

IN THE MATTER OF THE * BEFORE THE ALCOHOLIC
APPLICATION OF JUN SU CHANG *
AND YOUNG SUN KIM ON BEHALF * BEVERAGE HEARING BOARD
OF OB SPIRITS, INC., t/a TRIANGLE *
LIQUORS, FOR A RESIDENT AGENT *) FOR
CHANGE ON A CLASS A-1 BEER, *
WINE, AND LIQUOR 7-DAY OFF- * HOWARD COUNTY, MARYLAND
SALE LIQUOR LICENSE *

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”).~~

On March 25, 2014, the Hearing Board heard the application of Jun Su Chang and Young Sun Kim (“Applicants”), on behalf of OB Spirits, Inc., t/a Triangle Liquors (“Triangle Liquors”), for a resident agent change on the Class A-1 Beer, Wine, and Liquor 7-day off-sale license, for a 2,950 square foot package goods store located at 8801-03 Baltimore National Pike, Ellicott City, Maryland 21043. The hearing was advertised pursuant to Article 2B of the Annotated Code of Maryland.¹ The Applicants were represented by Preston Pairo, III, Esquire. There were no protestants who appeared in opposition to the application.

All the documents on file for Triangle Liquors and St. John’s Liquors were incorporated into the record by reference. These include the following: a change of resident agent application for Triangle Liquors submitted in August 2013, a change of resident agent application for Triangle Liquors submitted in February 2014, and another change of resident agent application for Triangle Liquors submitted in March 2014; a copy of the Certificates of Naturalization for Jun Su Chang and Young Sun Kim; criminal history record checks for Jun Su Chang and Young Sun Kim from the Department of Public Safety and Correctional Services; a memorandum dated February 10, 2014, from the Liquor Board Administrator to the Alcoholic Beverage Inspector,

the Department of Inspections, Licenses and Permits, the Bureau of Environmental Health, and the Department of Planning and Zoning; the background investigation of Young Kim by the Alcoholic Beverage Inspector dated October 16, 2014; background investigations of both Applicants by the Alcoholic Beverage Inspector dated March 25, 2014; a memorandum dated February 27, 2014, to the Liquor Board Administrator from the Department of Planning and Zoning; a memorandum dated March 12, 2014, from the Bureau of Environmental Health; a letter dated March 11, 2014, from the Office of the Fire Marshal; a letter dated February 26, 2014, to the Department of Finance from the Liquor Board Administrator; a letter dated March 25, 2014, from the Department of Finance; a letter dated February 26, 2014, to the Comptroller of Maryland from the Liquor Board Administrator; a letter dated March 10, 2014, from the Comptroller of Maryland; a fax transmission dated February 27, 2014, to the Applicants' attorney enclosing a letter dated February 27, 2014, with notification of the hearing date and the necessity to advertise; and an email dated March 5, 2014, from the Alcoholic Beverage Inspector stating the premises had been posted.

FACTUAL BACKGROUND

Triangle Liquors has been licensed as a Class A-1 liquor store since 2007. The licensees were Ms. Young Kim, the 90% owner, and Mr. Jin Wook Kim, the 10% owner and resident agent. In December 2012, the Howard County Alcoholic Beverage Inspector performed an inspection at Triangle Liquors. During the subsequent investigation, the Inspector discovered that Jin Wook Kim had moved out of Howard County in approximately June of 2012 and was no longer registered to vote in Howard County. According to State and local law, both the change of county residency and the change in voter status disqualified Mr. Kim as a resident agent. MD CODE ANN., ART. 2B §§ 9-101(b) and 10-103(b); Liquor Board Rules 2.06 and 2.10. On June 11, 2013, the Hearing Board heard a Petition for Violation against Triangle Liquors regarding the resident agent violation and other violations. The licensees admitted all the alleged violations.

