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Alcohol and Gambling Enforcement

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age.dps.mn.gov

December 31, 2020

MLH Enterprises, LLC
D/B/A: The Interchange
Licensee: Melissa Hansen
211 South Broadway
Albert Lea, MN 56007

Sent Via Email and Certified Mail

AMENDED NOTICE OF AGENCY ACTION FIVE-YEAR LIQUOR LICENSE REVOCATION

The Minnesota Department of Public Safety's Alcohol and Gambling Enforcement (AGED) may take civil action in the form of a fine, license suspension or license revocation for any violation of statute, rule or ordinance related to alcoholic beverages or the operation of a licensed establishment. Minn. Stat. § 340A.415.

On December 19, 2020, AGED notified you of its intention to suspend wine license #43119 and 3.2 beer on-sale license #43120 for a period of 60 days for continued violations of Governor Walz's Executive Order 20-99 *Implementing a Four Week Dial Back on Certain Activities to Slow the Spread of COVID-19* (EO-99), which required all restaurants and bars to cease selling alcohol for on-premises consumption from Friday, November 20, 2020 at 11:59 p.m. through Friday, December 18, 2020 at 11:59 p.m. (original notice attached).¹

AGED requested an expedited hearing on the matter before the Office of Administrative Hearings, which is currently scheduled for a pre-hearing conference on January 4. In the interim, the Minnesota Attorney General's Office (AGO) was granted a Temporary Restraining Order on December 23 in Freeborn County District Court, which "prevented, restrained, and enjoined [The Interchange] from taking any action violating Executive Orders 20-99 and 20-103," and that it "shall fully comply with" the orders and "any future Executive Orders... that apply to restaurants and/or bars, while those Executive Orders are effective."

Additionally, on December 21 at 10:20 a.m., The Interchange posted on its Facebook page (with a photo of a latte in a mug with holiday decorations):

¹ On December 16, 2020, Governor Walz issued Executive Order 20-103 *Extending and Modifying Executive Order 20-99*, requiring bars and restaurants to remain closed to indoor, on-premises dining for food or alcohol consumption through January 10 at 11:59 p.m. EO-99 and EO-103 have "the full force and effect of law" pursuant to Minnesota Statutes, section 12.32 (2020).

WE'RE OPEN! Stop in for one of your favorites today. Open for dine-in, carryout, curbside, and delivery. (Delivery by door dash) Open till 3pm.

On December 26 and 28, The Interchange again posted photos of food or the establishment on Facebook and reminded customers that it was open from 7:30 – 3 p.m.

At 7 a.m. on December 29, The Interchange, in addition to reminding customers it was open, posted on Facebook:

Thank you for your patronage and amazing support as we fight for our liberties and freedoms. Watch for more announcement later today and this week.

On December 30 at 9:34 a.m., The Interchange posted on Facebook:

Join us for a New Year's Eve Celebration! This Thursday from 5pm to 8pm or later?? If you want a table for the night Reservations Recommended: call us at 507-383-4070 or send us a message...

The afternoon of December 31, The Interchange posted the same message on Facebook from the previous day, but added "Everyone is Welcome! Live Music! Great Food! Fantastic Drinks! Friendship, gathering, laughter and fun!"

In addition to these Facebook posts, on December 29, AGED received confirmation from J.D. Carlson, the Director of Public Safety for the City of Albert Lea that The Interchange remained open, with the exception of Christmas Day.

The morning of December 30, AGED agents observed the establishment open for on-premises consumption of food and alcohol, again willfully violating EO-103. Agents ordered and were served coffee, which they consumed on-premises. Agents took photos of two other customers who were also seated indoors and appeared to be drinking beverages. There did not appear to be any sale of alcohol. A sign in front stated "The INTERCHANGE is OPEN. Please Come In." Another sign on the door stated:

NOTICE. To all government officials. You are in violation of your oath of office by trespassing on the property of this business establishment and committing and act of domestic terrorism under Section 802 of The Patriot Act. You are knowingly and willingly violating the rights of a business owner. You are no longer protected under judicial immunity and are now subject to being arrested and also sued in your private capacity. Rick Martin ConstitutionalLawGroup.us

And underneath, another stated:

WELCOME! We are a constitutionally compliant business. We are not infringing upon anyone's unalienable rights. By law, we do not follow any of the governor's, mayor's, health department's, or other government agency orders or suggestions pertaining to social distancing or mask wearing. Your health is your responsibility...

AGED is now rescinding its December 16, 2020 Notice of 60-day Suspension of wine license #43119 and 3.2 beer on-sale license #43120. This Amended Notice of Agency Action is a Notice of Five-Year Revocation of wine license #43119 and 3.2 beer on-sale license #43120.

Pursuant to the Minnesota Administrative Procedures Act,² this revocation is not effective until you have had the opportunity for a hearing before the Office of Administrative Hearings. A pre-hearing conference is currently scheduled for January 4.

Sincerely,

Carla Cincotta

Carla Cincotta

² Minn. Stat. ch. 14.