

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

H & G Clark Street, LLC)
d/b/a Villains Chicago)
for the premises located at)
730 South Clark Street)
) Case No. 14 LA 32
v.)
)
Department of Business Affairs and Consumer Protection)
Local Liquor Control Commission)
Gregory Steadman, Commissioner)

ORDER

DECISION OF CHAIRMAN FLEMING JOINED BY COMMISSIONER O'CONNELL

On August 5, 2014, Gregory Steadman, Local Liquor Control Commissioner, denied the application for a Consumption on Premises – Incidental Activity license. The reason given for the denial was that the applicant did not disclose all of the officers and/or owners of this entity and in addition, some of the undisclosed owners/officers are not eligible to obtain a liquor license. Specifically, it was alleged that Miguel Silva and Mario Silva have a beneficial interest in this business. Miguel Silva is employed by a liquor distributor and has a previous felony conviction. Mario Silva previously operated Villains Bar & Grill at 649 S. Clark Street. That license was revoked for failure to notify the City of a Change of Officers and that revocation makes Marco Silva ineligible as a previously revoked licensee. Marco and Miguel Silva are brothers and Miguel admitted Holly Grosso, the applicant, was his girlfriend and the mother of his child. The applicant filed a timely appeal with this Commission.

The Municipal Code of the City of Chicago and the Illinois Liquor Control Commission list the specific reasons for which an application for a liquor license can be denied. Failure to disclose all officers and/or owners of the applicant entity is not specifically listed as a basis for denial. Case law suggests that a Local Liquor Control Commissioner should be given discretion to make these determinations. Taking these cases under advisement with this type of denial would fit within the type of case included under 4-60-030(a). That section of the Municipal Code states no license for the sale of alcoholic liquors shall be issued to:

A person who knowingly files false or incomplete information on a liquor license application.

Under this approach, it is the failure of the applicant to disclose that Miguel and/or Marco Silva are officers and/or owners of the applicant business; that is the basis for denial. The fact that Marco and Miguel Silva may not be eligible for a liquor license is not a separate basis for denial, but if proven is relevant evidence as to why the applicant failed to disclose their interests in the premises.

Robert Griggs has been a Senior Business Consultant for the Department of Business Affairs and Consumer Protection for three and a half years. He has an undergrad degree from Williams College and an MBA in Business Administration from Kellogg. His role is to process applications, research the history of applicants, and to provide a recommendation to the Local Liquor Control Commission.

He was assigned to work on the liquor license application for H&G Clark Street, LLC. On June 20, 2013, a Miguel Silva asked about a liquor license application for 730 S. Clark. At

some point in that conversation, the fact that Miguel Silva was a liquor distributor became known and Mr. Silva was told that he would not be eligible for a license or eligible to be the manager of the business because of the distributor's license. Mr. Silva then stated he was getting the license information for his wife. Subsequently, Mr. Silva stated the applicant was not his wife but his girlfriend. That entire conversation took about 30 minutes.

A few weeks later, Ms. Holly Grosso came in with respect to the liquor license application. Once the witness saw the same account, he told Holly Grosso that Mr. Silva could not be involved. Ms. Grosso confirmed Mr. Silva was not a part of this and it was her business. In the course of his investigation, Mr. Griggs discovered that Miguel Silva was ineligible for a liquor license due to a felony conviction.

The witness explained the application process to Holly Grosso and she did file an application on behalf of H&G Clark Street, LLC, d/b/a Villains Chicago. The signature date on the application was July 24, 2013, but the filing date could be different. In the initial application, Ms. Grosso indicated she owned 100% of the applicant business. Along with the application there was a financial disclosure form that listed a Zack Cogswell as an individual lender. A later version of this financial disclosure form was filed which listed Villains Chicago, LLC as an investor in the amount of half a million dollars. Three hundred and thirty thousand dollars was withdrawn from Villains Chicago, LLC to finance this business with this investment group now owning part of the business. Ms. Grosso was no longer the sole member of H&G Clark, LLC and she prepared an organization chart reflecting that fact. As part of the application process, the applicant was required to submit a lease which was executed on March 26, 2013. The witness

contacted the landlord who responded the contacts of the lease were Miguel Silva and Holly Grosso.

