



STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LIQUOR CONTROL COMMISSION

In the matter of)
PAYAL AND ELLA LLC)
D/B/A LUCKY'S DOWNTOWN MARKET)
24 Division Ave S) Business ID No. 231716
Grand Rapids, MI 49503-4202)
)
Kent County)

At the January 22, 2019 hearing of the Michigan Liquor Control Commission in Lansing, Michigan.

PRESENT: Andrew J. Deloney, Chairman
Teri L. Quimby, Commissioner
Dennis Olshove, Commissioner

CORRECTED ORDER

PENALTY HEARING ORDER

Under MCL 436.1903(1), the Commission shall hold a Penalty Hearing and impose a suspension or revocation of the 2018 Specially Designated Distributor and Specially Designated Merchant licenses with Sunday Sales Permits (A.M. & P.M.), Beer & Wine Tasting Permit, and 1-Direct Connection to unlicensed premises held by Payal and Ella LLC, d/b/a Lucky's Downtown Market ("licensee") at the above-noted address, as the licensee was found liable for three (3) or more violations of MCL 436.1801(2) on different occasions within a 24-month period. The licensee was found responsible for seven (7) violations of MCL 436.1801(2) within a 24-month period concerning the sale of alcoholic beverages. Those violations occurred on August 10, 2017, May 25, 2018, June 6, 2018, June 8, 2018, June 14, 2018, July 6, 2018 and July 22, 2018.

The penalty hearing was held on January 22, 2019 at the Commission's Lansing office. Representing the licensee at the hearing was Attorney G. Sal Gani and sole stockholder, Macsudan Singh.

After reviewing the record of the seven (7) violations within a consecutive 24-month period, the Commission finds that the licensee has demonstrated multiple reasons to order a REVOCATION in this matter for the following reasons:

- The Commission finds that the licenses were originally issued to the licensee on April 8, 2013.
- The Commission finds that all seven (7) minors and/or intoxicated patrons were sold or furnished alcoholic liquor in violation of MCL 436.1801(2) within a very short timeframe of approximately eleven (11) months.
- The Commission finds that the August 10, 2017 violation of the sale of alcoholic liquor was made to a 20-year old minor decoy. Mohinder Singh was cited as the selling clerk. He failed to request identification. When asked by the police officer why the sale occurred, the clerk stated in the police incident report that it was because he forgot to ask for identification.
- The Commission finds that the May 25, 2018 violation of the sale of alcoholic liquor was to an intoxicated patron with a .206% BAC. Under MCL 257.625(1)(b), this level is more than twice the legal limit of .08% and falls within the highest intoxication standard under MCL 257.625(1)(c). The selling clerk cited in this incident was Rodolfo Carrillo.
- The Commission finds that the June 6, 2018 violation of the sale of alcoholic liquor was made to a 20-year old minor decoy. Mohinder Singh was cited as the selling clerk. He failed to request identification. When asked by the police officer why the sale occurred, the clerk stated in the police incident report that it was because the store was busy.
- The Commission finds that the June 8, 2018 violation of the sale of alcoholic liquor was to an intoxicated patron with a .177% BAC. Under MCL 257.625(1)(b), this level is more than twice the legal limit of .08% and falls within the highest intoxication standard under MCL 257.625(1)(c). The selling clerk cited in this incident was Rodolfo Carrillo.
- The Commission finds that the June 14, 2018 violation of the sale of alcoholic liquor was to an intoxicated patron with a .217% BAC. Under MCL 257.625(1)(b), this level is more than twice the legal limit of .08% and

falls within the highest intoxication standard under MCL 257.625(1)(c). The selling clerk cited in this incident was Rodolfo Carrillo. Further, the intoxicated patron was arrested for assaulting a female while still holding the liquor bottle he had just purchased at the licensed establishment.