The Hearing Board issued a Decision and Order dated August 13, 2013 that found the licensees had violated various Liquor Board Rules and Regulations, including the resident agent requirement. The licensees were fined \$500 and suspended for a minimum of three days, with

¹ As discussed below, although the application was advertised, because the application was incomplete and did not include a necessary corporate officer, the ad was insufficient as a matter of law. MD. CODE ANN., ART. 2B §10-

the suspension to continue indefinitely until they submitted “a complete application for a Change of Resident Agent.” On August 16, 2013 the licensees submitted an application for a change of resident agent proposing Ms. Young Kim as the 100% owner of the business and resident agent.

Prior to the hearing on the application, a routine background investigation by the Alcoholic Beverage Inspector identified information that Ms. Kim had failed to disclose on the application, including her affiliation with another Class A-1 licensee, St. John’s Liquors. This information was communicated to counsel for Ms. Kim, who requested that the hearing on the application be postponed. That request was granted. The suspension was not re-imposed at that time. Despite repeated requests, the licensees did not submit another application until February 3, 2014. That application proffered Ms. Kim as the 90% owner and Jun Su Chang as the 10% owner and resident agent. However, the information identified as being undisclosed on the August application still had not been addressed. Subsequently, on or about March 14, 2014, the licensees submitted a third application that proffered Ms. Kim as the 90% owner and Jun Su Chang as the full-time manager (no longer 10% owner) and resident agent. Although this application identified Jin Wook Kim as a 10% owner and corporate officer of OB Spirits, Inc., he was not included as a proposed licensee, in violation of State and local law. MD. CODE ANN., ART. 2B § 9-101(b); Liquor Board Rule 2.08. Thus, while the third application finally disclosed the previously undisclosed information about Ms. Kim’s involvement with St. John’s Liquors, the application remained incomplete as it did not include Jin Wook Kim as a licensee.

SUMMARY OF TESTIMONY

Jun Su Chang, full-time manager of Triangle Liquors, was sworn and testified that he has lived in Howard County for 14 years, and is a registered voter. Mr. Chang testified that after a year of college he started working. When asked by Mr. Pairo, where he started working, Mr. Chang replied, “Several things, different sub-shops, carry-outs, retail stores, beauty supplies...” Subsequently, when asked whether he had omitted listing these establishments in response to the application question requiring a list of all employers for the last 20 years, Mr. Chang replied, “It was more of my parent’s store, ... when I went to high school..., and other places that I worked were more of help than getting paid because my friend worked there and he was getting married and I had to fill in for him for a couple days and that’s about it.” Mr. Chang stated that he never

worked for any establishment that sold alcohol except for the two businesses listed on his application, Starting Gate Liquors and Triangle Liquors.

Mr. Chang testified that he previously owned Koom, Inc., a sub shop in Baltimore City, for five years. Mr. Chang testified that he sold the sub shop, went back to college, and worked part-time as a cashier at Starting Gate Liquors in Laurel, Maryland. Mr. Chang was asked about the address for Koom, Inc., which he provided as 841 N. Cumberland, an address that does not appear to exist. When asked whether the address could have been 541 N. Cumberland, Mr. Chang stated that his best recollection was that it was 841 N. Cumberland.

With regards to information from the State Department of Assessments and Taxation (“SDAT”) indicating that Koom, Inc., was forfeited in 2007 for failing to pay property taxes, Mr. Chang testified that he remembered paying all taxes and would provide documentation showing that he paid the taxes, and that the information from the State Department of Assessment and Taxation is incorrect.

Mr. Chang testified that in September of 2009, he came to Triangle Liquors, where he worked part-time on weekends, and worked during the day at Carmax as an auction associate. Mr. Chang testified that he became the manager of Triangle Liquors in 2013. Mr. Chang testified that he works eighty hours per week, and that he is in charge of operating the store. Mr. Chang testified that since he has been employed at the store, there have not been any violations.

Hea Park, a Court Certified Translator, was sworn as the translator for Young Sun Kim. Young Sun Kim, President and 90% shareholder of OB Spirits, Inc., was sworn and testified that she is comfortable with Mr. Chang becoming the resident agent. Ms. Kim testified that she is in the process of negotiating the sale of the business, and it is her desire to sell the store. Ms. Kim confirmed that Jin Wook Kim is a 10% owner and corporate officer of OB Spirits, Inc.

