



STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LIQUOR CONTROL COMMISSION

---

IN RE: DEVINE ENTERPRISES, INC.  
D/B/A CHARLIE'S BAR & GRILL  
116 E LANSING RD, US 127  
POTTERVILLE, MI 48876  
  
EATON COUNTY

HEARING: DECEMBER 23, 2020  
PLACE: ZOOM PLATFORM  
COMPLAINT NO: CV-508833  
BUSINESS ID NO. 3546  
CLASSC SDM SS (PM) ADDBAR-1  
DANC-ENT OD-SERV-1

---

**CHARGES** – THE LICENSEE OR THE LICENSEE'S AGENT, CLERK OR EMPLOYEE:

- (1) On December 3, 2020, Devine Enterprises, Inc., and/or employees of the licensee engaged in an illegal occupation or illegal act upon the licensed premises, contrary to Rule 436.1011(1), specifically: allowing indoor gatherings at a food service establishment, contrary to sections 2(a)(2) and 3(b)(1) of the Michigan Department of Health and Human Services Gatherings and Face Mask Order dated November 15, 2020.
- (2) On December 3, 2020, Devine Enterprises, Inc., and/or employees of the licensee engaged in an illegal occupation or illegal act upon the licensed premises, contrary to Rule 436.1011(1), specifically: allowing persons to participate in indoor gatherings at the licensed premises without requiring them to wear face masks, contrary to section 7(c) of the Michigan Department of Health and Human Services Gatherings and Face Mask Order dated November 15, 2020.
- (3) On December 3, 2020, Devine Enterprises, Inc., failed to keep a license, issued by the Michigan Liquor Control Commission, signed, framed under transparent material, and/or failed to prominently display the license in the licensed premises, contrary to Mich Admin Code, R 436.1015(1).

**PROCEDURAL HISTORY**

On December 23, 2020, a hearing was held virtually on the zoom platform in the above-entitled case before a duly authorized agent of the Commission, Administrative Law Judge Michael J. St. John.

Petitioner, Michigan Liquor Control Commission (Petitioner, Commission, or MLCC), was represented by Daniel Felder, Assistant Attorney General. The Respondent Licensee (Respondent or Licensee) was represented by their owner, Charles Devine.

### **EXHIBIT**

The Petitioner offered the following exhibit which was admitted without objection:

1. Commission File

Respondent did not offer any exhibits.

### **FINDINGS OF FACT**

Based on the testimony presented and the exhibit admitted at the hearing, the following facts are found:

1. On December 3, 2020, the Licensee allowed indoor dining and had at least eight patrons and one staff member not wearing masks in violation of the November 15, 2020 DHHS Emergency Order.
2. The Commission Investigator merely ordered food and alcohol; he did not make any statements to entice the Licensee into that service and did not entrap the Licensee.
3. When the Licensee was served with the summary suspension, the Licensee's general manager acted inappropriately and abusively to the Commission Investigator.
4. The Licensee has subsequently closed to indoor dining and committed to following all executive orders and extensions.
5. The Licensee acknowledged each of the two violations and agreed that a \$300 fine for each violation for a total fine of \$600 and a suspension, until the date the current extension of the Emergency Order, January 15, 2021, was appropriate.
6. The Commission requested that Count 3 be dismissed.

### **CONCLUSIONS OF LAW**

The facts of this case are not disputed, and the Licensee acknowledged the charges. The Licensee allowed indoor dining to occur on December 3, 2020 and the Commission therefore established each of the charges by a preponderance of the evidence. The Licensee no longer allows this conduct to occur in the licensed establishment.

The Licensee admitted and agreed that the conduct of the establishment's general manager (the Licensee's brother) was completely and totally unacceptable. The Licensee apologized on behalf of his brother for the poor treatment of the Commission's investigator who did nothing wrong.

**ORDER**

With the issuance of this Order, the summary suspension is dissolved.

In determining penalty, the Administrative Law Judge considered the Licensee's total record, which shows nine previous violations (1996 occupation after legal hour, 2000 permitting occupation by a non-licensee, 2000 sale to a minor (19), 2001 sale to a minor (19), and 2003 sale to a minor (18), 2007 altered licensed premises without approval, 2009 allowed fights or brawls, 2015 allowed removal of alcohol, and 2017 allowed removal of alcohol) since being licensed on October 3, 1995 at the above-named location under the current ownership. The Administrative Law Judge also considers the Licensee's acknowledgement of the mistake made and the corrective actions taken to prevent future instances of indoor dining and staff not wearing masks.

The Licensee's general manager's conduct here was entirely unacceptable and was akin to a toddler acting out. The GM's frustration was understandable, but it was severely misplaced and his inappropriate lashing out at a public servant doing his job is unacceptable. This continued for several minutes even after his wife and the officer accompanying the investigator urged the GM to tone it down. This temper tantrum on the part of the GM resulted in a full \$600 fine and an extension of the suspension in this case.

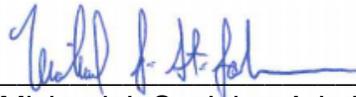
In consideration of the GM's reprehensible behavior but the Licensee's acknowledgement of the mistake and the severe financial difficulties exhibited by the Licensee (and all restaurants), as a penalty, the Administrative Law Judge Orders a \$300 fine for each of the two counts for a total fine of \$600 and a twenty-three day suspension of the license from the date of the hearing: until 7:00 a.m. on January 15, 2020. The Licensee's GM shall also issue a written apology to the Commission Investigator to be delivered to the Commission prior to the serving of alcohol.

Count 3 is dismissed.

Further, if the fine is not paid within forty-five (45) days from the mailing date of this Order, the Administrative Law Judge Orders that a suspension of thirty (30) continuous days, with this suspension to run consecutively and not concurrently with any other suspension Ordered by the Commission.

The Licensee is warned that further fines, suspensions, or a revocation of the Licensee's liquor license could result if the Licensee resumes operation in violation of the law or violates the Order of the Commission. Any further inappropriate behavior or abuse directed at any Commission investigator, other Commission employee, or any law enforcement officer will not be tolerated and has the potential to subject the Licensee to a substantial further suspension or liquor license revocation.

MICHIGAN LIQUOR CONTROL COMMISSION



Michael J. St. John, Administrative Law Judge

Date Signed: December 28, 2020

Date Mailed: December 28, 2020

Daniel Felder  
Assistant Attorney General  
25680 W. 8 Mile Rd.  
Southfield, MI 48033

MJSJ: CV-508833/AL/jw