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DOCKET NO. 616224

IN RE SHRI MAHA LAXMI INC.	§	BEFORE THE
D/B/A CHROME	§	
PERMIT/LICENSE NOS. MB530982,	§	
LB530983, PE530984	§	
	§	TEXAS ALCOHOLIC
	§	
DALLAS COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-05-6921)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 24th day of October, 2005, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Kyle J. Groves. The hearing convened on July 27, 2005, and adjourned on the same date. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on October 3, 2005. This Proposal For Decision (**attached hereto as Exhibit "A"**), was properly served on all parties who were given an opportunity to file Exceptions and Replies as part of the record herein. As of this date no exceptions have been filed.

The Assistant Administrator of the Texas Alcoholic Beverage Commission, after review and due consideration of the Proposal for Decision, Transcripts, and Exhibits, adopts the Findings of Fact and Conclusions of Law of the Administrative Law Judge, which are contained in the Proposal For Decision and incorporates those Findings of Fact and Conclusions of Law into this Order, as if such were fully set out and separately stated herein. All Proposed Findings of Fact and Conclusions of Law, submitted by any party, which are not specifically adopted herein are denied.

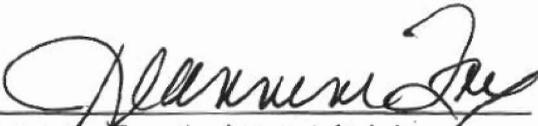
IT IS THEREFORE ORDERED, by the Assistant Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1, of the Commission Rules, that Respondent's permits and/or licenses are hereby **CANCELLED FOR CAUSE**.

This Order will become final and enforceable on November 14, 2005, unless a Motion for Rehearing is filed before that date.

By copy of this Order, service shall be made upon all parties by facsimile and by mail as indicated below.

SIGNED on this 24th day of October, 2005, at Austin, Texas.

On Behalf of the Administrator,



Jeannene Fox, Assistant Administrator
Texas Alcoholic Beverage Commission

TEG/bc

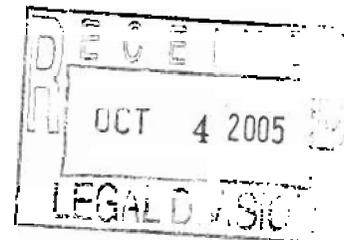
The Honorable Kyle J. Groves
Administrative Law Judge
State Office of Administrative Hearings
VIA FAX (214) 956-8611

Shri Maha Laxmi Inc.
d/b/a Chrome
RESPONDENT
2604 Main St.
Dallas, TX 75226
CERTIFIED MAIL/RRR NO. 7005 0390 0005 7550 4761

Timothy E. Griffith
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division

Dallas District Office



DOCKET NO. 458-05-6921

TEXAS ALCOHOLIC BEVERAGE COMMISSION

§ § § § § § § § § § §

BEFORE THE STATE OFFICE

V.

SHRI MAHA LAXMI INC. D/B/A CHROME PERMIT NOS. MB-530982, LB-530983, PE-530984 DALLAS COUNTY TEXAS (TABC NO. 616224)

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

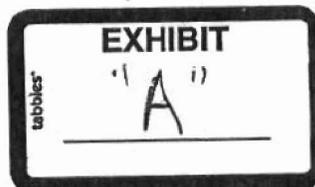
The staff of the Texas Alcoholic Beverage Commission (TABC) brought this action against Shri Maha Laxmi, Inc. d/b/a Chrome (Respondent) seeking cancellation of Respondent's Mixed Beverage Permit MB-530982, Mixed Beverage Late Hours Permit LB-530983, and Beverage Cartage Permit PE-530984. TABC alleged Respondent, his agent, servant, or employee, violated numerous sections of the Texas Alcoholic Beverage Code.

This Proposal for Decision finds the Respondent's permits should be canceled.

I. JURISDICTION, NOTICE AND PROCEDURAL HISTORY

The hearing in this matter convened on July 27, 2005. Attorney Timothy Griffith represented TABC. The Respondent did not appear and was not represented at the hearing. Administrative Law Judge (ALJ) Kyle J. Groves presided. The hearing was concluded and the record closed that same day.

No party challenged notice or jurisdiction. Therefore, those matters are addressed in the



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Findings of Fact and Conclusions of Law without further discussion here.

