

PETITION TO FINE, SUSPEND, OR * BEFORE THE ALCOHOLIC
 REVOKE THE ALCOHOLIC *
 BEVERAGE LICENSE HELD BY * BEVERAGE HEARING BOARD
 EVAN BROWN, AMER SHAH, *
 AND ALAN BRIARS ON BEHALF OF * FOR
 QUAD B, LLC, t/a THE DIAMONDBACK *
 TAVERN¹ * HOWARD COUNTY, MARYLAND
 *
 * Case No. 15- 48-V

DECISION AND ORDER

The Board of License Commissioners for Howard County, Maryland (the “Liquor Board”), pursuant to Rule 1.02(A) of the Liquor Board Rules and Regulations, has delegated the authority to hear and decide cases to the Alcoholic Beverage Hearing Board for Howard County, Maryland (the “Hearing Board”). This Proposed Decision and Order shall take effect immediately in accord with Rule 7.05(C), and shall become Final, as provided in Rule 6.13.

On September 29, 2015, the Hearing Board heard the Petition of Howard County, Maryland and Detective Mark Baxter, Alcoholic Beverage Inspector (collectively “Petitioners”), to Fine, Suspend, or Revoke the Class B Beer, Wine, and Liquor 7-day on-sale License held by Evan Brown, Amer Shah, and Alan Briars (“Licensees”), on behalf of Quad B, LLC, t/a The Diamondback Tavern, located at 3733 Old Columbia Pike, Ellicott City, Maryland 21043. The Petitioners were represented by David Moore, Senior Assistant County Solicitor. The Licensees were represented by Thomas G. Coale, Esquire.

All the documents on file were incorporated into the record by reference. These include the following: a letter dated September 1, 2015, to the attorney for the Licensees from the Liquor Board Administrator, advising him of the time change for the hearing date of September 29, 2015; a letter dated July 9, 2015, to the attorney for the Licensees from the Liquor Board Administrator, approving their request to reschedule the hearing until September 29, 2015; a

¹ Although the Petition as originally filed included the then Resident Agent, Mr. Douglas Bruns, by the time the Petition was heard, Mr. Shah was the Resident Agent. Mr. Shah’s application as Resident Agent was heard a few days before the Petition was filed. The Petition is properly against the existing licensees and the caption has been revised accordingly.

letter dated July 6, 2015, to the Liquor Board Administrator from the attorney for the Licensees, requesting a postponement of the July 28, 2015 hearing; a letter dated April 17, 2014, to the Licensees from the Liquor Board Administrator, advising them of the hearing date of July 28, 2015, and enclosing the Petition to Fine, Suspend, or Revoke the alcoholic beverage license for Quad B, LLC, t/a The Diamondback Tavern; and an email dated September 17, 2015, from the Alcoholic Beverage Inspector stating that the property had been posted.

SUMMARY OF TESTIMONY

David Moore, Petitioners' attorney, stated that the Licensees agree to a stipulation of the factual allegations that the former Resident Agent on the License was not a Maryland resident. Mr. Moore stated that Licensees, Evan Brown and Alan Biars changed the resident agent on the License in the spring. Mr. Coale, counsel for the Licensees confirmed that they stipulated to the factual allegations of the Petition but that they were unaware that the prior Resident Agent, Mr. Bruns, had moved out of state.

Evan Brown, Licensee for Quad B, LLC, t/a The Diamondback Tavern, was sworn and testified that he is also the owner of Portalli's restaurant, and has been the owner of The Diamondback Tavern since November 2009. Mr. Brown testified that he has been involved in the hospitality business for 20 years, and that this was his first violation.

Mr. Brown testified that prior to receiving the Petition, he was not aware that Mr. Bruns had taken residence in Maine. Mr. Brown testified that he knew Mr. Bruns had a vacation home in Maine, and was trying to get out of his Beltsville business. Mr. Brown testified that he knew Mr. Bruns was considering moving out of state in 2013, but that he could not sell his business. Mr. Brown testified that he knew he needed to get a new Resident Agent, because Mr. Bruns was not coming into the restaurant, and their relationship was changing.

Mr. Brown testified that his last contact with Mr. Bruns was at renewal time, when he sent their renewal application to him at his office in Beltsville. Mr. Brown testified that he received an email from Mr. Bruns that the renewal application had been signed and was ready to be picked up. Mr. Brown stated that he did not call Mr. Bruns when he learned of the violation.

Mr. Brown testified that the new Resident Agent, Amer Shah, was present and understands his responsibility, and will come into the restaurant at least two to three times per week.

Regarding the unlawful transfer of beer from Portalli's to The Diamondback Tavern, Mr. Brown testified that a holiday party had been scheduled at The Diamondback Tavern and there had been a request for Bud Light beer. Mr. Brown testified that they did stock extra Bud Light beer, but that they ran out. Mr. Brown testified that an employee decided on his own, to go to Portalli's, and transport more Bud Light beer to the party.² Mr. Brown testified that the employee who transported the beer, had only worked there for three to four months, and that he was terminated after the incident. Mr. Brown testified that the employee was not alcohol awareness certified.

Mr. Brown testified that since the incident, he has spoken with all of his staff, and discussed the prohibition of sharing alcoholic beverages between the two restaurants. Mr. Brown testified that almost all of his employees are now alcohol awareness certified. Mr. Brown testified that he also requires an email be sent if there is any exchange of food between the two restaurants.

The following Licensees' Exhibit was entered into the record.

