

Re: El Fuerte, Inc.  
d.b.a.: Touchdown Liquors  
Premise: 86 Newhall Street  
City/Town: Lynn, MA 01902  
Heard: July 14, 2009

### DECISION

An Informational Hearing was held in regards to an application for a transfer for a new license for the license El Fuerte, Inc. Andres Moya, the Sole Officer/Shareholder of El Fuerte, Inc. applied to transfer the alcoholic license form Fernandez, Inc. Andre Moya is also the sole shareholder of Matematika Sports Bar, Inc. a §12 license in Salem, MA.

The seller is providing money and two (2) notes in the form of monies. Rafael Guzman is providing monies in the form of one (1) note. Rafael Guzman has sworn in an affidavit that he is an investor in Raffi's Place. Raffi's Place is the d.b.a. name for Guzman, Inc., a §12 license in Lynn. The Sole Officer/Shareholder of Guzman, Inc. is Vanessa Guzman, the wife of Rafael Guzman. The license was purchased in 1998 by the Guzmans and the mortgagors are Rafael and Vanessa Guzman.

In 2005, Rafael Guzman, as Sole Officer/Shareholder of LCKY, Inc. applied to have the license transferred from Guzman, Inc. to LCKY, Inc. The application was denied by the Commission for failure to comply with Massachusetts Tax Laws. Under M.G.L. Ch. 138, §25, it shall be unlawful for any licensee under this chapter to lend or borrow money directly or indirectly to or from any other licensee under this chapter. In reviewing the transactions of what actually occurred here, there seems to be a clear violation of this statute.

Issue: Is Rafael Guzman, a licensee, lending Andres Moya monies in the form of a note, and if he is, is he by doing so, in direct conflict of Ch. 138, §23?

Rafael Guzman states, in an affidavit that he is giving by, personal loan, \$190,000 to Andres Moya. According to Rafael Guzman, he does not have any direct or indirect beneficial interest in the application for his transfer of the license and stated that he is giving a personal loan to the Moya's and does not have any interest in the future for the license. However, there is an issue of violations of Ch. 138, §25 due to the lending of money from Guzman to Moya, therefore the application should be disapproved.

### ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner \_\_\_\_\_

I, the undersigned, hereby certify that I have reviewed the hearing record and concur with the above decision.

Robert H. Cronin, Commissioner \_\_\_\_\_

Dated in Boston, Massachusetts this 18<sup>th</sup> day of August 2009.

You have the right to appeal this decision to the Superior Courts under the provisions of Chapter 30A of the Massachusetts General Laws within thirty days of receipt of this decision.

cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
John Mihos, Esq.  
File