II. EVIDENCE

TABC staff offered documentary evidence showing:

(a) On February 24, 2003, Respondent was issued Mixed Beverage Permit MB-530982, Mixed Beverage Late Hours Permit LB-530983, and Beverage Cartage Permit PE-530984.

(b) On June 10, 2005, Petitioner sent a notice of hearing, by certified mail, return receipt requested, to Respondent asserting that the TABC was seeking to cancel Respondent's permits.

(c) Respondent signed the return receipt on June 24, 2005.

(d) The notice of hearing stated in 12-point bold-faced type, "If you fail to appear at the hearing, the allegations in the notice of hearing will be deemed admitted as true, and the relief sought may be granted by default."

(e) The notice of hearing alleged that an employee of Respondent, a mixed beverage permit holder or retailer, Kundan Lal Sharma, or some other person or persons, secured a loan in order to remodel Respondent's premises. The loan was from Depak Kumar, or some other person or persons, an employee of Bottle & Brew, the holder of a local distributors permit, and a member of a different tier pursuant to TEX. ALCO. BEV. CODE ANN. § 23.01 (a) (2). Petitioner further alleged in the notice of hearing that this loan arrangement violated TEX. ALCO. BEV. CODE ANN. § 102.01 (g) which prohibits a loan to a permittee at a different level.

(f) The notice of hearing alleged Respondent, its agent, servants, or employees, Kundan Lal Sharma, or some other person or person, on or about March 17, 2005, knowingly possessed or permitted the possession of alcoholic beverages not covered by invoice in violation of TEX. ALCO. BEV. CODE ANN. §§ 11.61 (b) (2), 23.01 (a) (2), and /or 28.06 (c).

(g) The notice of hearing alleged that on or about March 31, 2005, and before said date, Respondent, or its agent, servant, or employee, Kundan Lal Sharma, Raj Sharma, Del Lindley, and/or Frank Stradlee, or some other person or person, refilled a container or containers which contained distilled spirits on which the tax has been paid in violation of TEX. ALCO. BEV. CODE ANN. § 11.62 (b) (2) and/or § 28.08.

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(h) The notice of hearing alleged that on or about April 1, 2005, or before said date, Respondent, or its agent, servant, or employee, Kundan Lal Sharma, or some other person or persons, purchased distilled spirits from someone who did not hold a local distributor's permit in violation of TEX. ALCO. BEV. CODE ANN. § § 28.07 (a) and or 11.61 (b) (2).

(i) The notice further alleged Respondent, its agent, servants, or employees, Kundan Lal Sharma, or some other person or persons, on or about April 1, 2005, knowingly possessed or permitted the possession of alcoholic beverages not covered by invoice in violation of TEX. ALCO. BEV. CODE ANN. § § 28.07 (a) and or 11.61 (b) (2), 23.01 (a) (2), and/or 28.06 ©.

III. STATUTORY AUTHORITY

TEX. ADMIN. CODE § 61.71 (a) (1) states:

The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee violated a provision of this code or a rule of the commission during the existence of the license sought to be canceled or suspended or during the immediately preceding license period.

TEX. ADMIN. CODE §155.55 states:

(a) If, after receiving notice of a hearing, a party fails to appear in person or by representative on the day and time set for hearing or fails to appear by telephone in accordance with this chapter, the ALJ may proceed in that party's absence and, as authorized by applicable law, may enter a default judgment against the defaulting party.

(b) For purposes of this section, entry of a default judgment means the issuance of a proposal for decision or order, where provided by law, against the defaulting party in which the factual allegations against that party in the notice of hearing are deemed admitted as true without the requirement of submitting additional proof.

TEX. ALCO. BEV. CODE ANN. §102.01 (g) states:

No permittee may loan to, or by means of his credit secure a loan for, a permittee of a different level. If a permittee secures a loan from a source

outside the state, there is a presumption of a tied house relationship or subterfuge, and the permittee securing the loan has the burden of showing that he has not violated this section.

TEX. ALCO. BEV. CODE ANN. §11.61 (b) (2) states:

The commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing, that any of the following is true: the permittee violated a provision of this code or a rule of the commission.

TEX. ALCO. BEV. CODE ANN. § 28.06 (c) states:

No holder of a mixed beverage permit, nor any officer, agent, or employee of a holder, may knowingly possess or permit to be possessed on the licensed premises any alcoholic beverage which is not covered by an invoice from the supplier from whom the alcoholic beverage was purchased.

