

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition	:	
of	:	
TOBACCO & CONV. CORP.	:	DETERMINATION
	:	DTA NO. 851245
for Review of a Denial, Suspension, Cancellation or	:	
Revocation of a License, Permit or Registration under	:	
Article 20 of the Tax Law for the Year 2024.	:	

Petitioner, Tobacco & Conv. Corp., filed a petition for review of a denial, suspension, cancellation or revocation of a license, permit or registration under article 20 of the Tax Law for the year 2024.

An expedited hearing by videoconference was held before Jennifer L. Baldwin, Administrative Law Judge, on November 19, 2024, with all briefs to be submitted by January 8, 2025, which date began the period for the issuance of this determination. Petitioner appeared by its owner, Basheer Alzandani. The Division of Taxation appeared by Amanda Hiller, Esq. (Elizabeth Lyons, Esq., of counsel).

ISSUE

Whether petitioner has established that the Division of Taxation's refusal to issue a cigarettes and tobacco products certificate of registration for the year 2024 was improper and should be cancelled.

FINDINGS OF FACT

The Division of Taxation (Division) submitted 51 proposed findings of fact pursuant to State Administrative Procedure Act § 307 (1) and 20 NYCRR 3000.15 (d) (6). The Division's

proposed findings of fact 1-7, 9-17, 20-22, 25, 27-30, 32-37, 39, 40, 42-44, 46, 47 and 49-51 are supported by the record and have been substantially incorporated herein. Proposed findings of fact 8, 18, 19, 23, 24, 26, 31, 38, 41, 45 and 48 are rejected as not supported by the record.

1. On or about February 27, 2024, Basheer Alzandani submitted an application for a cigarettes and tobacco products certificate of registration (certificate of registration) for petitioner for the year 2024. The application indicated that petitioner would operate as a “C CORPORATION” at the business location of “145 W ORANGEBURG RD UNIT 10, ORANGEBURG, NY 10962.” Mr. Alzandani was listed as an affiliated person on the application with a 100 percent ownership interest in petitioner effective March 1, 2024. The application also indicated that the \$300.00 registration fee was paid from a business account held by Tobacco & Vape #1 Corp. on February 23, 2024.

2. The application indicated that a certificate of authority was attached. Mr. Alzandani had previously submitted an application to register for a sales tax certificate of authority, form DTF-17, to the Division on February 2, 2024 to start a new business under petitioner’s name and at the same address as listed on the certificate of registration. The form DTF-17 listed Mr. Alzandani as petitioner’s sole owner and president and indicated that petitioner would begin business in New York State for sales tax purposes on March 1, 2024. Petitioner described its business activities as “Convenience & Smoke Shop.” In response to the question, “[d]id you acquire all or part of an existing business, or the assets of a business, that was registered or required to be registered for sales tax,” the box for “[n]o” was checked. Also, when asked if the applicant intended to provide “[c]igarettes or other tobacco products sold at retail,” the box for “[n]o” was checked. The form DTF-17 listed “Rose Garcia, 2329 Steinway Street Ground floor, Astoria, NY 11105” as petitioner’s mailing address.

3. The Division's records indicated that, on June 27, 2022, Tobacco & Vape #1 Corp., submitted a form DTF-17 to start a new business at "1-45 Orangeburg Road, Unit # 10, Orangeburg, NY 10962" and described as a "Smoke Shop." The form DTF-17 listed Mohamed Saeed Ahmed and Fuad Mohamed Anam as both owning a 50 percent interest in Tobacco & Vape #1 Corp. When asked if the applicant intended to provide "[c]igarettes or other tobacco products sold at retail," the box for "[y]es" was checked. The form DTF-17 listed "Rose Garcia, 2329 Steinway Street, Astoria, NY, 11105" as Tobacco & Vape #1 Corp.'s mailing address.

4. The Division's records also indicated that, on January 22, 2024, the Division informed Tobacco & Vape #1 Corp. that its certificate of registration as a retail dealer of cigarettes and tobacco products was revoked for a period of three years beginning on January 3, 2024 for possession of untaxed cigarettes on March 24, 2023 and January 3, 2024. The letter was addressed to Mr. Ahmed and Mr. Anam, care of Tobacco & Vape #1 Corp., at "145 W Orangeburg Rd., Unit 10 Orangeburg, NY 10962" and stated that "[y]ou may not sell cigarettes at this location during the period of revocation."

