



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

Steven Grossman
Treasurer and Receiver General

NOTICE OF SUSPENSION

Kim S. Gainsboro, Esq.
Chairman

January 27, 2014

EAST SIDE PIZZA, INC. DBA EAST SIDE PIZZA
1 CASWELL STREET
TAUNTON, MA 02718
LICENSE#: 126400118
VIOLATION DATE: 06/17/2013
HEARD: 11/26/2013

After a hearing on November 26, 2013, the Commission finds East Side Pizza, Inc. dba East Side Pizza in violation of:

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

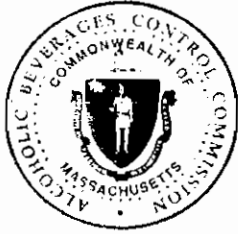
The above-captioned licensee's license is **SUSPENDED INDEFINITELY FORTHWITH** until further written order from this Commission.

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
Jamie Binienda, Investigator
Nicholas Velez, Investigator
Lt. Dan McCabe, Taunton Police Department
Administration
File



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DECISION

EAST SIDE PIZZA, INC. DBA EAST SIDE PIZZA
1 CASWELL STREET
TAUNTON, MA 02718
LICENSE#: 126400118
VIOLATION DATE: 06/17/2013
HEARD: 11/26/2013

East Side Pizza, Inc. dba East Side Pizza (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, November 26, 2013, regarding an alleged violation of:

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

The above captioned occurred on June 17, 2013, according to Investigator Binienda's Investigative Report.

The following documents are in evidence as exhibits:

1. Investigator Binienda's Investigative Report dated June 17, 2013;
2. Licensee's Lease for Premises at 1 Caswell Street, Taunton, MA;
3. Licensee's Sale of Business Assets to Mukteshwar Corporation Inc.;
4. Taunton Police Department Incident Report # 12023007 dated November 15, 2012;
5. Licensee's Filings from Massachusetts Secretary of State Office, Corporations Division;
6. Photocopies of Licensee's Documents; and
7. Photocopies of Check Payments to Wholesalers from Mukteshwar Corporation Inc.

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

The Commission took administrative notice of the Licensee's file and records.

FACTS

1. On March 4, 2003, the Commission approved a new License for East Side Pizza, Inc. dba East Side Pizza located at 1 Caswell Street, Taunton, MA. John W. Ritchie was the sole officer, director, and stockholder of the corporation. John Furtado, Jr. was the license manager.

2. In the application, question 14 and 14a states that John W. Ritchie is the only person or entity that will have any direct or indirect beneficial or financial interest in this license. John and Ida Furtado are listed as the landlords who are to be paid rent.
3. On January 10, 2005, Mr. Ritchie filled a Statement of Change with the Secretary of State Corporations Division for East Side Pizza Inc. The Corporation changed all of its officers/directors to Mr. Furtado. This change of officers/directors was never submitted nor applied for, to this Commission.
4. On July 25, 2011, the Commission approved an application for Change of Manager from John Furtado, Jr. to James P. Furtado.
5. On August 19, 2011, the Commission received an application for Transfer of License from the Licensee to Mukteshwar Corporation Inc. (the "Applicant" or "Mukteshwar"). The application was assigned to Investigator Carey. On this application Mukteshwar lists Hemal Patel, Ulupi Patel, and Efthimios ("Mike") Georgakakis as its officers, directors, and stockholders.
6. Investigator Carey made repeated telephone calls to the contact person, Hemal Patel, listed on the transfer application, for additional information. Investigator Carey did not receive any response to his messages. The application was "Returned No Action" to the Local Licensing Authority.
7. On September 18, 2012, the Commission approved an application for Change of Manager from James P. Furtado to Helen Camara. Ms. Camara is the daughter of Mike Georgakakis.
8. On or before April 1, 2013, Investigator Binienda met with Taunton Police Detective Lieutenant Daniel McCabe about questions that Lt. McCabe had regarding the individuals who were operating East Side Pizza.
9. On Monday, June 17, 2013, Investigators Velez and Binienda conducted an investigation of the business operation of East Side Pizza, Inc. dba East Side Pizza to determine the manner in which its business was being conducted.
10. Outside the premises, investigators observed a sign attached to the building which read, "East Side Pizza Welcomes You!! Under New Management."
11. Investigators entered the licensed premises, identified themselves to the bartender on duty, and asked to speak with the owner. The bartender stated, "Yes Peter is in the bathroom, he'll be right out."
12. Shortly after the man identified as the owner, Peter Georgakakis, exited the restroom, Investigators identified themselves to him and asked him several questions:
 - How long he had owned the business? Peter Georgakakis stated that he had "owned [the business] over 1 ½ years. We had a business partner, Jimmy Furtado, he was an asshole. We bought them out."
 - Who hires and fires employees? Peter Georgakakis stated "My father, Efthimios ("Mike") Georgakakis."
 - Who is the license manager? Mr. Georgakakis stated "My sister, Helen Camara."
 - Who orders the alcohol? Mr. Georgakakis stated, "My father, Efthimios."
 - Who makes deposits? Mr. Georgakakis stated, "My father."
 - Who runs the day to day operations? Mr. Georgakakis stated, "I open and cook, and run day to day operations."
 - Mr. Georgakakis further stated, "My father became an American citizen and got an alcohol license last year."
13. Investigators then conducted an inspection of the liquor storage closet and the kitchen counter area, with Mr. Georgakakis present.
14. Investigators found the following information:
 - City of Taunton an all-alcoholic beverages restaurant license to East Side Pizza Inc., with manager Helen Camara;
 - Business Certificate, signed by Efthimios Georgakakis, listing East Side Pizza, Mukteshwar and Efthimios Georgakakis as its operators;

