

BEFORE THE NEBRASKA LIQUOR CONTROL COMMISSION

In Re: Mercury LLC)
Mercury)
329 S 16th Street, Suite 3)
Omaha NE 68102)
)
On Suspension, Cancellation or Revocation of)
Retail Class C-115859 Liquor License.)

ORDER

Now on the 5th day of February 2019, this matter came on for consideration before the Nebraska Liquor Control Commission, notice having been served upon the licensee to appear and respond to an administrative citation alleging that the license should be suspended, cancelled or revoked as more fully set out herein.

In accordance with the Commission's policies, a proper notice of this hearing was sent by regular U.S.

Mail.

The licensee was not present nor represented. The Commission was represented by Milissa Johnson-Wiles, Assistant Attorney General.

Upon consideration of all the evidence in this case, the Nebraska Liquor Control Commission finds:

FINDINGS OF FACT:

1. That the licensee did, on or about September 19th, 2018, possess alcoholic liquor from other than a licensed wholesaler for which tax has not paid.
2. That the licensee did, on or about September 19th, 2018, permit the carrying out from its licensed premise, alcoholic liquor in open containers.
3. That the licensee did fail to notify the Commission of a change in ownership structure and change in manager in violation of 237 NAC 3-002 and 237 NAC 2-009, i.e., Colin Breen, President and Member, has not participated in the ownership and management of the licensed premises since approximately September 2017.
4. That the licensee/corporation failed to cause a new manager's application to be filed with the Commission within the required time.

CONCLUSIONS OF LAW:

1. That possessing alcoholic liquor from other than a licensed wholesaler for which tax has not paid, is in violation of Neb. Rev. Stat. Sec. 53-175.
2. That permitting the carrying out from its licensed premise, alcoholic liquor in open containers, is in violation Neb. Rev. Stat. Sec. 53-123.04 and/or 237-LCC6-019.01H of the Rules and Regulations of the Nebraska Liquor Control Commission.
3. That failing to notify the Commission of a change in ownership structure and change in manager is in violation of 237 NAC 3-002 and 237 NAC 2-009.
4. That failing to cause a new manager's application to be filed with the Commission within the required time, is in violation of 237-LCC2-009.01 of the Rules and Regulations of the Nebraska Liquor Control Commission.
5. That the license should be suspended for fourteen (14) days of Charge #1, suspended for fourteen (14) days on Charge #2, suspended for fourteen (14) days of Charge #3, and suspended for fourteen (14) days on Charge #4, for a total period of fifty-six (56) days, with the option to pay a fine in lieu thereof.
6. That the licensee shall pay to the Commission Excise Tax in the amount of \$37.92 within thirty (30) days from the date of this Order.
7. That the alcohol seized during this investigation shall be destroyed by the Nebraska State Patrol in accordance with Neb. Rev. Stat. 53-1,113.
8. That a Mandatory Meeting should be set before the Commission regarding the licensee's violations.

IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED AND DECREED that the Retail Class C Liquor License of Mercury LLC, DBA – “Mercury”, 329 S 16th Street, Suite 3, Omaha, Nebraska, should be, and the same hereby is, suspended for fourteen (14) days on Charge #1, suspended for fourteen (14) days on Charge #2, suspended for fourteen (14) days on Charge # 3, and suspended for fourteen (14) days on Charge #4 for a total period of fifty-six (56) days, such suspension to commence at the closing hour of business on the 24th day of March 2019, and to continue until the opening hour of business on the 20th day of May 2019, with the option to pay a fine in lieu thereof. Furthermore, the licensee shall pay to the Commission Excise Tax in the amount of \$37.92 within thirty (30) days from the date of this Order. Additionally, that the alcohol seized during this investigation shall be destroyed by the Nebraska State Patrol in accordance with Neb. Rev. Stat. 53-1,113. Additionally, that a Mandatory Meeting should be set before the Commission regarding the licensee’s violations, such hearing to be held Tuesday, March 5th, 2019 at 11:15 A.M., or as soon thereafter as it may be heard.

IT IS FURTHER ORDERED that the notice of suspension shall be posted upon the premises, said notice to remain posted throughout the term of said suspension.

IT IS FURTHER ORDERED that the Licensee shall pay costs of this action, assessed in the amount of \$25.00.

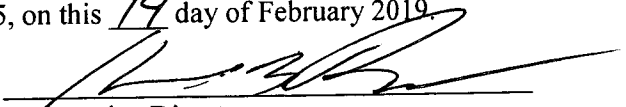
Dated this 14th day of February 2019.

NEBRASKA LIQUOR CONTROL COMMISSION

BY 
CHAIRMAN

I hereby certify this to be a true and correct copy of the original order entered herein, and further certify, that a copy was mailed by regular U.S. Mail to Mercury LLC, Mercury, 329 S 16th Street, Suite 3, Omaha, NE 68102 and to Clark Ross, ~~2135 S 16th Street~~ 2135 S 16th Street, Omaha NE 68105, on this 14 day of February 2019.




Executive Director