

**STATE OF VERMONT
LIQUOR CONTROL BOARD**

**IN RE: OAK NO 45, LLC
 45 MAIN STREET
 WINOOSKI, VT**

ORDER

The Liquor Control Board (“Board”) held a Formal Hearing in Montpelier, Vermont on June 17, 2015 to consider the suspension of Licensee, Oak No 45, LLC’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 Linda Ainsworth, Tax Compliance Unit Supervisor for the Department of Taxes and Laurie Pecor, office manager for Enforcement, Licensing and Education for DLC.

We make the following findings, supported by credible evidence, namely the testimony of Ms. Ainsworth, Ms. Pecor and the exhibits admitted (State’s Exhibit 1: March 21, 2015 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 USPS.com tracking data obtained by DLC):

1. Ms. Ainsworth testified that Licensee is not in good standing with the Department of Taxes.
2. Licensee has not disputed its tax delinquency (such as the specific taxes due) and has not formally appealed its tax liability.
3. 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.

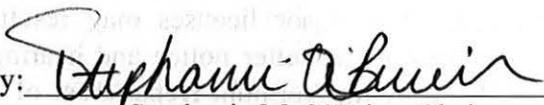
4. Ms. Pecor testified that she sent the notice of the hearing to the Licensee on May 27, 2015 via certified mail, return receipt requested. Ms. Pecor tracked the letter she sent using the United States Postal Service website and the tracking number contained on Exhibit 2. This revealed that the May 27, 2015 notice of hearing was unclaimed by the Licensee and this was corroborated by Exhibit 3.
5. Ms. Ainsworth testified that she has sent all tax-related letters to the same address captioned above with nothing returned.
6. We conclude that Licensee refused or failed to accept delivery of the certified letter 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 these alleged violations consistent with 3 V.S.A. §809(a)-(c) and V.R.C.P. 4.
7. Licensee, despite receiving proper service, failed to appear at the June 17, 2015 hearing.

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 "now 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 17th day of June 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).