- The Commission finds that the July 6, 2018 violation of the sale of alcoholic liquor was to an intoxicated patron with a .212% BAC. Under MCL 257.625(1)(b), this level is more than twice the legal limit of .08% and falls within the highest intoxication standard under MCL 257.625(1)(c). The selling clerk cited in this incident was Rodolfo Carrillo. Further, the intoxicated patron was found walking in the middle of the road. When asked by the police officer why she was in the middle of the road, she stated in the police incident report that she was drunk and was carrying a plastic bag with two (2) unopened beers she said was purchased at the licensed establishment.
- The Commission finds that the July 22, 2018 violation of the sale of alcoholic liquor was to an intoxicated patron with a .086% BAC. The selling clerk cited was Mohinder Singh.
- The Commission finds that the licensee was previously found responsible for a 2015 violation of the sale of alcoholic liquor to an intoxicated patron with a .175% BAC. Under MCL 257.625(1)(b), this level is more than twice the legal limit of .08% and falls within the highest intoxication standard under MCL 257.625(1)(c).
- The Commission finds that the licensee was found responsible for selling cigarettes to a 16-year old minor on July 17, 2018 without requesting identification, which demonstrates a continued pattern of failing to request identification for age prohibited sales.
- The Commission finds that the licensee failed to demonstrate policies and procedures for prevention of selling to minors and/or intoxicated patrons, and the Commission has no confidence that the licensee takes these matters seriously or would be able to prevent future violations.

- The Commission finds that the repeated activity at this licensed location clearly demonstrates a blatant lack of regard for the seriousness of these matters, and a danger to the public health, safety and welfare.
- The Commission finds that the licensee was ordered to pay fines of \$1,000 each in four (4) pending violations (CV#501695, CV#501765, CV#501976 and CV#502102), and payment of the outstanding total of \$4,000 in violation fines remains unpaid as of this date.
- The Commission finds that the financial penalties ordered for these multiple violations by the Hearing Commissioner did not deter this prohibited conduct, and three (3) 15-day consecutive suspensions were also ordered. The licenses have been suspended since January 4, 2019 pursuant to the violation hearing orders.

Under MCL 436.1903(1), the Commission shall issue a penalty of suspension or revocation in this matter. The Commission finds that a REVOCATION is warranted for the reasons stated on the record, to be effectuated immediately.

THEREFORE, IT IS ORDERED that:

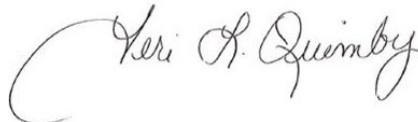
- A. The 2018 Specially Designated Distributor and Specially Designated Merchant licenses with Sunday Sales Permits (A.M. & P.M.), Beer & Wine Tasting Permit, and 1-Direct Connection to unlicensed premises held by Payal and Ella LLC, d/b/a Lucky's Downtown Market, located at 24 Division Ave S, Grand Rapids, Kent County, are IMMEDIATELY REVOKED under MCL 436.1903(1).
- B. Under MCL 436.1907(1), any and all privileges conferred by the license shall be forfeited and the Commission shall seize any and all alcoholic liquor found in the possession of the licensee.
- C. Under MCL 436.1907(2), the Commission shall remit to the licensee the purchase price less 10% paid by the licensee to the Commission for all alcoholic liquor seized. All other alcoholic liquor seized shall be disposed of

in accordance with the law and no payment shall be made for that alcoholic liquor.

MICHIGAN LIQUOR CONTROL COMMISSION



Andrew J. Deloney, Chairman



Teri L. Quimby, Commissioner



Dennis Olshove, Commissioner

Date Mailed: January 23, 2019

tlc

*Correction Notes: The order contained a typographical error on page 2 in the bullet discussing the June 6, 2018 violation – “wad” has been corrected to “was”.

Also, the order failed to include findings reflecting the August 10, 2017 sale to minor decoy violation but was noted on the hearing record and is contained in the Commission records.

The corrections have no substantive effect on the decision made by the Commission.