

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

APPEAL FROM ADMINISTRATIVE LAW COURT FEB 19 2015

Deborah Brooks Durden, Administrative Law Judge SC Court of Appeals

Case No. 13-ALJ-17-0216-CC

Meenaxi, Inc., d/b/a Corner MartAppellant,

v.

South Carolina Department of Revenue Respondent.

APPELLANT’S PETITION FOR STAY AND SUPERSEDEAS

The Appellant above named files this Verified Petition pursuant to Rule 241 of the South Carolina Appellate Court Rules and hereby petitions this most Honorable Court as follows:

This is a Petition for a Stay and Supersedeas in a civil action pursuant to Rule 241 of the South Carolina Appellate Rules of Practice.

This case involves an Appeal from an Order of the Administrative Law Court revoking the Appellant’s off-premises wine and beer permit.

In February 2013, the South Carolina Department of Revenue determined a violation of the license conditions had occurred and assessed a penalty of revocation of the off-premises beer and wine permit. A certified copy of the January 8, 2015, Order is attached as Exhibit 1.

Following the assessment of the penalty, the Appellant filed a Notice of Motion

and Motion for Reconsideration and/or Motion for Relief from Judgment or Order and For Stay. Appellant moved, in part, on the grounds that Judge Durden's Order contained errors of fact and law, and further that the penalty of revocation was not supported by the evidence presented to the Court, was harsh, capricious and unfair. This motion is attached as Exhibit 2.

The Honorable Deborah Brooks Durden, Administrative Law Judge, issued an Order Denying Appellant's Motion for Reconsideration on January 26, 2015. A certified copy of this order is attached as Exhibit 3.

Appellant then filed a Notice of Motion and Motion for Supersedeas on February 2, 2015. A copy of this motion is attached as Exhibit 4. The Honorable Deborah Durden issued an Order Denying Appellant's Motion for Supersedeas on February 10, 2015. A certified copy of this Order is attached hereto as Exhibit 5.

Attached hereto is an affidavit of Malkesh Patel, Exhibit 6.

Contemporaneously herewith, the Appellant is filing an Appeal of the Order of the Honorable Deborah Brooks Durden.

The undersigned has consulted with attorneys for the South Carolina Department and informed them that he would be filing a Petition for Writ of Supersedeas and Stay. They have indicated to the undersigned that the Department does object to a Supersedeas in this case.

The Appellant seeks an Order pursuant to Rule 241 of the Appellate Court Rules, including, but not limited to Rule 241(d) suspending or staying the Order of the Lower Court pending an appeal in this action.

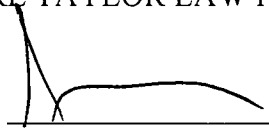
Based on the material presented to the Court by way of Affidavit of Malkesh

Patel, and the verified Petition, it is clear that a Supersedeas is necessary in order to prevent insolvency of the Appellant's business, to prevent irreparable harm, and to preserve the Status Quo. The Appellant has already lost his license and his business is suffering irreparable harm. The undersigned respectfully requests that the Court issue its Order Ex Parte as soon as possible to prevent further harm to the Appellant and his business.

Wherefore the undersigned prays that the Court issue its Order Ex Parte granting Appellant a Writ of Supersedeas and Stay and such other and further relief as the Court deems just and proper.

MOORE TAYLOR LAW FIRM, P.A.

BY:



S. Jahue Moore
1700 Sunset Boulevard
Post Office Box 5709
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ATTORNEY APPELLANT
MEENAXI, INC.

West Columbia, South Carolina

February 17, 2015

FILED

January 8, 2015

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

SC ADMIN. LAW COURT

South Carolina Department of Revenue,

Petitioner,

vs.

Meenaxi, Inc., d/b/a Corner Mart,

Respondent.

Docket No. 13-ALJ-17-0216-CC

ORDER

APPEARANCES: For Petitioner: Lauren Acquaviva, Esquire
For Respondent: S. Jahue Moore, Esquire

STATEMENT OF THE CASE

This matter comes before the South Carolina Administrative Law Court (ALC or Court) pursuant to S.C. Code Ann. § 12-60-2540(A) for a contested case hearing requested by Meenaxi, Inc., d/b/a Corner Mart (Respondent) against the South Carolina Department of Revenue (Department) contesting the revocation of the Respondent's beer and wine permit due to the presence of illegal gambling machines on the licensed premises. The Respondent exhausted all prehearing remedies with the Department and filed a timely request for a contested case hearing before the ALC.

ISSUES

1. Did the Respondent violate S.C. Code Ann. § 61-4-580(5) (2009) by knowingly permitting an act on its premises that constituted a crime?
2. If so, is the revocation of the Respondent's off-premises beer and wine permit an appropriate penalty?

FINDINGS OF FACT

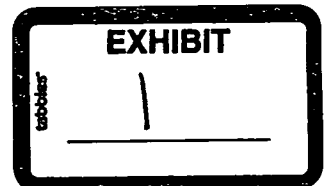
Based upon the evidence presented, I make the following findings of fact, taking into consideration the burden on the parties to establish their respective cases by a preponderance of the evidence and taking into account the credibility of the witnesses.

This Court has personal and subject matter jurisdiction. Notice of the date, time and place of the hearing was timely given to all parties. A hearing of this matter was held on December 4, 2014.

During the hearing, Malkesh Patel testified that he is the sole owner of Meenaxi, Inc. He had notice of this proceeding and was invited by the Court to intervene.

Certified to be a true and correct copy
of the original record on file with the
South Carolina Administrative Law Court

SCD Page 1 of 7



The Department issued an off-premises beer and wine permit to Meenaxi, Inc., which does business as Corner Mart. Corner Mart is located at 1010 East Shockley Ferry Road, Anderson, South Carolina. The alcohol permit at issue in this proceeding is number 32057436-6. The Respondent held this permit on February 26, 2013.

On February 26, 2013, at approximately 1:10 p.m., South Carolina Law Enforcement Division (SLED) agents and deputies from the Anderson County Sheriff's Office entered the licensed premises to conduct an Alcohol Beverage License inspection. During the inspection, the officers found two video gaming machines--one Products Direct Sweepstakes machine and one Gift Surplus machine--on the licensed premises.

The officers spoke with Ursula Dean, who was the clerk on duty at the time of the inspection. Dean told the officers that Patel was aware that the officers were in the area. She went on to state that Patel had emptied money from the machines, turned off the power switches, and unplugged them from the wall. Dean was an employee and an agent of Patel and Meenaxi Inc., d/b/a Corner Mart. The answers she gave during the inspection were within the scope of her employment.

During his inspection of the premises, SLED Agent Thomas Bielawski found a number of discarded sweepstakes coupons and redemption instructions. The coupons were found in the trash, on the floor, and behind both machines.