5. On February 29, 2024, the Division sent a letter to petitioner at its mailing address that informed petitioner that the Division could not process its application for a certificate of registration. The letter explained that the Division's records indicated that petitioner's "place of business [wa]s on the same premises as a retail cigarette or tobacco products dealer whose registration was suspended or revoked." The letter further informed petitioner that it "must provide documentation that demonstrates an *arm's length transaction* related to the business, its location, or both" and explained that:

"[a]n *arm's length transaction* is a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties when neither is under any compulsion to participate

in the transaction. A sale between relatives, related companies, or partners is **not** considered to be at arm's length."

6. On or about April 22, 2024, petitioner, via Ms. Garcia, submitted documentation in support of an arm's length transaction, including a bill of sale, a business purchase agreement and a promissory note.

According to the bill of sale, petitioner purchased a grocery store (the business) from Tobacco & Vape #1 Corp. for \$30,000.00 on February 12, 2024. The address listed on the bill of sale for both petitioner and Tobacco & Vape #1 Corp. was "145 W Orangeburg Rd Unit 10, Orangeburg, NY 10962." The bill of sale was executed by Mr. Ahmed and Mr. Anam on behalf of Tobacco & Vape #1 Corp. and Mr. Alzandani on behalf of petitioner.

According to the business purchase agreement, petitioner purchased the business located at "145 W Orangeburg Rd Unit 10, Orangeburg, NY 10962" from Tobacco & Vape #1 Corp. The business included the inventory, such as the stock in trade and merchandise, raw materials, work in progress and finished goods, all the furniture, fixtures, equipment, and other tangible assets, and all the trade, goodwill and other intangibles associated with the business. The business purchase agreement indicated that petitioner would pay \$15,000.00 directly to Tobacco & Vape #1 Corp. and the remaining \$15,000.00 would be paid pursuant to a promissory note. The business purchase agreement also indicated that Tobacco & Vape #1 Corp. would produce an affidavit of title and an assignment of assumed name of the business to petitioner at the closing. The business purchase agreement was executed on February 12, 2024 by Mr. Ahmed and Mr. Anam on behalf of Tobacco & Vape #1 Corp. and Mr. Alzandani on behalf of petitioner.

According to the promissory note, petitioner agreed to pay Tobacco & Vape #1 Corp. \$15,000.00, with no interest, in \$1,000.00 monthly installments starting April 1, 2024 and ending on June 1, 2025. The address listed on the promissory note for both petitioner and Tobacco &

Vape #1 Corp. was “145 W Orangeburg Rd Unit 10, Orangeburg, NY 10962.” The promissory note was executed on February 12, 2024 by Mr. Ahmed and Mr. Anam on behalf of Tobacco & Vape #1 Corp. and Mr. Alzandani on behalf of petitioner.

7. Petitioner’s application for a certificate of registration was forwarded to the Division’s Criminal Investigations Division to determine whether the sale of Tobacco & Vape #1 Corp. was an arm’s length transaction. On May 1, 2024, investigators conducted an initial investigation by searching the Division’s records, including its databases, related to both petitioner and Tobacco & Vape #1 Corp. According to the report of investigation, dated July 10, 2024, the review showed no association or relationship between petitioner and the previous owners.

8. On July 9, 2024, investigators conducted a field visit at “10 W Orangeburg Rd. Orangeburg, NY 10962.” According to the report of investigation, investigators interviewed one male behind the service counter who identified himself as Mr. Anam and provided a New York State driver’s license as proof of identity. Mr. Anam told investigators that Mr. Ahmed was the previous owner and Mr. Alzandani was the new owner. Mr. Anam worked for Mr. Ahmed in the old business for two years and was now the manager in the new business with one other female employee, who was a college student. Mr. Anam told investigators that Mr. Alzandani lived in Pennsylvania. Investigators asked to speak with Mr. Alzandani and Mr. Anam agreed to call him and act as an interpreter. As indicated in the report of investigation, Mr. Alzandani told one of the Division’s investigators that he purchased the business from Mr. Ahmed in February for \$39,000.00 and was on a payment plan, he had known Mr. Ahmed for 20 years, he and Mr. Ahmed owned 2 stores together located in Queens, New York, and that he lived in Pennsylvania. Investigators determined that the sale of Tobacco & Vape #1 Corp. was between “partners in a business,” therefore, they did not recommend petitioner’s application for a certificate of

registration be accepted as there was reason to believe that the sale was not an arm's length transaction. Investigators noted in the report of investigation that there were no cigarettes behind the counter visible for sale during their field visit.