TEX. ALCO. BEV. CODE ANN. § 28.07 (c) states:

All distilled spirits sold by a holder of a mixed beverage permit must be purchased from a holder of a local distributor's permit in the county in which the premises of a mixed beverage permittee is located.

TEX. ALCO. BEV. CODE ANN. § 28.08 states:

No holder of a mixed beverage permit may refill with any substance a container which contained distilled spirits on which the tax prescribed in Section 201.03 of this code has been paid.

IV. PROPOSED FINDINGS OF FACT

1. Shri Maha Laxmi, Inc. d/b/a Chrome (Respondent) is the holder of Mixed Beverage Permit MB-530982, Mixed Beverage Late Hours Permit LB-530983, and Beverage Cartage Permit PE-530984.
2. Respondent was notified of the factual allegations against Respondent in the notice of hearing issued by Petitioner on June 10, 2005. The notice of hearing stated in 12-point bold-faced type, "If you fail to appear at the hearing, the allegations in the notice of hearing will be deemed admitted as true, and the relief sought may be granted by default."

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3. As evidenced by Respondent's signature on the return receipt, Respondent was notified of the date, time, and location of the scheduled hearing by the notice of hearing dated June 10, 2005.
4. On July 27 2005, the hearing in this matter convened before ALJ Kyle J. Groves. Timothy Griffith appeared for Petitioner. Respondent failed to appear.

V. PROPOSED CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission (TABC) has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN. §§6.01 and 11.11.
2. The State Office of Administrative Hearings has jurisdiction to conduct the administrative hearing in this matter and to issue a proposal for decision containing findings of fact and conclusions of law pursuant to TEX. GOV'T CODE ANN. Ch. 2003.
3. Notice of the hearing was provided as required by the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§2001.051 and 2001.052.
4. Based upon Respondent's failure to appear, the factual allegations in the notice of hearing are deemed admitted as true.
5. On or about November 2004, Respondent, his agent, servant, or employee, entered into a "tied house" in violation of TEX. ALCO. BEV. CODE ANN. § 102.01 (g).
6. Respondent, its agent, servants, or employees, Kundan Lal Sharma, or some other person or person, on or about March 17, 2005, knowingly possessed or permitted the possession of alcoholic beverages not covered by invoice in violation of TEX. ALCO. BEV. CODE ANN. §§ 11.61 (b) (2), 23.01 (a) (2), and /or 28.06 (c)
7. On or about March 31, 2005, and before said date, Respondent, or its agent, servant, or employee, Kundan Lal Sharma, Raj Sharma, Del Lindley, and/or Frank Stradlee, or some other person or person, refilled a container or containers which contained distilled spirits on which the tax has been paid in violation of TEX. ALCO. BEV. CODE ANN. § 11.62 (b) (2) and/or § 28.08.
8. On or about April 1, 2005, or before said date, Respondent, or its agent, serant, or employee, Kundan Lal Sharma, or some other person or persons, purchased distilled spirits from someone who did not hold a local distributor's permit in violation of TEX. ALCO. BEV. CODE ANN. § § 28.07 (a) and or 11.61 (b) (2).
9. Respondent, its agent, servants, or employees, Kundan Lal Sharma, or some other person or persons, on or about April 1, 2005, knowingly possessed or permitted the possession of alcoholic beverages not covered by invoice in violation of TEX. ALCO. BEV. CODE ANN. §

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§ 28.07 (a) and or 11.61 (b) (2), 23.01 (a) (2), and/or 28.06 (c).

- 10 Based on the foregoing Findings of Fact and Conclusions of Law, Respondent's Mixed Beverage Permit MB-530982, Mixed Beverage Late Hours Permit LB-530983, and Beverage Cartage Permit PE-530984. should be canceled.

SIGNED OCTOBER 3RD, 2005.



KYLE J. GROVES
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

SERVICE LIST

AGENCY: TEXAS ALCOHOLIC BEVERAGE COMMISSION

CASE: TABC vs. Shri Maha Laxmi Inc.

DOCKET NUMBER: 458-05-6921

AGENCY CASE NO: 616224

Timothy Griffith
Staff Attorney
825 N. McDonald, Suite 180
McKinney, Texas 75609
Telephone No: (972) 547-5092
Fax No: (972) 547-5093

AGENCY COUNSEL
VIA FAX (972) 547-5093

Shri Maha Laxmi Inc
D/B/A Chrome
2604 Main St.
Dallas, TX 75226

RESPONDENT
VIA REGULAR MAIL

as of October 03, 2005