Agent Bielawski plugged the machines in and turned on the power switches. Agent Bielawski was then able to see the type of games that were on the machines. I find, based on the testimony of Agent Bielawski and the related magistrate order, the two machines contained games of chance: poker, blackjack and keno on the Products Direct Sweepstakes machine; and poker and spinning reel style games on the Gift Surplus machine.

Both machines were seized pursuant to the officers' statutory authority. The officers opened the machines with keys provided by Dean. No money was found in either machine. After issuing a citation to Patel, the officers brought the two machines before Anderson County Magistrate Samuel Matthew Lollis. The Respondent requested a post-seizure hearing to contest the illegality of the machines. Magistrate Lollis examined the machines and determined that each machine was an illegal gambling device that violated South Carolina law. On March 1, 2013, Magistrate Loftis ordered the machines' destruction.

Corner Mart was originally named as a party in the related in rem action in magistrate's court to determine the legality of the machines at issue. Upon the motion of the counsel for Meenaxi, Inc., doing business as Corner Mart, Corner Mart was dismissed as the defendant. Meexnaxi, Inc., d/b/a Corner Mart, had notice of the in rem action as well as an opportunity to be heard and was represented by counsel. Ultimately, the magistrate in the in rem action found the two machines were illegal and ordered their destruction.

Patel had knowledge that the machines were illegal. I find his testimony to the contrary to not be credible.

On March 28, 2013, the Department mailed the Respondent written notice of its intent to revoke the Respondent's off-premises beer and wine permit for violating the law by having the illegal gambling machines on his premises. On April 3, 2013, the Respondent timely protested the revocation of its off-premises beer and wine permit.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, I conclude, as a matter of law, the following:

The ALC has jurisdiction over this matter pursuant to S.C. Code Ann. §§ 1-23-600 (Supp. 2014), 1-23-301 et seq. (2005 & Supp. 2014), and 12-60-2540(A) (2000).

The Respondent Knowingly Permitted an Act on Its Premises that Constitutes a Crime

The Respondent contends he did not know that he had committed a crime by allowing the machines on his premises. In South Carolina, a holder of a permit for off-premises beer and wine is prohibited from knowingly allowing any criminal act to occur on the licensed premises. S.C. Code Ann. § 61-4-580(5) (Supp. 2014). It is unlawful for any person to keep on his premises any video game machine in which "is deposited a coin or thing of value...for the play of poker, blackjack, keno, lotto, bingo, or craps..." S.C. Code Ann. § 12-21-2710. The presence of such a machine is a misdemeanor and, therefore, the Department can revoke the licensee's permit for off-premises beer and wine. *Id.* and S.C. Code Ann. § 61-4-580(5). The record contains sufficient evidence to meet the Department's burden of showing the two machines in question: contained games of chance in violation of § 12-21-2710; were located on the Respondent's premises; and that the Respondent knowingly permitted the machines to be placed on its premises. Agent Bielawski testified that the two machines contained illegal games of chance and that he found the two machines on the

Respondent's premises. Dean told Agent Bielawski that Patel had turned off, unplugged, and emptied the machines of money because he knew the officers were in the area. From this behavior, one can reasonably infer that Patel knew the machines were illegal.

Change in Law

The Respondent argued that the two machines were legal on the dates they were seized. S.C. Code Ann. § 61-4-580 was amended in 1999 to allow "certain legitimate promotions and sweepstakes where specific requirements were met which did not otherwise violate South Carolina law." Op. S.C. Atty. Gen., 2013 WL 3243060 (June 14, 2013). The amendment was meant to make an "exemption from the previous absolute prohibition on all 'gambling or games of chance' ... [and] not [create] a broad exception to all of the laws pertaining to gambling or games of chance in South Carolina and certainly not an exemption to specific prohibitions of § 12-21-2710." Id. The statute was amended again in 2013, but only to clarify the legislature's intent that it was not meant to create an exemption to the State's ban on gaming machines found in § 12-21-2710. Id.

The Respondent argues that the two machines fit the exception outlined in § 61-4-580(3), which was created in the 1999 amendment. Among other requirements, the machine in question must have "no purchase payment, entry fee, or proof of purchase... as a condition of entering the game promotion or receiving a prize." S.C. Code Ann. § 61-4-580(3)(b). The Respondent argued the machines required payment for coupons, which could be redeemed online for a variety of merchandise. The Respondent went on to explain that, after the coupons were purchased, the games on the machines were free to play. However, the two machines in this case clearly required payment in order to play the games. Agent Bielawski testified that both machines had bill acceptors on the front of the machine. After the machines were turned on, Agent Bielawski saw the logos for the various games, but was unable to play the games without putting money into the machine. Furthermore, Agent Bielawski found discarded coupons on the floor by the machines. Based on his investigation, he discovered the coupons could only be redeemed on a website that featured incredibly overpriced merchandise. I find that these coupons have no value. Many coupons were discarded on the floor by patrons. Payments put into the machines were to play the games and were not related to a patron's bona fide intention to acquire the coupons. The coupon scheme was a thinly veiled artifice designed to conceal the fact that payment was made solely to play the games.

Due Process

The Respondent argues that due process was violated when Patel was not personally named as a party by the Petitioner in this action. Due process is “flexible and calls for such procedural protections as the particular situation demands.” Ogburn-Matthews v. Loblolly Partners, 332 S.C. 551, 561, 505 S.E.2d 598, 603 (Ct. App. 1998) (quoting Stono River Env'tl. Protection Assn v. South Carolina Dept of Health and Env'tl. Control, 305 S.C. 90, 94, 406 S.E.2d 340, 341 (1991)). Due process requires “notice, an opportunity to be heard in a meaningful way, and judicial review.” Id at 562, 505 S.E.2d at 603. As the sole owner of Meenaxi, Inc., Patel was aware of this proceeding and, in fact, was present in the courtroom. The Court invited Patel to formally intervene in the proceeding and he declined. Because Patel had the opportunity to meaningfully participate in this case, but declined to do so, the Petitioner did not violate his due process rights.

Res Judicata

The Respondent claims that the in rem magistrate order has no res judicata or collateral estoppel effect in this case. While this argument is an accurate statement of the principles of res judicata and collateral estoppel, it is beside the point. The Department did not argue that the magistrate’s order has preclusive effect nor does this Court consider it a binding conclusion. The underlying magistrate order is evidence that the two machines seized during the search were illegal.

Admissibility of Statements by Dean

The Respondent argues that any statements Dean made to the officer during their inspection of the machines constitute hearsay and, therefore, should not be admissible. The statements that Dean made to Agent Bielawski at the time the two machines were seized were recorded in his investigative report. Agent Bielawski’s report is admissible as an exception to the hearsay rule because the report is a record of a regularly conducted activity. SCRE 803(6). In addition, Dean’s statements were an admission of a party in this case. SCRE 1007. As mentioned above, her statements were made as an employee and an agent of Patel and Meenaxi, Inc. and were within the scope of her employment. Therefore, by virtue of the rules of agency, her statements can be attributed to Meenaxi, Inc.