- License to keep one pool table issued to Mukteshwar;
 - Envelope from Taunton Municipal Lighting Plant addressed to Mukteshwar;
 - Envelope from Comcast addressed to Mukteshwar;
 - Envelope from Rockland Trust Bank addressed to Mukteshwar;
 - Envelope from Citizens Bank addressed to Mukteshwar;
 - Envelope from Massachusetts Department of Revenue addressed to Mukteshwar;
 - Envelope from AmTrust North America addressed to Mukteshwar.
15. Investigators then hand delivered to Peter Georgakakis a demand letter, for which Peter signed a receipt of delivery. Investigators informed him that the information requested must be submitted by June 25, 2013.
 16. On June 18, 2013, Investigator Binienda spoke via telephone with Mike Georgakakis. Mike stated that he runs the restaurant, and he is trying to get the license now because he is an American citizen. Investigator Binienda reminded Mr. Georgakakis to provide the information requested by June 25, 2013.
 17. On July 9, 2013, Investigator Binienda spoke via telephone with Mike Georgakakis. Mr. Georgakakis stated that he gave the paperwork to his attorney, John White. Investigator Binienda then left a message for Attorney White.
 18. On or before July 10, 2013, some, but not all of the information requested in the demand letter was delivered to the office of the Commission. .
 19. The following requested information was NOT received:
 - Check ledgers;
 - Cancelled checks;
 - Income statements and balance sheets;
 - Partnership, management, and/or franchise agreements;
 - Purchase agreements;
 - Bank statements;
 - Bank signatory cards;
 - Any and all contracts or agreements with any and all individuals or companies doing business with Mukteshwar, or doing business at 1 Caswell Street, Taunton, MA.
 20. Investigators obtained the following records from Massachusetts wholesalers regarding their business dealings with East Side Pizza Inc. and Mukteshwar located at 1 Caswell Street, Taunton, MA:
 - Martignetti Companies forwarded a credit application for the Licensee which lists Mike Georgakakis as the owner; and a copy of a cancelled check in the amount of \$518.35 from Mukteshwar;
 - Horizon Beverage forwarded a credit application for the Licensee which listed Mike Georgakakis as the owner, and a copy of a cancelled check in the amount of \$362.04 from Mukteshwar;
 - L. Knife & Son, Inc. forwarded a credit application for Mukteshwar which listed Mike Georgakakis as the primary contact, and Ulupi Patel as the owner;
 - M.S. Walker forwarded a copy of a cancelled check in the amount of \$336.02 from Mukteshwar.
 21. Investigator Binienda attempted to contact Mr. Ritchie but was unable to reach him. According to a death certificate obtained through Lexis Nexis, John Furtado passed away on May 20, 2011.
 22. Detective Lieutenant McCabe, the licensing agent for the City of Taunton, testified at the hearing that he has conducted several inspections at the premises.
 23. He has only spoken to Mr. Peter Georgakakis when at the premises.
 24. Lt. Detective McCabe has never spoken to the license manager, Helen Camara.