Exhibit #1 – signatures of current employees of both restaurants acknowledging they read the rules applying to the storage and sale of alcohol

Based on the evidence presented at the hearing, the Board of License Commissioners makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Hearing Board finds that Evan Brown, Amer Shah, and Alan Briars are the Licensees on behalf of Quad B, LLC, t/a The Diamondback Tavern, a Class B Beer, Wine, and Liquor 7-day on-sale license located at 3733 Old Columbia Pike, Ellicott City, Maryland 21043.
2. The Hearing Board finds that the Licensees have admitted to violating the following provisions of the Liquor Board Rules and Regulations:
 - a. Liquor Board Rule 2.03 – Updating Application
 - b. Liquor Board Rule 2.06(A) – Resident Agent
 - c. Liquor Board Rule 4.04 – Compliance with Laws and Regulations

² There are no facts in the record regarding the involvement of Portalli's staff in the unlawful alcohol transfer, and no Petition has been brought against Portalli's, but the Board observes that given the facts stipulated to by the Licensees, Portalli's was involved in an unlawful transfer when beer was taken out of that establishment for the benefit of Diamondback.

- d. Liquor Board Rule 5.07 – Acts Contrary to Law
 - e. Liquor Board Rule 5.10(A) – Relation with Wholesalers
 - f. Liquor Board Rule 5.19 – False Statements
3. The Hearing Board finds that the Licensees have violated the following provisions of the Liquor Board Rules and Regulations:
- a. Liquor Board Rule 2.03 – Updating Application
 - b. Liquor Board Rule 2.06(A) – Resident Agent
 - c. Liquor Board Rule 4.04 – Compliance with Laws and Regulations
 - d. Liquor Board Rule 5.07 – Acts Contrary to Law
 - e. Liquor Board Rule 5.10(A) – Relation with Wholesalers
 - f. Liquor Board Rule 5.19 – False Statements
4. The Hearing Board finds that it is not necessary to suspend or revoke the license, but because of the serious nature of these offenses, and in order to ensure compliance with the law and Rules and Regulations, and to promote the peace and safety of the community, it is necessary to impose a fine in the amount of Seven Hundred Fifty Dollars, (\$750.00), and a fee of Two Hundred Sixty Dollars (\$260.00), for the cost of the hearing as provided by Rule 7.05(B), for a total of One Thousand Ten Dollars (\$1,010.00).

CONCLUSIONS OF LAW

1. The Hearing Board concludes that Evan Brown, Amer Shah, and Alan Briars are the Licensees on behalf of Quad B, LLC, t/a The Diamondback Tavern, a Class B Beer, Wine, and Liquor 7-day on-sale license located at 3733 Old Columbia Pike, Ellicott City, Maryland 21043.
2. The Hearing Board concludes that the Licensees have violated the following provisions of the Liquor Board Rules and Regulations:
 - a. Liquor Board Rule 2.03 – Updating Application
 - b. Liquor Board Rule 2.06(A) – Resident Agent
 - c. Liquor Board Rule 4.04 – Compliance with Laws and Regulations
 - d. Liquor Board Rule 5.07 – Acts Contrary to Law
 - e. Liquor Board Rule 5.10(A) – Relation with Wholesalers

f. Liquor Board Rule 5.19 – False Statements

3. The Hearing Board concludes that it is not necessary to suspend or revoke the license, but because of the serious nature of these offenses, and in order to ensure compliance with the law and Rules and Regulations, and to promote the peace and safety of the community, it is necessary to impose a fine in the amount of Seven Hundred Fifty Dollars, (\$750.00), and a fee of Two Hundred Sixty Dollars (\$260.00), for the cost of the hearing as provided by Rule 7.05(B), for a total of One Thousand Ten Dollars (\$1,010.00).

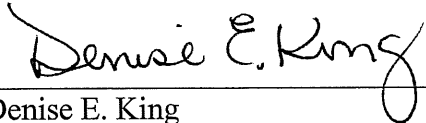
ORDER

For the foregoing reasons, and upon finding a violation of Rules 2.03, 2.06(A), 4.04, 5.07, 5.10(A), and Rule 5.19, of the Liquor Board's Rules and Regulations, it is this 27th day of October, 2015, by the Alcoholic Beverage Hearing Board for Howard County, Maryland, **ORDERED:**


That a **FINE** in the amount of Seven Hundred Fifty Dollars, (\$750.00), and a fee of Two Hundred Sixty Dollars (\$260.00), for a total of One Thousand Ten Dollars (\$1,010.00), is imposed upon Evan Brown, Amer Shah, and Alan Briars of Quad B, LLC, t/a The Diamondback Tavern, and **SHALL BE PAID NO LATER THAN DECEMBER 31, 2015.**

ATTEST:

**ALCOHOLIC BEVERAGE HEARING
BOARD OF HOWARD COUNTY,
MARYLAND**



Denise E. King
Administrator



Mary Bird, Chairperson

Harry Evans, III Vice-Chairperson


REVIEWED BY HOWARD COUNTY
OFFICE OF LAW
GARY W. KUC
COUNTY SOLICITOR



Charles C. Feaga, Member



Heather Gaetano, Member



Lewis Taylor, Esquire

Assistant County Solicitor



Charley C. Sung, Member

ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER MAY APPEAL THE
DECISION TO THE LIQUOR BOARD WITHIN TEN DAYS OF THE DATE OF THE
DECISION, IN ACCORD WITH RULE 6.14 OF THE RULES AND REGULATIONS OF
THE LIQUOR BOARD.