Unlawful Search

The Respondent argued that the officers did not have a warrant when they inspected the

Respondent's premises and, therefore, the search was unlawful. Under S.C. Code Ann. §§ 61-4-230 and 61-6-4190, SLED has the right to inspect the licensed premises. In addition, any gaming machine that contains games of chance as prohibited under S.C. Code Ann. § 12-21-2710 must "be seized by any law enforcement officer and at once taken before any magistrate of the county... who shall immediately examine it, and if satisfied that it is in violation [of the law]... direct that it be immediately destroyed." S.C. Code Ann. § 12-21-2712. The officers' inspection of the two machines was made pursuant to that authority.

Estoppel

The Respondent argued that the Department had issued licenses for both machines to be used in South Carolina and, therefore, should be prevented from now finding they were illegal. The argument in essence is an argument that the Department should be estopped from revoking the Respondent's off-premises beer and wine permit. Under South Carolina law, "[t]he party asserting estoppel bears the burden of establishing all its elements." Estes v. Roper Temp. Servs., 304 S.C. 120, 122, 403 S.E.2d 157, 158 (Ct. App. 1991). A party asserting estoppel against the government must prove "(1) lack of knowledge and of the means of knowledge of the truth as to the facts in question, (2) justifiable reliance upon the government's conduct, and (3) a prejudicial change in position." Grant v. City of Folly Beach, 346 S.C. 74, 80, 551 S.E.2d 229, 232 (2001), see also Abbeville Arms v. City of Abbeville, 273 S.C. 491, 257 S.E.2d 716 (1979). Citizens are presumed to know the law and are charged with exercising "reasonable care to protect [their] interest[s]." Smothers v. U.S. Fidelity and Guar. Co., 322 S.C. 207, 210-11, 470 S.E.2d 858, 860 (Ct. App. 1996). Absent even one element, estoppel will not lie against a government entity. Grant v. City of Folly Beach, 346 S.C. 74, 551 S.E.2d 229. The Respondent has not shown that any of the three essential elements were present. In particular, the Respondent was not able to show that it was reasonable for him to rely on the license from the Department that was affixed to the outside of the machine to conclude the machines were legal. During his testimony, the Respondent admitted that he knew the machines were illegal on the date they were seized. The Respondent also admitted that he never investigated whether these two machines in particular were legal at the time he placed them in his store. As the Respondent has not met his burden, the Department is not estopped from taking the position that the gaming machines on the licensed premises were illegal.

Proper Penalty

According to the Department's penalty guidelines, revocation of the Respondent's permit is appropriate in these circumstances. Based on my finding of fact that the Respondent knew or should have known that the machines were illegal and the lack of mitigating evidence, I find no reason to deviate from the penalty provided for in the guidelines and imposed by the Department.

ORDER

IT IS THEREFORE ORDERED that, for the reasons set forth above the Respondent's off-premises beer and wine permit is hereby revoked.

IT IS SO ORDERED.



Deborah Brooks Durden
Administrative Law Judge

January 8, 2015
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, A. Taylor Rollins, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



A. Taylor Rollins
Staff Attorney to Deborah Brooks Durden

January 8, 2015
Columbia, South Carolina

FILED
JAN 08 2015
SC ADMIN. LAW COURT

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

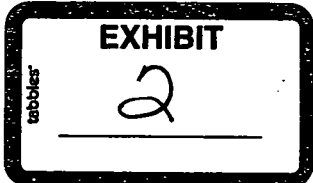
South Carolina Department of Revenue,)	Docket No.: 13-ALJ-17-0216-CC
)	
Petitioner,)	
)	
vs.)	NOTICE OF MOTION AND MOTION
)	FOR RECONSIDERATION AND/OR
Meenaxi, Inc., d/b/a Corner Mart,)	MOTION FOR RELIEF FROM
)	JUDGMENT OR ORDER AND FOR
Respondent.)	STAY
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**TO: LAUREN ACQUAVIVA, ESQUIRE, ATTORNEY FOR THE PETITIONER,
SOUTH CAROLINA DEPARTMENT OF REVENUE**

YOU WILL PLEASE TAKE NOTICE that the Respondent, by and through his undersigned counsel, will move pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure and Rule 29(D) of the Rules of Procedure for the Administrative Law Court, and such other authority as the Court may deem applicable and proper, before the Honorable Deborah Brooks Durden, Administrative Law Judge for a reconsideration, alteration or amendment of the Order of this Court dated January 8, 2015, granting Judgment to the Petitioner South Carolina Department of Revenue. A copy of Judge Durden's Order is attached hereto and incorporated herein as Exhibit A.

Additionally, the Respondent moves pursuant to Rule 29(E) of the Rules of Procedure for the Administrative Law Court for Stay of Final Order pending a hearing on the Respondent's Motion and any subsequent appeal. This Motion is made in part on the following grounds:

1. The Trial Court erred in finding and ruling as a matter of law that Respondent violated S.C. Code Ann. § 61-4-580(5) (2009) by knowingly permitting an act on its premises that constituted a crime;



2. The Trial Court erred in finding and ruling as a matter of law that revocation of Respondent's off-premises beer and wine permit was an appropriate penalty in this case;

3. The Trial Court erred by revoking Respondent's off-premises beer and wine permit;

4. The Trial Court erred in finding and concluding as a matter of law that Respondent knowingly permitted an act on its premises that constituted a crime;

5. The Trial Court erred in finding and concluding as a matter of law that the Respondent violated S.C. Code Ann. § 61-4-580(5) (Supp. 2014);

6. The Trial Court erred in finding and ruling as a matter of law that the Respondent violated S.C. Code Ann. § 12-21-2710;

7. The Trial Court erred in finding and ruling as a matter of law that the Department met its burden of showing that the two machines in question in this case contained games of chance in violation of S.C. Code Ann. § 12-21-2710;

8. The Trial Court erred in finding and concluding as a matter of law that Malkesh Patel "knew the machines were illegal;"

9. The Trial Court erred in failing to apply the legislative exception set forth in S.C. Code Ann. § 61-4-580(3)(b);

10. The Trial Court erred in finding and concluding that "The coupon scheme was a thinly veiled artifice designed to conceal the fact that payment was made solely to play the games;"

11. The Trial Court erred in concluding and ruling as a matter of law that due process was not violated when "Malkesh Patel was not personally named as a party by the Petitioner in this action;"

12. The Trial Court erred in concluding and ruling as a matter of law that Malkesh Patel's due process rights were not violated;

13. The Trial Court erred in relying on the in rem magistrate court order submitted to her at hearing/trial;

14. The Trial Court erred in admitting the statements made by Ursula Dean to the officer during the inspection into evidence over Respondent's objection that they constituted hearsay;

15. The Trial Court erred in determining that the officer's inspection of the machines did not constitute an unlawful search and seizure;

16. The Trial Court erred in failing to apply estoppel to the Department's action seeking revocation of Respondent's off-premises beer and wine permit;

17. The Trial Court's penalty of revocation of Respondent's off-premises beer and wine permit is not supported by the evidence presented at trial and is therefore harsh;

18. The Trial Court's Order contains numerous errors with respect to its Findings of Fact and Conclusions of law;

19. The Findings of Fact are unsupported by the evidence presented at the hearing before the Court;

20. The Court's Order misconstrues and misapplies the applicable law to the facts of this case; and

21. The statutes relied on by the Administrative Law Judge are arbitrary and violated Respondent's Constitutional Protections afforded under South Carolina Law.