Counsel for the Applicants asked Ms. Kim about her involvement with St. John's Liquors. Ms. Kim testified that Matthew Park, licensee for St. John's Liquors, is a relative. Ms. Kim testified that Matthew Park's wife, Soon Yeon Shin, is Ms. Kim's husband's cousin. Ms. Kim testified that she was involved with St. John's Liquors because Mr. Park was in an automobile accident and had a long recovery period. Ms. Kim testified that Mr. Park asked if she would check on the store and help him with the business.

When asked by her counsel what she does for Matthew Park at St. John's Liquors, Ms. Kim replied “there's nothing that I do.” She then explained that, “due to his injuries he was

unable to see the store so I do things for him.” When asked what type of things she does, Ms. Kim stated, “nothing in particular, if he requests that I check-in, whether it’s on an employee or just to check-in on the store I would do that.” Asked how often she went to the store, Ms. Kim stated “once or twice a week ... very short brief time.” Mr. Pairo asked what she meant by “short brief time.” Ms. Kim stated that if, for example, she was checking on an employee, “I just go in and check on the employee for a very brief moment.” Mr. Pairo asked Ms. Kim how long she had been doing that and Ms. Kim testified, “ever since after Matthew Park’s accident. ... every time he sends me a request I would do that.” Asked when the accident occurred, Ms. Kim testified that she was not sure of the exact date but that it was “right before the store opened.”² Mr. Pairo asked whether Ms. Kim was ever called to St. John’s Liquors by the police because of an alarm. Ms. Kim stated that she was and when asked why she was called, stated that “there was an ongoing request, if there’s something, matters that need to be handled for the store, that I would take care of it.” The Hearing Board asked, “what gives you the authority to negotiate the sale of his business?” Ms. Kim stated, “It’s upon his request, Matthew Park’s request, so my husband and I are only here to help him, nothing else, nothing more.”

The Hearing Board asked Ms. Kim about a check drawn on a bank account for St. John’s Liquors dated July 24, 2013, in the amount of \$860 and paid to the Director of Finance for Howard County for a fine issued to St. John’s Liquors by the Hearing Board. Ms. Kim stated, “Matthew Park made it so that I would be able to sign on his behalf and made other arrangements so that I would be able to run the store.” Ms. Kim was asked, “who handles signing the pay checks for all the employees” and she replied, “Yes, I did that.” Ms. Kim testified that she leaves signed blank checks at the store for the manager to “fill in the blanks.” When asked why they did not add the manager to the bank account, Ms. Kim stated that she was not sure. When asked whether the checks that St. John’s Liquors uses to pay for orders of alcoholic beverages have her signature on them, Ms. Kim stated “Yes.”

Ms. Kim was asked who ordered alcohol inventory for St. John’s, and she stated that the manager does. When asked whether there was any joint purchasing of alcohol, Ms. Kim said,

² St. John’s Liquors was granted a Class A-1 license in 2009.

“No. Never.”³ Ms. Kim testified that she understands the laws that prevent liquor stores from working together. When asked about the discovery of alcohol purchased by Triangle Liquors at St. John’s Liquors, Ms. Kim said, “I’m not sure, I don’t know.” Ms. Kim was asked whether Mr. Park was aware that she owned Triangle Liquors. She stated, “Yes, of course.” When informed that Mr. Park had testified under oath in a previous proceeding that he was unaware of Ms. Kim’s involvement in another liquor store, Ms. Kim stated, “I am not exactly sure why he did that, but I think since we’re helping each other and I’m helping him that he was just trying to protect me, I don’t know why.”

When asked why the affiliation with St. John’s was not disclosed on applications provided to the Board by Ms. Kim, she testified, “Quite honestly I don’t know why I didn’t put it in my previous applications but I didn’t really feel the need to.”⁴ Ms. Kim testified that she did not receive any income from Mr. Park for her services. The Hearing Board asked whether there was any documentation or written agreement about Ms. Kim running St. John’s. Ms. Kim testified that she and her husband did not have a signed contract with Mr. Park, they were only there to help, and did not need anything signed. Ms. Kim stated, “My husband and I, we’re always eager and willing to help somebody that is in need, we’re not that fond of having everything in black and white, having documents and so forth.”