Mr. Griggs identified City's Exhibit 10, in evidence, as an Application Summary for the application that he signed on April 23, 2014. Griggs also identified City's Exhibit 13, as a Brief Sheet for MAGZ 649, Inc., which previously held a liquor license at 649 S. Clark. The president of this corporation was Marco Silva. It shows an Order of Revocation was entered on December 27, 2012, in Case Number 12-LR-0057. MAGZ 649, Inc. was doing business as Villains Bar and Grill. Records from the Secretary of State indicate this corporation was voluntarily dissolved on March 27, 2013.

On cross-examination, Mr. Griggs testified he never had a conversation with Marco Silva and never pulled the revocation file. He could not recall the nature of the revocation. Neither of the Silvas is mentioned in the application documents and neither Marco nor Miguel is identified on the lease as a guarantor or tenant. Four other individuals mentioned on the financial disclosure provided fingerprints and were found fit. Mr. Griggs repeated that he told Miguel Silva he could not have an interest in the application. The email he received in connection with the lease from Elizabeth O'Brien stated it had been forwarded to Holly Grosso and to Miguel Silva at his email address. That email address led to another question with the landlord who confirmed Holly and Miguel were tenants. He believed Miguel Silva had a beneficial interest and should not be granted a license since he is a convicted felon. He did tell Mr. Steadman and Ms. Cotton that Miguel Silva told him he was employed by a liquor distributor.

On redirect, Mr. Griggs explained this process took six months because of the change in the application from one where Ms. Grosso was a sole member and financial investor. As that changed, it took time to get the fingerprints and documents from the out of state investors.

Holly Grosso was called by the City as an adverse witness. She and Miguel have been together for seven years and they have a child together. Miguel is the brother of Marco Silva who had Villains Bar & Grill. When her original investor Zac Cogswell backed out she was introduced to Chris Henneford who invests in bars. She signed a lease in March of 2013. She took money out of her 401k and borrowed money from her family. She continues to work as Vice-President of Finance and Administration for All Terrain, Inc. which is an experimental marketing company. She will be the general manager and finance manager at H&G LLC. She spent six years in finance at a liquor company called Diageo.

Ms. Grosso sent Miguel Silva to the Department of Business Affairs and Consumer Protection on her behalf because she was extremely busy. When Miguel came back he felt that Robert seemed angry. The department did not give Miguel paperwork and she went down to get paperwork several times. She explained her attorney told her to originally be the sole owner of H&G LLC because she had no money and Robert told her to put that down. She explained to finance this venture with an investor Zac Cogswell. When that fell through, she was put in touch with Chris Henneford. On approximately November 15, 2013, Villains Chicago LLC was formed and she entered into an agreement with Villains Venture, LLC for a promissory note for \$500,000.00 for H&G LLC. This was used to finance the venture. She still lives with Miguel Silva.

The City rested its case.

Miguel Silva has been a beer distributor for two and a half years and has a distributor's license for MSV Distribution. He was able to get that license after first being approved for the federal license. He applied to the State of Illinois for a distributor's license and had a rehabilitation hearing. After that hearing, the state gave him a license. The witness is familiar with the three tier liquor system in Illinois. If you have a wholesale distributor license you cannot have a retail license or an on-premises consumption license. He remembers the meeting with Robert Griggs. He was a licensed distributor at the time of this meeting and he knew he could not have a beneficial interest in any other type of license. Mr. Griggs was filling out the application and he put Silva down as the General Manager. When Silva said he had a distributor's license and was not involved and only wanted to pick up an application, Griggs became visibly upset. Griggs originally would not give him an application but eventually did give him the application. Mr. Griggs was aware the witness had a permanent relationship with Ms. Grosso. Silva originally told Griggs they were married because Silva did not want to explain they were living together and having a child. It was easier to say they were married but Silva felt Griggs thought he was being untruthful. He is not a guarantor or signatory on the lease. He did not contribute any money towards the build-out of the premises and would not have any beneficial interest after the debt is paid. He and Holly do not share a checking or savings account and Holly does not have an interest in his distributor's license.