In addition, the Respondent moves for an Order staying the Court's Final Order and/or the effect of the Final Order on the grounds that it works a substantial hardship during the

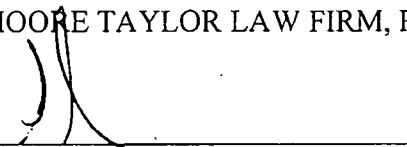
pendency of this motion (and subsequent appeal if necessary.)

This motion shall be based on the attached Order, a Memorandum of Law to be filed with the Court, and such other and further relief as this Court deems proper.

For the reasons set forth above, the undersigned would respectfully request an Order of reconsideration, alteration or amendment of its January 8, 2015, Order.

MOORE TAYLOR LAW FIRM, P.A.

BY:



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Post Office Box 5709
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(803) 796-9160
ATTORNEY FOR THE RESPONDENT

West Columbia, South Carolina

January 15, 2015

FILED

January 8, 2015

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

SC ADMIN. LAW COURT

South Carolina Department of Revenue,

Docket No. 13-ALJ-17-0216-CC

Petitioner,

vs.

ORDER

Meenaxi, Inc., d/b/a Corner Mart,

Respondent.

APPEARANCES: For Petitioner: Lauren Acquaviva, Esquire
For Respondent: S. Jahue Moore, Esquire

STATEMENT OF THE CASE

This matter comes before the South Carolina Administrative Law Court (ALC or Court) pursuant to S.C. Code Ann. § 12-60-2540(A) for a contested case hearing requested by Meenaxi, Inc., d/b/a Corner Mart (Respondent) against the South Carolina Department of Revenue (Department) contesting the revocation of the Respondent's beer and wine permit due to the presence of illegal gambling machines on the licensed premises. The Respondent exhausted all prehearing remedies with the Department and filed a timely request for a contested case hearing before the ALC.

ISSUES

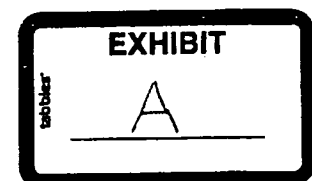
1. Did the Respondent violate S.C. Code Ann. § 61-4-580(5) (2009) by knowingly permitting an act on its premises that constituted a crime?
2. If so, is the revocation of the Respondent's off-premises beer and wine permit an appropriate penalty?

FINDINGS OF FACT

Based upon the evidence presented, I make the following findings of fact, taking into consideration the burden on the parties to establish their respective cases by a preponderance of the evidence and taking into account the credibility of the witnesses.

This Court has personal and subject matter jurisdiction. Notice of the date, time and place of the hearing was timely given to all parties. A hearing of this matter was held on December 4, 2014.

During the hearing, Malkesh Patel testified that he is the sole owner of Meenaxi, Inc. He had notice of this proceeding and was invited by the Court to intervene.



The Department issued an off-premises beer and wine permit to Meenaxi, Inc., which does business as Corner Mart. Corner Mart is located at 1010 East Shockley Ferry Road, Anderson, South Carolina. The alcohol permit at issue in this proceeding is number 32057436-6. The Respondent held this permit on February 26, 2013.

On February 26, 2013, at approximately 1:10 p.m., South Carolina Law Enforcement Division (SLED) agents and deputies from the Anderson County Sheriff's Office entered the licensed premises to conduct an Alcohol Beverage License inspection. During the inspection, the officers found two video gaming machines--one Products Direct Sweepstakes machine and one Gift Surplus machine--on the licensed premises.

The officers spoke with Ursula Dean, who was the clerk on duty at the time of the inspection. Dean told the officers that Patel was aware that the officers were in the area. She went on to state that Patel had emptied money from the machines, turned off the power switches, and unplugged them from the wall. Dean was an employee and an agent of Patel and Meenaxi Inc., d/b/a Corner Mart. The answers she gave during the inspection were within the scope of her employment.

During his inspection of the premises, SLED Agent Thomas Bielawski found a number of discarded sweepstakes coupons and redemption instructions. The coupons were found in the trash, on the floor, and behind both machines.

Agent Bielawski plugged the machines in and turned on the power switches. Agent Bielawski was then able to see the type of games that were on the machines. I find, based on the testimony of Agent Bielawski and the related magistrate order, the two machines contained games of chance: poker, blackjack and keno on the Products Direct Sweepstakes machine; and poker and spinning reel style games on the Gift Surplus machine.

Both machines were seized pursuant to the officers' statutory authority. The officers opened the machines with keys provided by Dean. No money was found in either machine. After issuing a citation to Patel, the officers brought the two machines before Anderson County Magistrate Samuel Matthew Lollis. The Respondent requested a post-seizure hearing to contest the illegality of the machines. Magistrate Lollis examined the machines and determined that each machine was an illegal gambling device that violated South Carolina law. On March 1, 2013, Magistrate Loftis ordered the machines' destruction.

Corner Mart was originally named as a party in the related in rem action in magistrate's court to determine the legality of the machines at issue. Upon the motion of the counsel for Meenaxi, Inc., doing business as Corner Mart, Corner Mart was dismissed as the defendant. Meexnaxi, Inc., d/b/a Corner Mart, had notice of the in rem action as well as an opportunity to be heard and was represented by counsel. Ultimately, the magistrate in the in rem action found the two machines were illegal and ordered their destruction.

Patel had knowledge that the machines were illegal. I find his testimony to the contrary to not be credible.

On March 28, 2013, the Department mailed the Respondent written notice of its intent to revoke the Respondent's off-premises beer and wine permit for violating the law by having the illegal gambling machines on his premises. On April 3, 2013, the Respondent timely protested the revocation of its off-premises beer and wine permit.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, I conclude, as a matter of law, the following:

The ALC has jurisdiction over this matter pursuant to S.C. Code Ann. §§ 1-23-600 (Supp. 2014), 1-23-301 et seq. (2005 & Supp. 2014), and 12-60-2540(A) (2000).

