigator Capurso stated that he really needed to speak with the owner and the person in charge of the business and Mr. Bocchetti stated, "Well, Tina's the owner but I help her and do everything for her." Investigator Capurso then asked Mr. Bocchetti to let him speak to Ms. Surabian.
15. Investigator Capurso then spoke with a woman who identified herself as Tina Surabian and asked her if she was the owner and she stated, "Yes."
16. Investigator Capurso then asked her how long she owned the business and she repeated the question.
17. In the background, Investigator Capurso could hear Mr. Bocchetti say since November or December.
18. Ms. Surabian then stated, "November or December."
19. Investigator Capurso then asked how much she bought the business for and again she repeated the question and Mr. Bocchetti was heard saying twenty-five thousand (25,000) dollars.
20. Ms. Surabian then stated, "twenty-five thousand (25,000) dollars."
21. Investigator Capurso asked if they already paid the money and again Ms. Surabian repeated the question and Mr. Bocchetti was heard saying yes, then Ms. Surabian stated, "Yes, I did."
22. Investigator Capurso then asked Ms. Surabian why she is repeating all the questions he asked to Mr. Bocchetti and waiting for his answer and she again repeated the question and Mr. Bocchetti was heard saying, "Because, I help you."
23. Ms. Surabian then stated, "Because he helps me run the business."
24. Investigator Capurso then asked who pays for the alcohol; again she repeated the question and Mr. Bocchetti was heard saying the accountant Ron Marciello.
25. Ms. Surabian stated, "Ron Marciello is my accountant, you know who he is."
26. Investigator Capurso then stated he was not from Revere and had no idea who Ron Marciello is.
27. Investigator Capurso then asked why the license was never transferred to her and again she repeated the question and Mr. Bocchetti was heard saying the lawyer is doing the papers.
28. Ms. Surabian then stated, "The lawyer is doing it, getting the papers."
29. Investigator Capurso then asked who pays the rent, to who and how much.
30. She again repeated the question and Mr. Bocchetti was heard saying this is ridiculous just tell him the accountant and the lawyer do it all.
31. Ms. Surabian then stated, "The accountant handles that and my lawyer too."
32. Investigator Capurso asked if she knew who the landlord was or how much the rent was.
33. Again, she repeated the question and Mr. Bocchetti was heard saying to give him the phone.

TRANSMISSION VERIFICATION REPORT

TIME : 12/14/2011 11:19
NAME : INVESTIGATIVE UNIT
FAX : 6177273065
TEL : 6177273040
SER. # : BROD7J641749

DATE, TIME 12/14 11:19
FAX NO./NAME 915088757843
DURATION 00:00:00
PAGE(S) 00
RESULT BUSY
MODE STANDARD

BUSY: BUSY/NO RESPONSE



The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

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FAX COVER SHEET

To: *Amin Barinani* Fax: *508 875 7843*
From: *Lisa Lordan* Date: *12/14/11*
Re: *Hearing rescheduled* Pages Including Cover: *2*

Urgent

For Review

Please Comment

Please Reply

34. Ms. Surabian stated, "You're asking me questions I don't know. I own the place but I own other places too. And I get them all confused. Here's Joe."
35. Mr. Bocchetti then was on the phone and he stated, "The rent is twenty-four hundred (2400) dollars a month and it's paid to Walter Zenken."
36. Mr. Bocchetti also stated, "We are working out of the register. Whatever money comes in, we pay the bills with."
37. She just took it over and we have been doing all we can putting money into repairs, the ceiling, the electrical, the heating, doors, this place is like a battleship with no bottom, all kinds of issues."
38. Investigator Capurso then told Mr. Bocchetti that they should talk with their attorney and if she had any questions to contact him and that he would leave his card with Ms. Prizio.
39. Investigator Doyle and Capurso then spoke with Ms. Prizio who stated she has been working at the bar for about a year and was hired by the old owners but Ms. Surabian kept her on to work the bar.
40. Ms. Prizio further stated she is paid cash and that Ron Marciello usually orders the alcohol and pays cash for it too.
41. On Tuesday, April 5, 2011, Investigator Capurso spoke with Attorney Janine Bandino.
42. Attorney Bandino stated she represents Tina Surabian who owns the Revere Businessmen's Association, Investigator Capurso then asked how she could own it if she hasn't been approved by the Commission and Attorney Bandino stated, "Tina bought the business and we haven't filed the papers yet. I sent a letter to the ABCC and haven't heard back from them regarding the suspension of the license."
43. Investigator Capurso then informed Attorney Bandino that her client may be operating illegally and Attorney Bandino stated that Tina bought the business and she is trying to do the right thing, and went on to state all the things Tina has done to the business, including purchasing insurance.
44. Investigator Capurso then asked Attorney Bandino if she could provide him with a copy of the Purchase and Sales agreement which was subsequently provided.

DISCUSSION

General Laws Chapter 138, § 23, Transferring Privilege of license without approval. 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). The Commission is instructed by the cases of Cleary v. Cardullo's, Inc., 347 Mass. 337, 346-350, 198 N.E.2d 281 (1964) and Number Three Lounge, Inc. v. Alcoholic Beverages Control Comm., 7 Mass.App. 301, 304-308, 387 N.E.2d 181 (1979). As characterized by the Appeals Court in the Griffin's Brant Rock case, "[i]n Cleary, the purported principal contributed no financial resources and was wholly dependent on his father and corporations controlled by his father." Griffin's Brant Rock Package Store, Inc., 12 Mass.App.Ct. at 773, 429 N.E.2d at 65, and "[i]n Number Three Lounge, there was evidence that a son-in-law of a person who had been refused a license was substituted as an applicant, but the substitution lacked all economic substance. Griffin's Brant Rock Package Store, Inc., 12 Mass.App.Ct. at 773-774, 429 N.E.2d at 66.

The Commission is convinced by satisfactory proof and finds that there was a transfer of license without first obtaining permission from both the local board and the ABCC as required by statute, M.G.L. c.138, §23, the license being illegally transferred to Tina Surabian as identified and proved by the investigator. The Commission is furthermore persuaded that there was a transfer of the privilege of a license without proper approval by the aforementioned documents and both Attorney Bandino's and Ms. Sarabian's statements and admissions to the investigator as proved by the exhibits and testimony before the Commission.

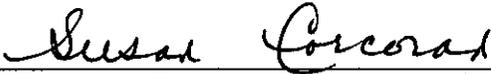
The acts of handing over control of the licensed premise to Ms. Sarabian, who was not approved by the Local Board and Commission and allowing her to run it for hers own account by hiring and supervising the employees, paying all expenses and collecting the cash receipts is a violation of both M.G.L. Ch. 138 §23.

CONCLUSION

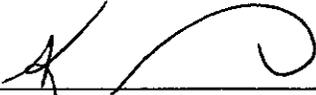
The Commission finds the licensee Revere Businessmen's Association, Inc. violated M.G.L. Ch. 138, §23, transfer of the privilege of a license without proper approval, to Tina Surabian and **CANCELS the license forthwith.**

The Commission warns the licensee that any future applications will be reviewed pointedly given the conduct of the licensee and Ms. Surabian in this application. See, e.g., In re: Trakside of Oxford, Inc., Oxford (ABCC Decision dated May 23, 2006).

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner 

I, the undersigned, hereby certify that I have reviewed the hearing record and concur with the above decision.

Kim S. Gainsboro, Chairman 

Dated: December 14, 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: File
- Local Licensing Board
- Frederick G. Mahony, Chief Investigator
- Paul Capurso, Investigator
- Administration