Ms. Kim was asked who was the current manager at St. John’s Liquors and identified a person by the name of “Charlie.” When asked whether that was the same “Charlie” that, according to Matthew Park’s testimony in a prior hearing on a Petition for Violation against St. John’s Liquors, had been fired for sale to a minor, Ms. Kim stated “Yes.” She explained that after the hearing on the Petition for Violation against St. John’s, Matthew Park rehired Charlie.

Ms. Kim was asked whether her husband had any interest in a business that sells alcohol. She stated “No.” Ms. Kim was asked whether her husband loaned Mr. Park any money to buy St. Johns Liquors. She answered, “No, I’m not exactly sure, but to my knowledge, no.” Ms. Kim was asked about an SDAT UCC filing that lists Ms. Kim’s husband, Seung Jae Lee, as a

³ An October 26, 2011 investigation by the Field Enforcement Division of the Comptroller of Maryland identified alcohol purchased by Triangle at St. John’s Liquors. The field inspection reports indicate that Mr. Park admitted to bringing the alcohol to St. John’s even though he knew it was illegal.

⁴ The relevant question on the application reads as follows: “List the name, address, and dates of any establishment that sells or sold alcoholic beverages with which you are or have been connected and explain the nature of the association (for example, employment, financial interest, license holder, or helping in family business).”

debtor for St. John's Liquors and provides his address as 8079 High Castle Road. Ms. Kim was not able to provide any additional information.

Mr. Pairo asked Mr. Kim if she ever lived at 8079 High Castle Road in Ellicott City, or was familiar with the address.⁵ She stated that she was not sure of the exact address but that she had heard that Mr. Park had lived on High Castle Road. Asked when he lived there, Ms. Kim indicated that she was not sure, but "to my understanding he lived there several years back."⁶

The Hearing Board asked Ms. Kim about her role in OB Trading, Inc., t/a OB Tobacco Outlet, located at 4574 Edmondson Road. Ms. Kim stated that she had been the 100% owner of that establishment. Ms. Kim was asked about a Baltimore City Police Report (Complaint # 088K11482), which indicates that approximately \$40,000 in cash and several video gaming machines were seized pursuant to a search warrant, and which identifies the establishment as a "Liquor Store." Pursuant to advice from her attorney, Ms. Kim refused to answer any questions about the Police Report except to state that the establishment did not sell alcohol. Ms. Kim also acknowledged that she was the prior owner of another establishment called 40 Tobacco Outlet, Inc.

The following Exhibits were entered into the record:

Exhibit #1 – certification of advertisements from The Baltimore Sun Media Group - Howard County Times and Howard Sun

Exhibit #2 – six Alcohol Awareness certificates for Jun Chang, Hyo Kim, Se Won Kim, Sun H. Lee, Young Kim, Oh Kil Kwon

FINDINGS OF FACT

Based on the evidence presented at the hearing, the Hearing Board makes the following Findings of Fact:

1. The Hearing Board finds that Jun Su Chang and Young Sun Kim, on behalf of OB Spirits, Inc., t/a Triangle Liquors, have applied for a resident agent change on a Class A-1 Beer,

⁵ The Alcohol Beverage Inspector identified an SDAT UCC record for St. John's Liquors that lists Ms. Kim's husband as having a financial interest in St. John's and provides his address as 8079 High Castle.

⁶ Although the property at 8709 High Castle was owned at one time by Mr. Park, it was transferred to a bank in 2012. Despite this, Mr. Park continued to use the High Castle address on the renewal applications for St. John's Liquors, including in March of 2013.

Wine, and Liquor 7-day off-sale license, for a 2,950 square foot package goods store located at 8801-03 Baltimore National Pike, Ellicott City, Maryland 21043.

2. The Hearing Board finds that Triangle Liquors has been operating without a qualifying resident agent for approximately two years.