9. On September 24, 2024, the Division notified petitioner that it declined to issue petitioner a certificate of registration. The notice stated, in relevant part, that:

“We have reviewed your arm’s length transaction claim.

We have reviewed the documentation that you submitted to us regarding the arm’s length transaction. Based upon the information we received, and an inspection by the Office of Tax Enforcement, we have determined that this does not qualify as an arm’s length transaction.

*An arm’s length transaction is a sale made in good faith and for valuable consideration that reflects the fair market value in [the] open market between two informed and willing parties, where neither is under any compulsion to participate in the transaction. A sale between relatives, related companies, or partners in a business, or sales made for the purpose of permitting the original registrant to avoid the effect of the previous revocation for the same premises, are presumed **not** to be an arm’s length transaction.”*

10. Petitioner filed a timely petition with Division of Tax Appeals on October 1, 2024.

11. At the hearing, the Division presented the testimony of Robert Martin, Assistant Chief of Investigations in the Criminal Investigations Division, who testified to his experience with certificate of registration investigations. Mr. Martin testified about the Division’s practices when further investigation is needed to determine if an arm’s length transaction occurred. Mr. Martin explained that it is customary for investigators to look at whether the new owner had a relationship with the previous owner.

12. Relying on the report of investigation, Mr. Martin testified that two investigators that he directly supervised went to 10 West Orangeburg Road in Orangeburg, New York, and spoke to Mr. Anam. Mr. Anam told investigators that Mr. Alzandani was the new owner and contacted

him for the investigators. Mr. Martin also testified about the Division's use of a database to conduct background checks that provides a report to identify any relationship between parties. According to Mr. Martin, the report showed that there was a business relationship between Mr. Alzandani and Mr. Ahmed at a grocery store in Ozone Park, Queens, New York. The Division did not put the report into the record.

13. Mr. Martin also testified that the address listed on petitioner's form DTF-17 and application for a certificate of registration, "145 W Orangeburg Rd Unit 10," was slightly different than the address on Tobacco & Vape #1 Corp.'s form DTF-17, "1-45 Orangeburg Road, Unit # 10." He explained that "145 W Orangeburg Rd Unit 10" was a residence and that the correct address for the business was 10 West Orangeburg Road. He further explained that he had personal knowledge of this address due to his previous visits to the location, which is in a strip mall, when Tobacco & Vape #1 Corp. was found to be in possession of untaxed cigarettes. Mr. Martin was confident that 10 West Orangeburg Road was "the exact location of the old business and the new business." Mr. Martin testified that "sometimes what happens is, when a location is suspended and a new owner puts in an application, they will vary the address slightly so our computers do not pick up that new address as a possible address of a previously suspended location."

14. Mr. Martin further testified that based on petitioner's relationship with Mr. Anam, who co-owned Tobacco & Vape #1 Corp. and, at the time of the investigation, managed petitioner's business, there were sufficient grounds to recommend not issuing the certificate of registration to petitioner. Mr. Martin confirmed that the only reason he recommended denying petitioner's certificate of registration was the relationship between the old and new business and that the purchase price of the business was not a basis for denial.

15. The Division entered into evidence the affidavit of Kristen DeLong, sworn to on October 15, 2024. Ms. DeLong was a Taxpayer Services Specialist 4 in the Division's Registration, Accounting and Support Bureau. In her affidavit, she explained the application process and the conclusion reached regarding petitioner's application for a certificate of registration. She explained that:

