

**STATE OF VERMONT
LIQUOR CONTROL BOARD**

**IN RE: HLH ENTERPRISES OF BENNINGTON, INC.
 D/B/A BENNINGTON PIZZA PLAZA
 210 NORTHSIDE DRIVE
 BENNINGTON, VT**

ORDER OF IMMEDIATE SUSPENSION

The Liquor Control Board ("Board") held a Formal Hearing in Montpelier, Vermont on December 13, 2017 to consider the suspension or revocation of Licensee, HLH Enterprises of Bennington, Inc. d/b/a Bennington Pizza Plaza's, First and Third-Class Liquor Licenses for an alleged violation of General Regulation No. 10 for 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 Lee Gable, Assistant Director of Tax Compliance for the Department of Taxes, and Laurie Pecor, DLC Administrative Coordinator for Enforcement, Licensing and Education.

We make the following findings, supported by credible evidence, namely the testimony of Ms. Pecor, Ms. Gable and the exhibits admitted (State's Exhibit 1: November 2, 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 with respect to taxes due; State's Exhibit 2: Notice of Hearing; and State's Exhibit 3: Certified Mail Receipt of mailing to Licensee and signed return receipt):

1. Ms. Pecor testified that she sent the Notice of Hearing (State's Exhibit 2) to the Licensee on November 6, 2017 via United States Postal Service Certified Mail, return receipt requested. She received the signed return receipt admitted as State's Exhibit 3.
2. We conclude that Licensee received and accepted service of the certified mailing from DLC containing the Notice of Hearing. Therefore, Licensee was properly notified of its alleged violations and of its right to appear at a hearing to respond

to the alleged violation of General Regulation No. 10 consistent with 3 V.S.A. §809(a)-(c) and V.R.C.P. 4.

3. Licensee, despite receiving proper notice, failed to appear at the December 13, 2017 hearing.
4. Ms. Gable testified that Licensee is not in good standing with the Department of Taxes.
5. Ms. Gable testified that she has made 25 attempts to contact Licensee to work to resolve its tax delinquency.
6. Licensee has not disputed its tax delinquency (such as the specific taxes due) and has not formally appealed its tax liability.
7. Licensee has, therefore, violated General Regulation No. 10, which 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.

8. Given the above, we are compelled to immediately suspend this Licensee's liquor licenses.

ORDER

The Board hereby Orders that Licensee's First and Third-Class liquor licenses be **SUSPENDED IMMEDIATELY** and 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 13th day of December 2017.

VERMONT LIQUOR CONTROL BOARD

By: 
Martin Manahan, Board 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).