Silva explained he told Griggs he was married to Ms. Grosso because Griggs said only like a spouse could pick the application up. He did later tell Griggs that they were not actually married but live together and have a son together. It was easier to say he and Holly were married. Their son will be four.

Silva also explained he believes he was on an email accessed by the previous webmaster because he used to review craft beer lists for the webmaster. He got on Elizabeth O'Brien's email list because she was the person who sent Holly Grosso a copy of the lease for 730 South Clark. He printed out the documents for Holly. Silva has no idea why Matt Duncan included him and his brother as tenants at 730 S. Clark. He has had his distributor's license since 2012. The first meeting with Mr. Griggs took an hour and a half. He dropped off documents on at least one other occasion.

Holly Grosso testified that the corporate name for the applicant is H&G Clark Street, LLC. She chose Villains Chicago as the business name because it had a following from the operation of Villain's Bar and Grill. Marco Silva does not have any interest of any kind in the operation of H&G Clark Street or Villains Chicago, LLC. She had never talked to Marco Silva about her efforts at funding for the financing of H&G Clark Street, LLC. Other than the individuals disclosed in the financial disclosure form, no one has interest in the applicant. She signed a promissory note to Villains Chicago LLC for Five Hundred Thousand dollars and if it goes south, she is on the hook for \$500,000.00. She was never involved in the operation of Marco's bar. She admits her relationship with Miguel Silva but it does not relate to the operation

of H&G Clark Street LLC. Marco is now general manager of a fine dining restaurant in the South Loop called Acadia.

On cross, Ms. Grosso stated she has worked in bars and restaurants and her family has owned bars. She will be the general manager if she can get enough money. She will be in charge of the daily operations. There will probably be three to five bartenders and a staff of 12 to 15 people not including the kitchen staff.

The issue in this case is to decide de novo the propriety of the decision of the Local Liquor Control Commissioner to deny this license. In making this decision, this Commission must review the evidence presented in its entirety. The fact that there might be some evidence in the record to support a denial is not the appropriate standard in this case.

There is more than ample evidence in the record to support Mr. Griggs' investigation into whether other people have a beneficial interest in the applicant business. Mr. Miguel Silva's explanation as to why he misled Mr. Griggs about his marital status is confusing at best. His explanation about how he was included on an email about the lease was also confusing. The fact that Matt Duncan told Mr. Griggs by email that Holly, Marco, and Miguel are tenants of 730 S. Clark reinforces Mr. Griggs' suspicion as does the changing nature of the financing of the applicant. The fact that Marco Silva's bar was named Villains Bar and Grill and the applicant's business name will be Villains Chicago also justified Mr. Griggs' investigation.

While all these factors justified further investigation, they are insufficient to establish that either Marco or Miguel Silva have a beneficial interest in the applicant. The evidence as to Marco is that he owned a bar with a similar name in close proximity to the applicant location and an email from Matt Duncan that Marco was on the lease for 730 S. Clark. That is not sufficient to establish Marco has a beneficial interest. There is more evidence with respect to Miguel due to his relationship with Holly Grosso, but that evidence is not sufficient to establish a beneficial interest. Since there is not enough evidence to establish a beneficial interest with respect to Marco and Miguel Silva, it is unnecessary to address whether they are ineligible for a liquor license.

The actual evidence in the record is that Holly Grosso and Villains Chicago LLC are the owners of the applicant business. The denial of the application for a Consumption on Premises – Incidental Activity license is reversed.

THEREFORE, IT IS HEREBY ORDERED That the said order or action of the Local
Liquor Control Commissioner of the City of Chicago be and the same hereby is REVERSED.

Pursuant to Section 154 of the Illinois Liquor Control Act, a petition for rehearing may be filed with this Commission within TWENTY (20) days after service of this order. The date of the mailing of this order is deemed to be the date of service. If any party wishes to pursue an administrative review action in the Circuit Court, the petition for rehearing must be filed with this Commission within TWENTY (20) days after service of this order as such petition is a jurisdictional prerequisite to the administrative review.

Dated: January 28, 2015

Dennis M. Fleming
Chairman

Donald O'Connell
Member