The Respondent Knowingly Permitted an Act on Its Premises that Constitutes a Crime

The Respondent contends he did not know that he had committed a crime by allowing the machines on his premises. In South Carolina, a holder of a permit for off-premises beer and wine is prohibited from knowingly allowing any criminal act to occur on the licensed premises. S.C. Code Ann. § 61-4-580(5) (Supp. 2014). It is unlawful for any person to keep on his premises any video game machine in which "is deposited a coin or thing of value...for the play of poker, blackjack, keno, lotto, bingo, or craps..." S.C. Code Ann. § 12-21-2710. The presence of such a machine is a misdemeanor and, therefore, the Department can revoke the licensee's permit for off-premises beer and wine. Id and S.C. Code Ann. § 61-4-580(5). The record contains sufficient evidence to meet the Department's burden of showing the two machines in question: contained games of chance in violation of § 12-21-2710; were located on the Respondent's premises; and that the Respondent knowingly permitted the machines to be placed on its premises. Agent Bielawski testified that the two machines contained illegal games of chance and that he found the two machines on the

Respondent's premises. Dean told Agent Bielawski that Patel had turned off, unplugged, and emptied the machines of money because he knew the officers were in the area. From this behavior, one can reasonably infer that Patel knew the machines were illegal.

Change in Law

The Respondent argued that the two machines were legal on the dates they were seized. S.C. Code Ann. § 61-4-580 was amended in 1999 to allow "certain legitimate promotions and sweepstakes where specific requirements were met which did not otherwise violate South Carolina law." Op. S.C. Atty. Gen., 2013 WL 3243060 (June 14, 2013). The amendment was meant to make an "exemption from the previous absolute prohibition on all 'gambling or games of chance' ...[and] not [create] a broad exception to all of the laws pertaining to gambling or games of chance in South Carolina and certainly not an exemption to specific prohibitions of § 12-21-2710." Id. The statute was amended again in 2013, but only to clarify the legislature's intent that it was not meant to create an exemption to the State's ban on gaming machines found in § 12-21-2710. Id.

The Respondent argues that the two machines fit the exception outlined in § 61-4-580(3), which was created in the 1999 amendment. Among other requirements, the machine in question must have "no purchase payment, entry fee, or proof of purchase...as a condition of entering the game, promotion or receiving a prize." S.C. Code Ann. § 61-4-580(3)(b). The Respondent argued the machines required payment for coupons, which could be redeemed online for a variety of merchandise. The Respondent went on to explain that, after the coupons were purchased, the games on the machines were free to play. However, the two machines in this case clearly required payment in order to play the games. Agent Bielawski testified that both machines had bill acceptors on the front of the machine. After the machines were turned on, Agent Bielawski saw the logos for the various games, but was unable to play the games without putting money into the machine. Furthermore, Agent Bielawski found discarded coupons on the floor by the machines. Based on his investigation, he discovered the coupons could only be redeemed on a website that featured incredibly overpriced merchandise. I find that these coupons have no value. Many coupons were discarded on the floor by patrons. Payments put into the machines were to play the games and were not related to a patron's bona fide intention to acquire the coupons. The coupon scheme was a thinly veiled artifice designed to conceal the fact that payment was made solely to play the games.

Due Process

The Respondent argues that due process was violated when Patel was not personally named as a party by the Petitioner in this action. Due process is “flexible and calls for such procedural protections as the particular situation demands.” Ogburn-Matthews v. Loblolly Partners, 332 S.C. 551, 561, 505 S.E.2d 598, 603 (Ct. App. 1998) (quoting Stono River Env'tl. Protection Assn v. South Carolina Dept of Health and Env'tl. Control, 305 S.C. 90, 94, 406 S.E.2d 340, 341 (1991)). Due process requires “notice, an opportunity to be heard in a meaningful way, and judicial review.” *Id* at 562, 505 S.E.2d at 603. As the sole owner of Meenaxi, Inc., Patel was aware of this proceeding and, in fact, was present in the courtroom. The Court invited Patel to formally intervene in the proceeding and he declined. Because Patel had the opportunity to meaningfully participate in this case, but declined to do so, the Petitioner did not violate his due process rights.

Res Judicata

The Respondent claims that the in rem magistrate order has no res judicata or collateral estoppel effect in this case. While this argument is an accurate statement of the principles of res judicata and collateral estoppel, it is beside the point. The Department did not argue that the magistrate's order has preclusive effect nor does this Court consider it a binding conclusion. The underlying magistrate order is evidence that the two machines seized during the search were illegal.

Admissibility of Statements by Dean

The Respondent argues that any statements Dean made to the officer during their inspection of the machines constitute hearsay and, therefore, should not be admissible. The statements that Dean made to Agent Bielawski at the time the two machines were seized were recorded in his investigative report. Agent Bielawski's report is admissible as an exception to the hearsay rule because the report is a record of a regularly conducted activity. SCRE 803(6). In addition, Dean's statements were an admission of a party in this case. SCRE 1007. As mentioned above, her statements were made as an employee and an agent of Patel and Meenaxi, Inc. and were within the scope of her employment. Therefore, by virtue of the rules of agency, her statements can be attributed to Meenaxi, Inc.

Unlawful Search

The Respondent argued that the officers did not have a warrant when they inspected the

Respondent's premises and, therefore, the search was unlawful. Under S.C. Code Ann. §§ 61-4-230 and 61-6-4190, SLED has the right to inspect the licensed premises. In addition, any gaming machine that contains games of chance as prohibited under S.C. Code Ann. § 12-21-2710 must "be seized by any law enforcement officer and at once taken before any magistrate of the county...who shall immediately examine it, and if satisfied that it is in violation [of the law]...direct that it be immediately destroyed." S.C. Code Ann. § 12-21-2712. The officers' inspection of the two machines was made pursuant to that authority.

