

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 SUSPENSION

August 6, 2013

PRIDE CONVENIENCE, INC. DBA PRIDE CONVENIENCE
1225 PARKER ST
SPRINGFIELD, MA 01129
LICENSE#: 122600318
VIOLATION DATE: 03/18/2013
HEARD: 07/16/2013

After a hearing on July 16, 2013, the Commission finds Pride Convenience, Inc. dba Pride Convenience located at 1225 Parker Street, Springfield, MA violated of 204 CMR 2.01 (8)-All applications shall be made under the penalties of perjury and any false statement contained in an application shall be a cause or ground for refusing to grant the license or for suspending, canceling or revoking the license already granted.

The above-captioned licensee's license is **SUSPENDED INDEFINITELY effective forthwith** until further written order of the 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.

Kim S. Gainsboro
Chairman

- cc: Local Licensing Board
- Frederick G. Mahony, Chief Investigator
- Jan Kujawski, Investigator
- James R. Channing Esq. via facsimile 413-731-5852
- Administration
- File



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

Steven Grossman
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DECISION

PRIDE CONVENIENCE, INC. DBA PRIDE CONVENIENCE
77 WEST STREET
SPRINGFIELD, MA 01129
LICENSE#: 122600170
VIOLATION DATE: 03/18/2013
HEARD: 07/16/2013

PRIDE CONVENIENCE, INC. DBA PRIDE CONVENIENCE
1225 PARKER ST
SPRINGFIELD, MA 01129
LICENSE#: 122600318
VIOLATION DATE: 03/18/2013
HEARD: 07/16/2013

PRIDE CONVENIENCE INC. DBA PRIDE
375 KING STREET
NORTHAMPTON, MA 01060
LICENSE#: 090000059
VIOLATION DATE: 03/18/2013
HEARD: 07/16/2013

PRIDE STORES INC. DBA PRIDE MARKET
13 NORTH MAIN ST
EAST LONGMEADOW, MA 01028
LICENSE#: 032800042
VIOLATION DATE: 03/18/2013
HEARD: 07/16/2013

Pride Convenience, Inc. dba Pride Convenience (the "Licensee") located at 77 West Street, Springfield, holds an alcohol license issued pursuant to M.G.L. c. 138, §15. Pride Convenience, Inc. dba Pride Convenience (the "Licensee") located at 1225 Parker Street, Springfield, also holds an alcohol license issued pursuant to M.G.L. c. 138, §15. Pride Convenience, Inc. dba Pride Convenience (the "Licensee"), located at 375 King Street, Northampton, also holds an alcohol license issued pursuant to M.G.L. c. 138, §15. Pride Convenience, Inc. dba Pride Convenience (the "Licensee"), located at 13 North Main Street, East Longmeadow, also holds an alcohol license issued pursuant to M.G.L. c. 138, §15.

The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, July 16, 2013, regarding an alleged violation of 204 CMR 2.01 (8)-All applications shall be made under the penalties of perjury and any false statement contained in an application shall be a cause or ground for refusing to grant the license or for suspending, canceling or revoking the license already granted. Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Kujawski's Report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
2. Investigator Kujawski's Investigative Report dated March 18, 2013.