25. Mr. Peter Georgakakis has always informed Detective Lt. McCabe that he is the person in charge who is operating the premises. Lt. McCabe, while at the premises, overheard Peter Georgakakis telling someone else that his father, Efthimios ("Mike") Georgakakis is the owner of the licensed business.
26. Lt. McCabe testified that there is a letter in the Taunton Licensing Board records for this license from Mr. Hemal Patel, informing the Local Board of Taunton that he (Mr. Hemal Patel) withdrew the transfer application by the Mukteshwar Corporation for this license.
27. Mr. Efthimios ("Mike") Georgakakis appeared at the Commission hearing.
28. Mr. Efthimios ("Mike") Georgakakis testified that he purchased this business from Hemal Patel and Ulupi Patel, who are brother and sister.
29. Mr. Efthimios Georgakakis testified that he has owned the licensed business since November of 2011.
30. He testified that he paid the Patels, who were officers, directors, and shareholders in the Mukteshwar Corporation, the sum of \$150,000. (One hundred and fifty thousand dollars) to purchase the licensed business.
31. He testified he paid the Patels \$25,000.00 (twenty-five thousand dollars) as an initial down payment, and thereafter, paid money to them monthly.
32. Mr. Efthimios ("Mike") Georgakakis testified that he became a U.S. citizen in November of 2012.
33. Mr. Efthimios ("Mike") Georgakakis testified that he was unaware that the Mukteshwar Corporation, with Hemal Patel, Ulupi Patel, and (himself) Efthimios Georgakakis as officers, directors, and shareholders, was never approved by the Commission to hold the liquor license.
34. He testified that he did not know that the Mukteshwar Corporation never received the required statutory approval to hold this license.
35. He testified that he did not know that he purchased a liquor license from the Patels who never legally held an interest in the license.

DISCUSSION

Licenses to sell alcoholic beverages are a special privilege subject to public regulation and control, Connolly v. Alcoholic Beverages Control Commn., 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 to sell alcoholic beverages is set out in M.G.L. c. 138. Licenses must be approved by both local licensing authorities and the ABCC. M.G.L. c. 138, §§12, 67. See Beacon Hill Civic Assn. v. Ristorante Toscano, Inc., 422 Mass. 318, 321 (1996). Section 23 of M.G.L. c. 138 provides, in pertinent part: "Any license under this chapter held by an individual, partnership, or corporation may be transferred to any individual, partnership or corporation qualified to receive such a license in the first instance, if, in the opinion of the licensing authorities, such transfer is in the public interest." Section 2 of c. 138 provides, in pertinent part: "No person shall ... sell ... alcoholic beverages or alcohol, except as authorized by this chapter [.]"

In reviewing 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. Particularly in view of the extent to which the policy of c. 138, and the basis for action under it, have been specified, as already indicated, there is no invalid delegation of authority to the commission in leaving to it, as was done in §[12], the power to approve or disapprove applicants for

licenses. See Butler v. East Bridgewater, 330 Mass. 33, 36-37. Connolly v. Alcoholic Beverages Control Commission, 334 Mass. 613, 619, (1956).

The SJC further 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).

M.G.L. c.138 §23 Transfer of the Privilege of a license without proper approval:

A licensee who wishes to transfer their interest in an alcoholic beverages license is required to obtain prior approval from the licensing authorities. This allows the licensing authorities to determine if the transfer is in the public interest, and if the proposed transferee is someone who qualifies to hold a 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). 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 records and evidence presented to the Commission show that the Mukteshwar Corporation does not, and never has, owned this license. The transfer application filed by the Mukteshwar Corporation, with Hemal Patel, Ulupi Patel, and Efthimios Georgakakis listed as officers and stockholders was never approved by the Commission. The transfer application was “Returned, No Action” on October 24, 2011.

The most recent records of the Commission show that the Licensee is East Side Pizza, Inc., with Helen Camara as the license manager. East Side Pizza, Inc. is comprised of the following officers and shareholders: John W. Ritchie is the only person or entity having any direct or indirect beneficial or financial interest in this license. John and Ida Furtado are listed as the landlords, who are to be paid rent. The Commission records state that these people are the only persons or entities that would have any direct or indirect beneficial or financial interest in this license. However, the Commission heard testimony from Investigator Binienda that according to a death certificate obtained through Lexis Nexis, John Furtado passed away on May 20, 2011.

A licensee must receive prior approval from both the local licensing authority and the Commission before transferring the privilege of its license or transferring any type of interest in it. In contravention of the statute, no other individual has been approved to have control of or benefit from this licensed business. See Griffin’s Brant Rock Package Store, Inc. v. Alcoholic Beverages Control Commission, 12 Mass. App. Ct. 768, 771 (1981).