Estoppel

The Respondent argued that the Department had issued licenses for both machines to be used in South Carolina and, therefore, should be prevented from now finding they were illegal. The argument in essence is an argument that the Department should be estopped from revoking the Respondent's off-premises beer and wine permit. Under South Carolina law, "[t]he party asserting estoppel bears the burden of establishing all its elements." Estes v. Roper Temp. Servs., 304 S.C. 120, 122, 403 S.E.2d 157, 158 (Ct. App. 1991). A party asserting estoppel against the government must prove "(1) lack of knowledge and of the means of knowledge of the truth as to the facts in question, (2) justifiable reliance upon the government's conduct, and (3) a prejudicial change in position." Grant v. City of Folly Beach, 346 S.C. 74, 80, 551 S.E.2d 229, 232 (2001), see also Abbeville Arms v. City of Abbeville, 273 S.C. 491, 257 S.E.2d 716 (1979). Citizens are presumed to know the law and are charged with exercising "reasonable care to protect [their] interest[s]." Smothers v. U.S. Fidelity and Guar. Co., 322 S.C. 207, 210-11, 470 S.E.2d 858, 860 (Ct. App. 1996). Absent even one element, estoppel will not lie against a government entity. Grant v. City of Folly Beach, 346 S.C. 74, 551 S.E.2d 229. The Respondent has not shown that any of the three essential elements were present. In particular, the Respondent was not able to show that it was reasonable for him to rely on the license from the Department that was affixed to the outside of the machine to conclude the machines were legal. During his testimony, the Respondent admitted that he knew the machines were illegal on the date they were seized. The Respondent also admitted that he never investigated whether these two machines in particular were legal at the time he placed them in his store. As the Respondent has not met his burden, the Department is not estopped from taking the position that the gaming machines on the licensed premises were illegal.

Proper Penalty

According to the Department's penalty guidelines, revocation of the Respondent's permit is appropriate in these circumstances. Based on my finding of fact that the Respondent knew or should have known that the machines were illegal and the lack of mitigating evidence, I find no reason to deviate from the penalty provided for in the guidelines and imposed by the Department.

ORDER

IT IS THEREFORE ORDERED that, for the reasons set forth above the Respondent's off-premises beer and wine permit is hereby revoked.

IT IS SO ORDERED.



Deborah Brooks Durden
Administrative Law Judge

January 8, 2015
Columbia, South Carolina

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

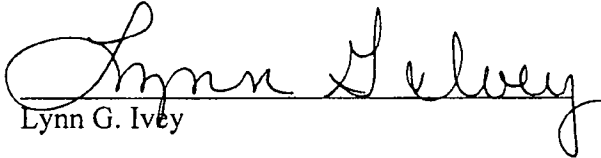
South Carolina Department of Revenue,)
)
 Petitioner,)
)
 vs.)
)
Meenaxi, Inc., d/b/a Corner Mart,)
)
 Respondent.)
_____)

Docket No.: 13-ALJ-17-0216-CC

CERTIFICATE OF SERVICE

I, Lynn G. Ivey, an employee of Moore Taylor Law Firm, PA, hereby certify that I served a copy of the **Notice of Motion and Motion for Reconsideration and/or Motion for Relief from Judgment or Order and for Stay** on the following persons by placing a copy of same in the United States Mail, in an envelope with sufficient postage affixed thereto, addressed as follows:

Lauren Acquaviva, Esquire
Counsel for Litigation
South Carolina Department of Revenue
P.O. Box 12265
Columbia, SC 29211


Lynn G. Ivey

West Columbia, South Carolina

January 16, 2015

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

South Carolina Department of Revenue,

Petitioner,

vs.

Meenaxi, Inc., d/b/a Corner Mart,

Respondent.

Docket No. 13-ALJ-17-0216-CC

**ORDER DENYING RESPONDENT'S
MOTION FOR RECONSIDERATION**

This matter is before the Administrative Law Court (ALC or Court) pursuant to the motion of counsel for Respondent, Meenaxi, Inc., d/b/a Corner Mart, seeking reconsideration of the Court's Order filed on January 8, 2015. The arguments in the motion merely reiterate the arguments made by Petitioner at the hearing. Those issues were carefully considered and ruled upon by this Court. This motion does not seek to correct manifest errors of law or fact or to present newly discovered evidence. Therefore,

IT IS HEREBY ORDERED that Respondent's Motion for Reconsideration, alteration or amendment of its January 8, 2015 Order is **DENIED**.

AND IT IS SO ORDERED.



Deborah Brooks Durden
Administrative Law Judge

January 26, 2015
Columbia, South Carolina

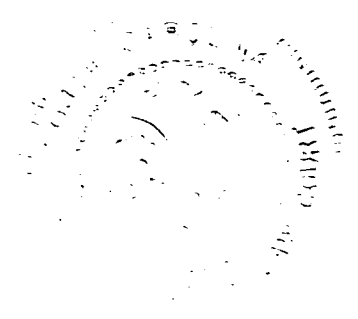
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January 26, 2015

SC ADMIN. LAW COURT

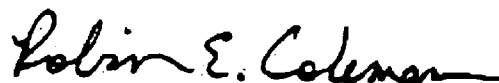
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of the original record on file with the
South Carolina Administrative Law Court

SEO Page 1 of 1



CERTIFICATE OF SERVICE

I, Robin E. Coleman, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Robin E. Coleman
Judicial Aide to Deborah Brooks Durden

January 26, 2015
Columbia, South Carolina

FILED

January 26, 2015

SC ADMIN. LAW COURT

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Revenue,)
)
 Petitioner,)
)
 vs.)
)
 Meenaxi, Inc., d/b/a Corner Mart,)
)
 Respondent.)
 _____)

Docket No.: 13-ALJ-17-0216-CC

**NOTICE OF MOTION AND MOTION
FOR SUPERSEDEAS**

**TO: LAUREN ACQUAVIVA, ESQUIRE, ATTORNEY FOR THE PETITIONER,
SOUTH CAROLINA DEPARTMENT OF REVENUE**

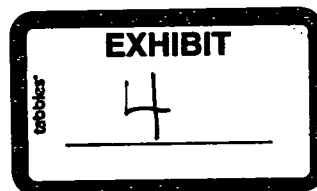
YOU WILL PLEASE TAKE NOTICE that the Respondent, by and through his undersigned counsel, will move before the Honorable Deborah Brooks Durden, Administrative Law Judge, pursuant to Rule 241(d) of the South Carolina Rules of Civil Procedure and such other authority as the Court may deem applicable and proper, for a Writ of Supersedeas asking and requesting that the Court's Final Order and Decision be stayed pending an appeal in this action.

This motion is made on the grounds that Final Order and Decision of the Court dated January 8, 2015 and the Order dated January 26, 2015 denying the Respondent's Motion for Reconsideration and making no ruling as to the Respondent's request for a Stay of Proceedings pending Appeal, has the impact of revoking the Respondent's Beer and Wine permit which is an integral part of his business for an indefinite and lengthy period of time which would have the potential impact of bringing the Respondent to severe financial hardship ruin during the pendency of any appeal in this matter. This would have a severe impact not only on Respondent but its employees. Considering the impact on the Respondent and others of the decision, a Supersedeas should be granted suspending implementation of the Order pending an appeal of

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SC ADMIN. LAW COURT

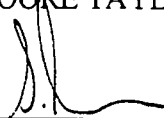


this matter.

Respondent's counsel has informed Attorney for Petitioner of his intent to move for a Writ of Supersedeas and they will oppose it. However, Respondent believes that under the circumstances of this case such relief is appropriate and respectfully prays for the same.