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

FACTS

1. On Monday, March 18, 2013, Pride Stores LLC, Chicopee, MA submitted an application for a new §15 annual wine & malt section 15 license in the city of Chicopee.
2. The application was assigned to Investigator Kujawski for investigation.
3. Investigator Kujawski reviewed the application.
4. This review showed that [REDACTED] was a principal of the applicant business organization.
5. In fact, Mr. [REDACTED] failed to disclose in this application that he had a felony conviction in 1974, and multiple misdemeanor convictions in 1998.
6. Administrative review of the files shows that Mr. [REDACTED] currently holds a direct or indirect beneficial interest in four additional section 15 licenses, which are:
 - o Pride Convenience Inc. dba Pride Convenience located at 1225 Parker St., Springfield;
 - o Pride Convenience Inc. located at 77 West St., Springfield;
 - o Pride Convenience Inc. dba Pride located at 375 King St., Northampton;
 - o Pride Stores Inc. dba Pride Market located at 13 North Main St., East Longmeadow.
7. In the application dated December 15, 2005 seeking the license for Pride Convenience Inc. at 1225 Parker St., Springfield, Mr. [REDACTED] answered "No" to question 14f.
8. In the application dated January 16, 2006 seeking the license for Pride Convenience Inc. at 77 West St., Springfield, Mr. [REDACTED] answered "No" to question 14f.
9. In the application dated November 9, 2002 seeking the license for Pride Convenience Inc. in Northampton, Mr. [REDACTED] answered "No" to question 14f.
10. In the application form dated February 23, 2012 for Pride Convenience, Inc. in East Longmeadow, Mr. [REDACTED] answered "No" to question 3 on the Personal Information Form.
11. These four (4) application forms were all signed under the penalties of perjury. Each application form failed to disclose Mr. [REDACTED]'s felony conviction and multiple misdemeanor convictions.

DISCUSSION

In reviewing the authority of the authority of the Commission, the Supreme Judicial Court has held that [t]he powers of the States in dealing with the regulation of the sale of intoxicating liquors are very broad. What they may wholly prohibit, they may permit only on terms and conditions prescribed by the Legislature. Supreme Malt Products Co., Inc. v. Alcoholic Beverages Control Commission, 334 Mass. --; Ziffrin, Inc. v. Reeves, 308 U.S. 132, 138-139; Carter v. Virginia, 321 U.S. 131, 137-143. In dealing with a trade, which, because of its great potential evils, can be wholly prohibited, a wide power is given to the Legislature with respect to the delegation of discretionary powers. Connolly v. Alcoholic Beverages Control Commission, 334 Mass. 613, 619 (1956).

The Supreme Judicial Court has held that, “[t]he legislative history of [the Commission’s enabling act], and of M.G.L. (Ter.Ed.) Ch. 138, as amended, clearly shows that the powers of the commission were not intended to be perfunctory or limited. In the very respect here in issue, the approval or disapproval of the action of local licensing authorities, that history indicates that the Commission was charged with important responsibilities and that it was not to be narrowly restricted in performing them.” Connolly v. Alcoholic Beverages Control Commission, 334 Mass. 613, 617 (1956).

General Laws chapter 138, section 15 provides, in pertinent part, that “[n]o license shall be issued to any applicant who has been convicted of a felony.” ██████████ was convicted of a felony. Mr. ██████████ is statutorily disqualified from being issued a section 15 license. The Commission is charged with the responsibility to “pierce labels, look beyond form, and come to grips with the substance of the corporate relationship and the economic realities that are present.” Number Three Lounge, Inc. v. ABCC, 7 Mass.App.Ct. 301, 311 (1979).

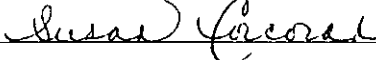
When Mr. ██████████ testified at the hearing and was questioned by counsel, Mr. ██████████ admitted that he was involved in the preparation of the application. He stated that he did not believe that he had a record and thought his cases had “been cleared up.”

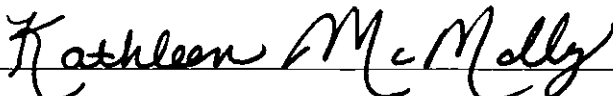
CONCLUSION

Based on the evidence, the Commission finds the licensee violated 204 CMR 2.01 (8)-All applications shall be made under the penalties of perjury and any false statement contained in an application shall be a cause or ground for refusing to grant the license or for suspending, canceling or revoking the license already granted. Therefore, the Commission **INDEFINITELY SUSPENDS** the license of, **effective forthwith** until further written order of the Commission.

The Commission will not issue any further order without a written request from the licensee showing good cause to reconsider this indefinite suspension and a hearing before the Commission that the licensee attends. Good cause will require all applications necessary to divest [REDACTED]'s direct or indirect beneficial interest in these licenses.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner 

Kathleen McNally, Commissioner 

DATE: August 6, 2013

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
Jan Kujawski, Investigator
James R. Channing Esq. via facsimile 413-731-5852
Administration
File