

**STATE OF VERMONT
LIQUOR CONTROL BOARD**

**IN RE: MKB, LLC D/B/A
 SUGARHOUSE BAR & GRILL
 733 QUEEN CITY PARK ROAD
 SOUTH BURLINGTON, VERMONT**

**ORDER OF IMMEDIATE SUSPENSION
OF FIRST AND THIRD-CLASS LIQUOR LICENSES**

The Liquor Control Board (“Board”) held a Contested Case Hearing in Montpelier, Vermont on July 12, 2017 to consider the suspension of Licensee, MKB, LLC d/b/a Sugarhouse Bar & Grill’s First and Third Class Liquor Licenses for an alleged violation of General Regulation No. 10. The violation is based on Licensee’s alleged failure to remain in good standing with respect to any and all taxes payable to the Commissioner of Taxes. Jacob A. Humbert, Esq., Assistant Attorney General, appeared on behalf of the Department of Liquor Control (“DLC”). The Licensee failed to appear. The Board considered testimony from Laurie Pecor, Administrative Coordinator for DLC and Lee Gable, Assistant Director of Tax Compliance, for the Department of Taxes.

We make the following findings and conclusions based on the testimony of Ms. Pecor and Ms. Gable as well as the exhibits admitted:

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| State’s Exhibit 1: | DLC Notice of Hearing dated June 19, 2017; |
| State’s Exhibit 2: | United States Postal Service Certified Mail Receipt with Tracking Number 7016 1370 0000 1889 4663; |
| State’s Exhibit 3 | USPS.com Tracking Information for Tracking Number 7016 1370 0000 1889 4663; and |
| State’s Exhibit 4: | June 16, 2017 letter from Department of Taxes to Department of Liquor Control concerning Licensee’s delinquent tax status, namely that the Licensee was not in good standing pursuant to 32 V.S.A. §3113(g). |
1. Given that the Licensee did not appear, DLC called Ms. Pecor to testify regarding the efforts she made to notify Licensee about this matter.

2. Ms. Pecor testified that she sent an original copy of State's Exhibit 1, the Notice of Hearing, to the Licensee on June 19, 2017 via Certified Mail. Ms. Pecor tracked this mailing using the United States Postal Service website with the tracking number identified on Exhibit 2. She confirmed that efforts were made to deliver the notice, but that Licensee failed to accept delivery.
3. We find Ms. Pecor's testimony credible in all respects.
4. We conclude that Licensee refused or failed to accept delivery of the certified letter from DLC containing the Notice of Hearing.
5. We conclude that Licensee was properly notified of the alleged violations and of its right to appear at a hearing to respond to these alleged violations consistent with 3 V.S.A. §809(a)-(c) and V.R.C.P. 4.
6. Licensee, despite receiving proper notification, failed to appear at the July 12, 2017 hearing.
7. Ms. Gabel testified that Licensee is not in good standing with the Department of Taxes as reflected in 32 V.S.A. §3113(g).
8. Ms. Gabel testified that Licensee has not disputed its tax delinquency (such as the specific taxes due) and has not formally appealed its tax liability.
9. We find Ms. Gabel's testimony credible in all respects.
10. General Regulation No. 10 reads as follows:

No first or third class liquor license shall be issued to a person who is not first licensed with the Vermont Department of Taxes to collect the Vermont Rooms and Meals tax. Suspension of first or third class liquor licenses may result by action of the Liquor Control Board, after notice and hearing, upon certification to the Board by the Vermont Department of Taxes that the licensee has failed to collect the Vermont Rooms and Meals tax, has failed to pay over to the Vermont Department of Taxes the Vermont Rooms

and Meals tax collected, or is not licensed with the Vermont Department of Taxes to collect the Vermont Rooms and Meals tax.


11. Consistent with Ms. Gabel's testimony, we conclude that Licensee violated General Regulation No. 10.
12. The only appropriate sanction here is an immediate suspension of Licensee's liquor licenses.

Accordingly, the Board hereby **ORDERS** that Licensee's First and Third-Class liquor licenses be **SUSPENDED IMMEDIATELY AND INDEFINITELY** until such time that the Department of Taxes certifies to DLC that Licensee is in good standing.

The Board shall defer to the Department of Taxes' determination whether Licensee has met all requirements to come into good standing.

DATED at Montpelier, Vermont this 12th day of July 2017.

VERMONT LIQUOR CONTROL BOARD

By: 
Martin Manahan, Acting Chair

RIGHT TO APPEAL

Within 30 days after copies of this Order have been mailed, either party may appeal to the Vermont Supreme Court by filing a Notice of Appeal with the Department of Liquor Control and paying the requisite filing fee. *See* 3 V.S.A. § 815(a); V.R.A.P. 4 and 13(a).