3. The Hearing Board finds that, despite an Order of the Board issued in August 2013, and ample opportunity, Triangle Liquors has yet to file a complete application for a change of resident agent.

4. The Hearing Board finds that both Jin Wook Kim and Young Sun Kim made material false statements on their 2014 renewal application when they answered affirmatively that "all facts and information contained in the original application as submitted are true and unchanged at this time," because they testified at the August 2013 Violation hearing that Mr. Kim had moved out of the County.

5. The Hearing Board finds that the Triangle Liquor licensees' apparent disregard for State and local law, and for Orders of the Hearing Board, represents a threat to public health and safety, undermines the rule of law, and constitutes an unfair competitive advantage over licensees that commit significant resources to comply with the law.

6. The Hearing Board finds that, according to her own testimony, Young Sun Kim has been involved in operating St. John's Liquors since 2009, including signing checks for the purchase of alcohol, signing checks for the payment of fines, and signing payroll checks.

7. The Hearing Board finds that Young Sun Kim failed to disclose her affiliation with St. John's Liquors on renewal applications for Triangle Liquors and on applications for a Change of Resident Agent for Triangle Liquors.

8. The Hearing Board finds that Young Sun Kim's failure to disclose her affiliation with St. John's Liquors constitutes a material false statement.

9. The Hearing Board finds that Young Sun Kim has failed to demonstrate that she is a fit person to hold an alcoholic beverage license.

10. The Hearing Board finds that all applicants on any license application to the Liquor Board must demonstrate that they are fit.

11. The Hearing Board finds that the granting of the application is not necessary for the accommodation of the public.

12. The Hearing Board finds that based on the failure of the Applicants to demonstrate that all proposed licensees are fit and proper and based on the material false statements, the application for a Change of Resident Agent must be denied.

CONCLUSIONS OF LAW

Based on the evidence presented at the hearing, the Hearing Board makes the following Conclusions of Law:

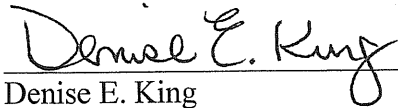
1. The Hearing Board concludes that Jun Su Chang and Young Sun Kim, on behalf of OB Spirits, Inc., t/a Triangle Liquors, have applied for a resident agent change on a Class A-1 Beer, Wine, and Liquor 7-day off-sale license, for a 2,950 square foot package goods store located at ~~8801-03 Baltimore National Pike, Ellicott City, Maryland 21043.~~
2. The Hearing Board concludes that Young Sun Kim has made material false statements by omission on Howard County liquor license applications.
3. The Hearing Board concludes that Young Sun Kim is not fit to hold an alcoholic beverage license in Howard County.
4. The Hearing Board concludes that the granting of the application is not necessary for the accommodation of the public.
5. The Hearing Board concludes that the application must be denied.

ORDER

For the foregoing reasons, it is this 19th day of May, 2014, by the Alcoholic Beverage Hearing Board of Howard County, Maryland **ORDERED** that the application by Jun Su Chang and Young Sun Kim, on behalf of OB Spirits, Inc., t/a Triangle Liquors, for a resident agent change on a Class A-1 Beer, Wine, and Liquor 7-day off-sale license, for a 2,950 square foot package goods store located at 8801-03 Baltimore National Pike, Ellicott City, Maryland 21043, be and the same is hereby **DENIED**.

ATTEST:

ALCOHOLIC BEVERAGE HEARING
BOARD OF HOWARD COUNTY,
MARYLAND



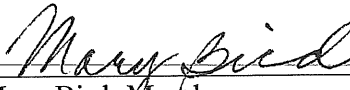
Denise E. King
Administrator



Harry Evans, III, Chairperson

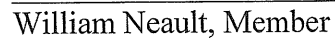


Charles C. Feaga, Vice-Chairperson

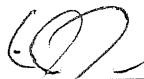


Mary Bird, Member

REVIEWED BY HOWARD COUNTY
OFFICE OF LAW
MARGARET ANN NOLAN
COUNTY SOLICITOR



William Neault, Member



Lewis Taylor, Esquire
Assistant County Solicitor

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.