MOORE TAYLOR LAW FIRM, P.A.

BY:



S. Jahue Moore
1700 Sunset Boulevard
Post Office Box 5709
West Columbia, SC 29171
(803) 796-9160

ATTORNEY FOR THE RESPONDENT

West Columbia, South Carolina

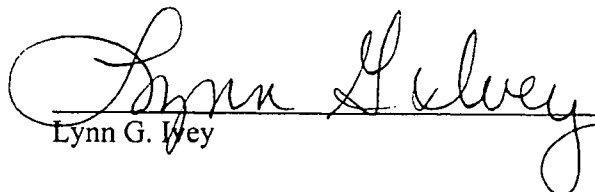
February 4, 2015

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Revenue,)	Docket No.: 13-ALJ-17-0216-CC
)	
Petitioner,)	
)	
vs.)	CERTIFICATE OF SERVICE
)	
Meenaxi, Inc., d/b/a Corner Mart,)	
)	
Respondent.)	
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I, Lynn G. Ivey, an employee of Moore Taylor Law Firm, PA, hereby certify that I served a copy of the **Notice of Motion and Motion for Supersedeas** on the following persons by placing a copy of same in the United States Mail, in an envelope with sufficient postage affixed thereto, addressed as follows:

Lauren Acquaviva, Esquire
Counsel for Litigation
South Carolina Department of Revenue
P.O. Box 12265
Columbia, SC 29211


Lynn G. Ivey

West Columbia, South Carolina

February 4, 2015

FILED

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SC ADMIN. LAW COURT

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

South Carolina Department of Revenue,

Petitioner,

vs.

Meenaxi, Inc., d/b/a Corner Mart,

Respondent.

Docket No. 13-ALJ-17-0216-CC

**ORDER DENYING RESPONDENT'S
MOTION FOR SUPERSEDEAS**

This matter is before the Administrative Law Court (ALC or Court) pursuant to the Motion for Supersedeas filed on February 4, 2015 by counsel for Respondent, Meenaxi, Inc., d/b/a Corner Mart (Respondent). On February 6, 2015, Petitioner, South Carolina Department of Revenue (Department), filed its Response in opposition to the Motion.

In the Final Order and Decision, this Court found that (1) the Respondent violated S.C. Code Ann. § 61-4-580(5) by knowingly permitting an act on its premises that constitutes a crime – possessing unlawful gaming machines; and (2) revocation of the Respondent's beer and wine permit is the appropriate penalty for that violation. In its Motion, Respondent asserts that it will suffer severe financial hardship if its permit is revoked during the pendency of any appeal of this matter. The Department argues that the risk of public harm and the potential for ineffective enforcement of the alcohol laws outweighs any potential financial hardship the Respondent may suffer.

"The serving or filing of a notice of appeal does not automatically stay the suspension or revocation of a permit or license authorizing the sale of beer, wine, or alcoholic liquor. The agency may grant, or the reviewing court may order, a stay upon appropriate terms, upon the filing of a petition under Rule 65 of the South Carolina Rules of Civil Procedure." S.C. Code Ann. § 1-23-380. The effect of the granting of a supersedeas motion is to suspend or stay the matters decided in the order during the pendency of an appeal. In determining whether to grant an order for supersedeas, the Court should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot. Rule 241 S.C. Rules of Appellate Procedure. In this case, I find that it is not necessary to stay the order to preserve jurisdiction of the appeal or

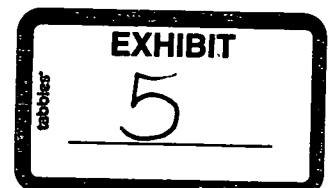
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of the original record on file with the
South Carolina Administrative Law Court

SCD page 1 of 3

FILED

February 10, 2015

SC ADMIN. LAW COURT



prevent any issue from becoming moot. I find that granting a stay of the order would interfere with the Department's enforcement of this state's alcohol laws.

A beer and wine permit is a privilege and not a right. See Feldman v. S.C. Tax Comm'n, 203 S.C. 49, 26 S.E.2d 22 (1943). The Respondent's conduct demonstrates that it should not be trusted to maintain this privilege any longer. The Court found that Malkesh Patel, the sole owner of Meenaxi, Inc., emptied the money out of the illegal gaming machines and unplugged them once he knew law enforcement was in the area. Patel chose to put these illegal gaming machines in his store and to try and hide his actions in an attempt to avoid being caught. These actions by Patel demonstrate disregard for the alcohol laws of this State, and an intentional attempt to hide violations of the alcohol laws from law enforcement. Permitting a person who disregards the alcohol laws of this State to keep his alcohol license creates an unnecessary risk of public harm.

Additionally, permitting the Respondent to maintain the privilege of keeping its beer and wine permit creates a risk of ineffective enforcement of the alcohol laws. Specifically, while the appeal is pending, the Respondent can circumvent the effect of having a revoked permit by applying for a new permit at a different location and, thus, completely avoid the consequences of its actions. Pursuant to S.C. Code Ann. § 61-4-520(3), the Department must not issue a beer and wine permit unless "[t]he applicant, within two years before the date of application, has not had revoked a beer or a wine permit issued to him." Thus, if the revocation remains in effect during the appeal, the Respondent cannot obtain a new beer and wine permit for two years from the date of the Order. If, however, the revocation is stayed, the Respondent can apply for a new permit and avoid the consequences of the revocation of the permit at issue in this case. By the time the Court of Appeals, and potentially the Supreme Court, issues a decision in this matter, the Respondent could already have started a new business. If that is allowed to happen, the revocation of the permit at issue would not affect the Respondent as it already would have obtained a new permit.

Allowing the Respondent to continue to hold a permit allows the Respondent to avoid the consequences of its actions. An appeal will take several months if not years to resolve. Respondent delayed the hearing in this matter at the ALC for 16 months by obtaining six continuances. By appealing the ALC decision, the Respondent would be able to operate for several years after being caught with illegal gaming machines before the license revocation would become effective. Allowing the Respondent to avoid the consequences of its actions for years hinders the Department's efforts to enforce the alcohol laws. Therefore,

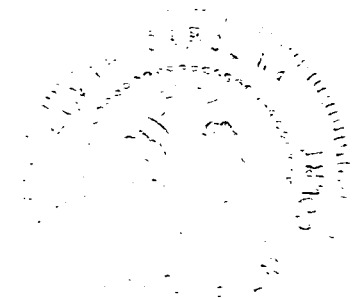
IT IS HEREBY ORDERED that Respondent's Motion for Supersedeas seeking a stay of this Court's January 8, 2015 Order is **DENIED**.

AND IT IS SO ORDERED.