“[i]n this case, we received [the Criminal Investigations Division's] recommendations that an arm's length transaction did not occur. On September 24, 2024, my unit notified the applicant of this conclusion and declined to issue a [certificate of registration]. . . . We declined to issue the [certificate of registration] based on the following facts. The prior owner (Mohammed [sic] S. Ahmed) and current owner (Basheer A. Alzandani) have known each other for twenty years and own two stores together in Queens. A bill of sale, promissory note and purchase agreement were submitted to the [Division] by Basheer Alzandani for review by [the Criminal Investigations Division]. Furthermore, the 2022 DTF-17 Sales Tax Certificate of Authority application for Tobacco & Vape #1 Corp[.], indicated Mohammed [sic] Ahmed and Fuad Anam were the responsible persons of the business in a 50/50 split of ownership. Fuad Anam is now the current manager of [petitioner]. In addition, the 2024 DTF-716 Cigarette and Tobacco application payment submitted by Basheer Alzandani was paid from the business checking account of Tobacco and Vape [#]1 Corp.”

16. Mr. Alzandani testified on behalf of petitioner. Mr. Alzandani heard about Tobacco and Vape #1 Corp.'s business going up for sale through a friend, Ali Saleem. Mr. Alzandani and Mr. Saleem were partners in one or more other businesses. Mr. Alzandani testified that Mr. Saleem was a partner with Mr. Ahmed in a deli located in Queens, New York, and that he only knew Mr. Ahmed through Mr. Saleem. When asked whether he ever owned a business with Mr. Ahmed, Mr. Alzandani stated, “[n]o, with Ali Saleem only, nothing else.”

17. Mr. Alzandani testified that he purchased the business for \$39,000.00 with a \$15,000.00 down payment and paid the remainder in installments. He further testified that he did not know Mr. Anam prior to purchasing the business but intended to keep Mr. Anam working in the business because Mr. Alzandani lived in Pennsylvania. Mr. Alzandani also

testified that petitioner rented or leased the premises, and that the previous lease had a right of assignment, but he did not put the lease or assignment into the record. He also testified that he acquired the assets of the prior business, such as shelves and refrigerator, when he purchased the business. Mr. Alzandani could not explain why petitioner's form DTF-17 was submitted on February 2, 2024, a date before he purchased the business on February 12, 2024. Mr. Alzandani testified that he intended to sell cigarettes when he purchased the business.

18. After the hearing, petitioner submitted an unsworn letter, dated November 20, 2024, from Ms. Garcia. In the letter, Ms. Garcia stated that, after reviewing her records, she realized that she mistakenly charged her fee to the account of Tobacco & Vape #1 Corp. rather than to petitioner's account due to the similarity in the names of the two businesses.

CONCLUSIONS OF LAW

A. Tax Law § 480-a (1) (a) requires that every retail dealer display a certificate of registration from the Division in each place of business in New York State through which it sells cigarettes or tobacco products at retail. Registrations are valid for a calendar year and must be renewed each year (*see* Tax Law § 480-a [1] [c]). The Division may refuse to register or may revoke a registration where:

“the applicant's or retail dealer's place of business is at the same premises as that of a retail dealer whose retail dealer registration has been revoked and where such revocation is still in effect, unless the applicant or retail dealer provides the commissioner with adequate documentation demonstrating that such applicant or retail dealer acquired the premises or business through an arm's length transaction . . . and that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original registrant to avoid the effect of the previous revocation for the same premises” (Tax Law § 480-a [1] [e]).

An “arm's length transaction” is defined as:

“a sale of a fee or all undivided interests in real property, or lease of any part thereof, or a sale of a business, in good faith and for valuable consideration, that reflects the fair market value of such real property or lease, or business, in the

open market, between two informed and willing parties, where neither is under any compulsion to participate in the transaction, unaffected by any unusual conditions indicating a reasonable possibility that the sale or lease was made for the purpose of permitting the original registrant to avoid the effect of the previous revocation for the same premises” (*id.*).

Certain sales or leases are presumed not to be arm’s length transactions:

“unless adequate documentation is provided demonstrating that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original registrant to avoid the effect of the previous revocation for the same premises:

(i) a sale between relatives; or

(ii) a sale between related companies or partners in a business; or

(iii) a sale or lease affected by other facts or circumstances that would indicate that the sale or lease is entered into for the primary purpose of permitting the original registrant to avoid the effect of the previous revocation for the same premises” (*id.*).