The records of the Commission show that the application of the Mukteshwar Corporation, with Hemal Patel as Officer and Stockholder with 51% interest and ownership; Ulupi Patel, as Officer and Stockholder with 24% interest and ownership; and Efthimios Georgakakis, as Officer and Stockholder with 25% interest and ownership was never approved by the Commission. Therefore, Mr. Georgakakis, is not recognized by the Commission as having or holding any ownership or interest in the liquor license. Furthermore, Mr. Georgakakis testified that he purchased the license business from the Mukteshwar Corporation, which is also not recognized as having any ownership interest in the License, as it never received the statutorily required approval to hold the license.

Mr. Efthimios Georgakakis testified that he purchased the license business from the Patels in November of 2011, and that he owns 100% of the licensed business. His daughter, Helen Camara, is the license manager, who has been approved by the local board and the Commission, as the license manager.

The Commission is convinced by satisfactory proof and finds that there was a transfer of this license without first obtaining permission, and the statutorily required approval according to M.G.L. c.138, §23. Mr. Efthimios Georgakakis, who was not approved by the Commission to hold this license, is operating the licensed business in violation of M.G.L. c. 138 §23.

M.G.L. c. 138, §15A- Failure to disclose all persons who have a direct or indirect beneficial or financial interest in said license, to wit: Failure to notify licensing authorities of a change of officers and directors:

The Commission records did not disclose that the Commission ever approved Mr. Efthimios Georgakakis as an officer, stockholder, or director to have a direct or indirect beneficial interest in this license. The only person approved by the Commission is Helen Camara, who is the license manager. The Commission heard evidence from Investigator Binienda and Detective Lieutenant McCabe that each time they inspected the premises, they never spoke to Ms. Camara, the approved manager. They always spoke to Mr. Peter Georgakakis, the son of Mr. Efthimios Georgakakis. Mr. Efthimios Georgakakis testified that his daughter, Ms. Camara, also works as a hairdresser, therefore his son Peter Georgakakis is primarily operating the business.

The most recent records of the Commission show that the Licensee is East Side Pizza, Inc., with Helen Camara as the license manager. East Side Pizza, Inc. is comprised of the following officers and shareholders: Mr. John W. Ritchie is the only person or entity approved to have any direct or indirect beneficial or financial interest in this license. John and Ida Furtado are listed as the landlords of the premises, who are to be paid rent. The Commission records state that these people are the only persons or entities that would have any direct or indirect beneficial or financial interest in this license. However, the Commission heard testimony from Investigator Binienda that according to a death certificate obtained through Lexis Nexis, John Furtado is deceased and he passed away on May 20, 2011.

The Commission is convinced by satisfactory proof and finds that there was a change of officers and directors resulting in a transfer of a direct or indirect beneficial interest in the license, without first obtaining prior written approval and permission from both the Commission and the Local Board, as required by statute. M.G.L. c. 138, sections 15A.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated:

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

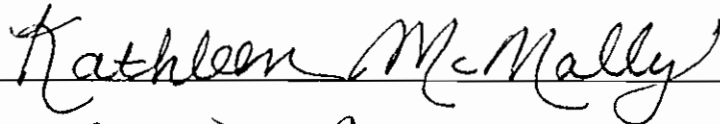
Therefore, the Commission **INDEFINITELY SUSPENDS** the license of **East Side Pizza, Inc. d/b/a East Side Pizza** effective forthwith until further written order of the Commission. The Commission will not issue any further order without a written request from the Licensee showing good cause to reconsider this indefinite suspension and a hearing before the Commission that the Licensee attends.

Good cause for the Commission to consider issuing a further written order revising the order of indefinite suspensions will include, but not be limited to, the Licensee filing with both the Commission and the Local Licensing Authorities the appropriate license transfer application pursuant to M.G.L. chapter 138, section 23, and that appropriate application if granted by the local licensing authorities and approved by the Commission.

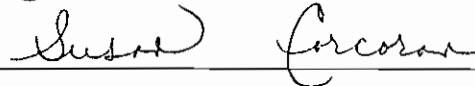
The Commission will not issue any further order without a written request from the licensee showing good cause to reconsider this indefinite suspension and a hearing before the Commission that the applicant attends.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



Susan Corcoran, Commissioner



Dated: January 27, 2014

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
Jamie Binienda, Investigator
Nicholas Velez, Investigator
Lt. Dan McCabe, Taunton Police Department
Administration
File