

LICENSE APPEAL COMMISSION
CITY OF CHICAGO

Five Star Certified, Inc.)	
Hala Abuobeid, President)	
Applicant (Change of Officers))	
for the premises located at)	Case No. 08 LA 86
935 West 87 th Street)	
)	
v.)	
)	
Department of Business Affairs and Consumer Protection)	
Local Liquor Control Commission)	
Norma I. Reyes, Commissioner)	
)	

ORDER

OPINION OF CHAIRMAN FLEMING JOINED BY COMMISSIONER SCHNORF

On or about March 17, 2008, a Change of Officers application was filed by Five Star Certified, Inc. The change in officers was to allow Hala Abuobeid to hold this liquor license as 100% owner of the stock of the corporation and to serve as the sole officer of the corporation. A denial letter dated December 4, 2008, was sent to Hala Abuobeid as President explaining the application for a Change of Officers was disapproved because of the applicant's failure to cooperate and provide required documentation. It further specified that false and/or incomplete information has been submitted to the Department of Business Affairs and Licensing in violation of Section 4-60-040(a) of the Municipal Code which requires all applicants to submit all required documentation, as prescribed by the rules and regulations of the department necessary to complete the liquor license application. A timely notice of appeal was filed with the License Appeal Commission of the City of Chicago. This matter proceeded to trial on September 17 and

October 8, 2009.

At the time this application was filed the location of the licensed premises was within a moratorium area. This meant that the transfer of the license, by means of change of ownership of stock was not allowed except for certain exemptions. These exemptions include a transfer of stock between existing stockholders and a transfer of stock between parent and child. Prior to March 16, 2008, Mohammad Mustafa and Mahmoud Mustafa each owned 500 shares of the 1,000 outstanding shares of stock for Five Star Certified, Inc. On March 16, 2008, Mohammad Mustafa made a gift to Mahmoud Mustafa of his 500 shares of stock. On the same date Mahmoud Mustafa made a gift of his 1,000 shares of Five Star Certified, Inc., stock to Hala Abuobeid. The document memorializing this transfer is in evidence as City's Exhibit 21. It lists Hala Abuobeid as the daughter of Mahmoud Mustafa and is signed under oath by Mahmoud Mustafa and Hala Abuobeid. Ms. Abuobeid is not the daughter of Mahmoud Mustafa. She admitted to signing City's Exhibit 21, but she never read the document and specifically never saw that she had been described as the daughter of Mahmoud Mustafa.

She was never personally asked to produce a birth certificate and never personally met with Monika Krolak from Business Affairs and Licensing. The moratorium was lifted by the City Council on November 5, 2008. A letter dated December 1, 2008, from an individual named Hassan A. Muhammad was sent to the Department of Business Affairs and Licensing. In this letter Mr. Muhammad explained he had assisted the Mustafa family in the completion of the Change of Officers application and he misunderstood the relationship between Hala Abuobeid

and Mahmoud Mustafa. He believed it to be father and daughter but in actuality it was that Mr. Mustafa looked upon Hala Abuobeid as a daughter.

It is the position of the City that this application was properly denied because it contained false information and it was incomplete. The false information is the description of the relationship between Mahmoud Mustafa and Hala Abuobeid as father and daughter on the stock transfer document in evidence as City's Exhibit 21. The incomplete information is the failure of the applicant to produce the birth certificate.

The licensee has argued that the application does not list a birth certificate as a required document; that there has been no correspondence in evidence requesting the applicant or applicant's lawyer to produce a birth certificate, and that the false statement listing Hala Abuobeid as the daughter of Mahmoud Mustafa was corrected prior to the denial of the application. It was also suggested that since the moratorium has been lifted, the issue of whether there was or was not a father-daughter relationship between Mahmoud Mustafa and Hala Abuobeid is no longer material to the application.

Section 4-60-040 of the Municipal Code sets out the applicant and issuance procedures for liquor licenses. In addition to listing ten specific statements and information required to be provided, Section (b)(11) calls for production of any other information the director of business affairs and licensing or local liquor control commissioner may need to implement the requirements of this chapter. While the production of a birth certificate of an applicant is not

required in all cases, it is reasonable that production of a birth certificate could be required in a case where the issue of whether an exemption to the moratorium exists became the transfer of stock is between parent and child. While there is no direct evidence that the applicant or her attorney was told to produce this birth certificate there was circumstantial evidence that such a request would have occurred in the normal course of investigating this type of issue. It is undisputed no birth certificate was ever produced. The failure to provide this relevant, requested information is a sufficient basis to uphold the denial of the change of ownership under 4-60-030(a).

It is also undisputed that the transfer of stock document filed with this application was false. It lists an untrue relationship between Hala Abuobeid and Mahmoud Mustafa. The fact that a letter was sent to the Local Liquor Control Commission explaining this was a mistake and the fact that Ms. Abuobeid testified she did not read this document does not change the fact that the document is false. This is especially so in this case since the falsehood dealt with a specific exemption to the ordinance. The falsehood was needed to allow the application to be processed. This false statement in itself is a basis to deny the application.

The issue before this Commission is whether the City proved by a preponderance of the evidence that the application for Change of Officers dated March 18, 2008, was properly denied on the bases that the application contained an untrue statement and was incomplete. This Commissioner finds the City proved by a preponderance of the evidence both of these allegations and further finds that the denial would be proper if only one of those bases had been

proven. The fact that the moratorium was lifted after the application process began and before the application process was completed does not change the propriety of the denial of this application. The lifting of the moratorium would only deal with whether the application was incomplete due to failure to provide a birth certificate. It would not change the fact that false information was provided in the application process.

The decision of the Local Liquor Control Commissioner to deny the application for a Change of Officers is affirmed.

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 AFFIRMED.

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: December 18, 2009

Dennis M. Fleming
Chairman

Stephen B. Schnorf
Member