

**STATE OF VERMONT
LIQUOR CONTROL BOARD**

**IN RE: KNJ, INC. D/B/A KING'S CORNER DELI
 41 KING STREET
 BURLINGTON, VERMONT**

ORDER

The Liquor Control Board ("Board") held a Formal Hearing in Montpelier, Vermont on September 9, 2015 to consider sanctioning, if appropriate, Licensee KNJ, Inc.'s Second Class Liquor License for an alleged violation of the Board order dated April 8, 2015. Jacob A. Humbert, Esq., Assistant Attorney General, appeared on behalf of the Department of Liquor Control ("DLC"). Kathleen Ellen Donahue, owner, appeared on behalf of Licensee.

FINDINGS OF FACT

1. On April 8, 2015, the Board concluded, after a Formal Hearing, that Licensee violated Education Regulation No. 3(b), which requires that:

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.

2. The Board ordered that the Licensee's liquor license be suspended for a period of one day. The Board also ordered "all employees shall be required to appear for in person DLC training within 3 months of this Order." The Board takes notice of this Order, which it also admitted into evidence as State's Exhibit 1.

3. As of September 9, 2015, more than three months after the Board's April 8, 2015 order, Licensee has not complied with the requirement "all employees shall be required to appear for in person DLC training within 3 months of this Order."

CONCLUSIONS OF LAW

Consistent with the above *Findings of Fact*, the Board concludes as follows:

1. 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).

2. Licensee holds a Second-Class Liquor License as defined by 7 V.S.A. §2(19) and is, therefore, subject to this Board's jurisdiction.

3. Licensee was properly notified of its 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). The Hearing was held and the evidence closed on September 9, 2015.

4. 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.

5. Ms. Donohue conceded the violations on behalf of the Licensee, obviating the need for a detailed analysis and weighing of facts.

6. The Board finds that Licensee violated its April 8, 2015 Order.

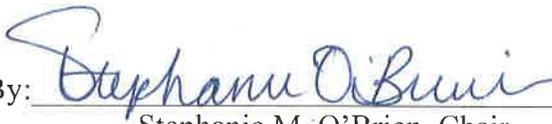
ORDER

For violation of the Department's Order dated April 8, 2015, Licensee's Second-Class Liquor Licenses shall be **SUSPENDED** for two days, from the opening of business on Wednesday, September 30, 2015 to the close of business on Thursday, October 1, 2015.

All of Licensee's current employees as of Friday, October 23, 2015 must have appeared, in person, for DLC training, with proof of attendance provided to DLC. Failure to comply with the training requirement of the Order will result in **IMMEDIATE AND INDEFINITE SUSPENSION** of Licensee's Second-Class Liquor License as of the close of business on Friday, October 23, 2015 until such time as License is in compliance with the training requirement of this Order. Provided that Licensee complies with the training requirement of this Order, that portion of the Order shall expire.

DATED at Montpelier, Vermont this 9th day of September 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).