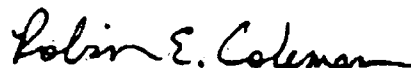
Deborah Brooks Durden
Administrative Law Judge

February 10, 2015
Columbia, South Carolina



CERTIFICATE OF SERVICE

I, Robin E. Coleman, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).



Robin E. Coleman
Judicial Aide to Deborah Brooks Durden

February 10, 2015
Columbia, South Carolina

FILED

February 10, 2015

SC ADMIN. LAW COURT

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

Deborah Brooks Durden, Administrative Law Judge

Case No. 13-ALJ-17-0216-CC

Meenaxi, Inc., d/b/a Corner Mart.....Appellant,

v.

South Carolina Department of Revenue Respondent.

AFFIDAVIT

PERSONALLY appeared before me, Malkesh Patel, who, being duly sworn,
deposes and states that:

1. He is the sole owner of Meenaxi, Inc., d/b/a Corner Mart, the Appellant in the above captioned appeal.
2. He has knowledge of the affect of the Order dated January 8, 2015, on Appellant's business.
3. As the direct and proximate result of the lower court's order, the Appellant's sales have fallen by over 60%.
4. Due to this drastic decline in revenue, the Appellant has had to lay off two permanent full time employees who depended upon Appellant for their financial support and well-being.
5. If the Order remains in effect during the pendency of this appeal, then the undersigned will have no choice but to close the business.



M. Patel
Malkesh Patel

SWORN to before me this 18th
day of February, 2015.

Lynn G. Ivey (SEAL)

Lynn G. Ivey
Notary Public for South Carolina
My Commission Expires: 1/8/23

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM ADMINISTRATIVE LAW COURT

SC Court of Appeals

Deborah Brooks Durden, Administrative Law Judge

Case No. 13-ALJ-17-0216-CC

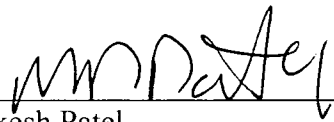
Meenaxi, Inc., d/b/a Corner Mart.....Appellant,

v.

South Carolina Department of Revenue Respondent.

VERIFICATION

PERSONALLY appeared before me, Malkesh Patel, who, being duly sworn, deposes and says that he is the sole owner of Meenaxi, Inc., d/b/a Corner Mart in the foregoing action; that he has read the within Petition for Stay and Supersedeas and knows the allegations contained therein to be true except as to those allegations which may be alleged to be upon information and belief, and as to those, he believes them to be true.


Malkesh Patel

SWORN to before me this 18th
day of February, 2015.

 (SEAL)

Lynn G. Ivey
Notary Public for South Carolina
My Commission Expires: 1/8/23

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

FEB 19 2015

APPEAL FROM ADMINISTRATIVE LAW COURT

SC Court of Appeals

Deborah Brooks Durden, Administrative Law Judge

Case No. 13-ALJ-17-0216-CC

Meenaxi, Inc., d/b/a Corner Mart.....Appellant,

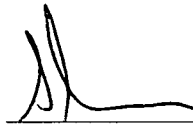
v.

South Carolina Department of RevenueRespondent.

CERTIFICATION OF ATTORNEY

The undersigned, as an officer of this Court, pursuant to Appellate Rule 241 (6) hereby certifies as an officer of this Court that notice has been given to counsel for the State that he would seek a Supersedeas in this action. Counsel for the Department of Revenue indicates that she objects to the issuance of a Writ.

Contemporaneously herewith, the undersigned is serving the Petition on adverse counsel.



S. Jahue Moore, Esq.
Moore, Taylor, & Thomas, PA
Post Office Box 5709
West Columbia, SC 29169
(803)-796-9160
(803)-791-8410
Attorney for Appellant

February 18, 2015

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

Deborah Brooks Durden, Administrative Law Judge

Case No. 13-ALJ-17-0216-CC

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FEB 19 2015

SC Court of Appeals

Meenaxi, Inc., d/b/a Corner Mart Appellant,

v.

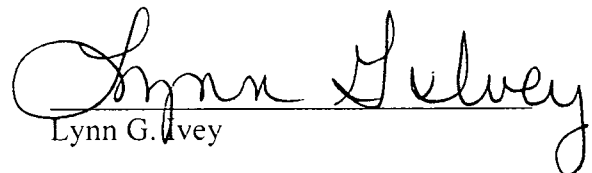
South Carolina Department of Revenue Respondent.

PROOF OF SERVICE

I, Lynn G. Ivey, an employee of Moore Taylor Law Firm, PA, certify that I have served the Appellant's Petition for Stay and Supersedeas, Proof of Service, Verification & Certification of Attorney to the following parties by depositing a copy of same in the United States Mail, postage prepaid, on February 19, 2015, addressed as follows:

The Honorable Deborah Brooks Durden
Administrative Law Judge
1205 Pendleton Street, Suite 224
Columbia, SC 29201
Presiding Judge

Lauren Acquaviva
S.C. Dept. of Revenue
P.O. Box 12265
Columbia, SC 29211
Attorney for S.C. Dept. of Revenue


Lynn G. Ivey



S. Jahue Moore*
 J. Mark Taylor*
 C. Vance Stricklin, Jr.
 James Edward Bradley*
 Sheila McNair Robinson
 Robert D. Hazel
 Christian G. Spradley
 C. David Sawyer, Jr.
 William H. Edwards
 Stanley L. Myers
 Jane H. Downey*
 S. Jahue Moore, Jr.
 John C. Bradley, Jr.
 Melissa K. Moore
 William B. Fortino
 Ralph Nichols Riley, Jr.
 M. Brooks Biediger
 Amber Cary Fulmer
 Sarah Taylor Cassidy
 Margaret "Meg" Hazel
 Billy C. Coleman (Ret.)

February 19, 2015

The Honorable John C. Few
 Chief Administrative Judge
 South Carolina Court of Appeals
 1015 Sumter Street
 Columbia, SC 29201

RE: South Carolina Department of Revenue v. Meenaxi, Inc., d/b/a Corner Mart
 Case No.: 10-ALJ-17-0216-CC

Dear Judge Few:

Enclosed please find pursuant to Rule 241(d)(5) of the South Carolina Appellate Court Rules, an original and two copies of the Appellant's Petition for Stay and Supersedeas in the above-captioned matter along with the Proof of Service on opposing counsel, Verification, and Certification of Counsel.

Thank you in advance for your consideration in this matter.

Respectfully,

S. Jahue Moore

/lgi

Enclosures

cc: The Honorable Deborah Brooks Durden
 Lauren Acquaviva, Esquire

RECEIVED

FEB 19 2015

SC Court of Appeals

1700 Sunset Boulevard, West Columbia SC 29169 | PO Box 5709, West Columbia SC 29171

TEL 803.796.9160 FAX 803.791.8410 www.mooretaylorlaw.com