

**STATE OF VERMONT
LIQUOR CONTROL BOARD**

**In Re: LIWEIWANG, INC. D/B/A BBQ & NOODLE
133 NORTH MAIN STREET
ST. ALBANS, VERMONT**

BOARD DECISION AND ORDER

(“Licensee”) appeared before the Liquor Control Board (“Board”) on July 1, 2015 in Montpelier for a Hearing to consider alleged violations of General Regulation No. 29 and Education Regulation No. 3(b) on or about April 14, 2015. Jacob A. Humbert, Esq., Assistant Attorney General, represented the Department of Liquor Control (“DLC”). Licensee appeared through its manager, Jin Chen. The Board rules as follows:

FINDINGS OF FACT

1. At all relevant times, Licensee held a First-Class License, permitting the sale of beer and wine to the public for on-premises consumption.

2. DLC asserts that Licensee violated these General Regulations:

General Regulation No. 29: All licensees shall have present on the licensed premises at all times when open for business a responsible employee, agent or principal. Every licensee and licensee employee involved in the sale or service of alcoholic beverages or the sale of tobacco products must be able to read, write, and speak the English language with sufficient facility to be able to understand and comply with Vermont’s Liquor and Tobacco Laws and Regulations.

Education Regulation No. 3(b): Each licensee shall ensure that every employee who is involved in the preparation, sale, service or solicitation of alcoholic beverages or the sale of tobacco products, or enforcing of alcohol and/or tobacco laws and regulations must complete a training program offered or approved by the Department of Liquor Control before the employee begins working in that capacity and at least once every two years thereafter. Each licensee shall maintain written documentation, signed by each employee trained of each training program conducted. A licensee may comply with this requirement by conducting its own training program on its premises, using all information and materials furnished by the Department of Liquor Control, or from a program approved by the

department. A licensee who fails to comply with the requirements of this subsection shall be subject to a suspension of no less than one day of the license issued under this title.

3. Our Findings are based on the testimony of:
 - a. Investigator Jay Clark and
 - b. Jin Chen

4. Investigator Clark has served DLC for approximately 14 years as Investigator. He visited Licensee's establishment in the normal course of his duties and within the territory he serves. No one present at Licensee's establishment was able to speak English. The Licensee's premises were open for business at that time. He later learned in the course and scope of his duties as DLC Investigator that those serving alcoholic beverages at the establishment had not received DLC training.

5. Investigator Clark issued violation tickets to Licensee containing fines that, with late fees added (Licensee did not pay the fine or request a hearing), total \$520.00.

6. Mr. Chen did not cross-examine Investigator Clark. He conceded all violations on Licensee's behalf and waived submission of proposed findings for the Board's consideration.

CONCLUSIONS OF LAW

1. The Board is established as the paramount authority in the administration of Vermont's liquor statutes and regulations. *See Verrill, Jr. v. Daley, Jr.*, 126 Vt. 444, 446 (1967).

2. When passing upon the question whether the license shall be revoked or suspended for the violation of a liquor statute or regulation, the Board sits as a tribunal with a judicial function to perform and has statutory authority under 7 V.S.A. §236 to suspend or revoke any license for violating the provisions of Title 7 or any regulation. *See In Re: Wakefield*, 107 Vt. 180, 190 (1935).

3. Licensee holds a First-Class Liquor License as defined by 7 V.S.A. §2(10) and is, therefore, subject to this Board's jurisdiction.
4. Licensee was properly notified of its alleged violations, discussed above, and of its right to appear at a hearing to respond to these alleged violations consistent with 3 V.S.A. §809(a)-(c). The Hearing was held and the evidence closed on July 1, 2015.
5. DLC must prove all alleged violations by a preponderance of the evidence. If any violations are found, then the Board has concluded that DLC has met its burden. Here, not only did Investigator Clark's credible testimony confirm that the violations occurred as alleged, Licensee conceded these violations.
6. The Board concludes that Licensee violated (and remains in violation of) General Regulation No. 29 and Education Regulation No. 3(b).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Board hereby **ORDERS** that Licensee LIWEIWANG, INC. d/b/a BBQ & NOODLE's First-Class Liquor License is **SUSPENDED, EFFECTIVE IMMEDIATELY.**

The duration of said suspension shall last for no fewer than two (2) days and shall continue indefinitely until Licensee: (1) pays the fine of \$520 in full **and** (2) meets all DLC education requirements to its satisfaction.

DATED at Montpelier, Vermont this 1st day of July 2015.

VERMONT LIQUOR CONTROL BOARD

By: 
Stephanie M. O'Brien, 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).