B. Despite the differences in address (*see* finding of fact 13), there is no dispute that petitioner purchased the business from Tobacco & Vape #1 Corp. and that business is located at the same premises as Tobacco & Vape #1 Corp. The bill of sale, business purchase agreement and promissory note list the same address for both corporations. Mr. Martin testified that he visited both Tobacco & Vape #1 Corp. and petitioner at the same location. Mr. Alzandani did not claim, during the hearing or at any point during the investigation, that petitioner’s business was located anywhere else. Therefore, it is determined that petitioner’s business was at the same premises as Tobacco & Vape #1 Corp. Since Tobacco & Vape #1 Corp.’s certificate of registration was revoked by the Division and remains revoked until January 3, 2027, the question is whether petitioner acquired the business through an arm’s length transaction and whether the sale was conducted for the purpose of permitting Tobacco & Vape #1 Corp. to avoid the effect of the revocation of its own certificate of registration.

C. Initially, the Division argues that there is a presumption that the sale of the business was not conducted at arm's length due to the business relationship between Mr. Alzandani and Mr. Ahmed and Mr. Anam. The Division relies on its report of investigation, which indicated that Mr. Alzandani knew Mr. Ahmed for 20 years and owned other businesses together, statements that Mr. Alzandani denied, under oath and without contradiction, at the hearing. As there is no other evidence in the record even suggesting that Mr. Alzandani and Mr. Ahmed were "partners in a business" (*see* Tax Law § 480-a [1] [e] [ii]), it cannot be determined that the sale of the business was presumed not to be an arm's length transaction on this basis.

Nevertheless, the Division claims that since Mr. Anam acted as a manager for petitioner and was involved in the day-to-day operations of petitioner, this is sufficient to establish a business relationship between Mr. Alzandani and the previous business owners. Similarly, there is no evidence in the record that Mr. Alzandani and Mr. Anam were "partners in a business" and it is unclear, and the Division has not articulated, how any business relationship establishes a presumption under the statute. Therefore, the sale of the business is not presumed not to be an arm's length transaction.

D. While the record is also unclear as to the purchase price of the business (*see* findings of fact 6, 8 and 17), the Division did not refuse to issue a certificate of registration to petitioner on this basis. The notice of refusal to issue a certificate of registration informed petitioner that the basis for the Division's refusal was the relationship between Mr. Alzandani and Mr. Ahmed and Mr. Anam. There is nothing in the Division's notice even alleging that \$30,000.00 or \$39,000.00 did not reflect the fair market value of the business or, for that matter, taking issue with how petitioner paid for the business. Mr. Martin confirmed this at the hearing, testifying that the only reason he recommended denying petitioner's certificate of registration was the

relationship between the old business, Tobacco & Vape #1 Corp., and the new business, petitioner, and that the purchase price of the business was not a basis for denial.

E. What remains is what appears to be the recurring theme of Tax Law § 480-a (1) (e), that is, whether the sale of the business was entered into for the purpose of permitting the original retail dealer to avoid the effect of the revocation of its certificate of registration. According to the Division, the business relationship between Mr. Alzandani and Mr. Ahmed and Mr. Anam shows that the sale of the business was to avoid the effect of the previous registration. As noted, the report of investigation indicated that Mr. Alzandani knew Mr. Ahmed for 20 years and owned other businesses together. This was based on a telephone conversation between one of the Division's investigators and Mr. Alzandani and interpreted by Mr. Anam. At the hearing, however, Mr. Alzandani denied owning a business with Mr. Ahmed and stated that he only knew him through Mr. Saleem. Furthermore, Mr. Martin testified that one of the databases the Division uses to do background checks indicated that Mr. Alzandani and Mr. Ahmed owned another business together. Such statement, however, contradicts the report of investigation, which stated that the same database showed no association or relationship between petitioner and the previous owners. Without more, it cannot be determined that the relationship, if any, between Mr. Alzandani and Mr. Ahmed evidences an attempt to avoid the revocation of Tobacco & Vape #1 Corp.'s certificate of registration.

Similarly, the relationship between Mr. Alzandani and Mr. Anam does not, by itself, evidence an attempt to avoid the revocation of Tobacco & Vape #1 Corp.'s certificate of registration. Mr. Alzandani testified that he did not know Mr. Anam prior to purchasing the business. The Division instead argues that it is Mr. Anam's continuing involvement in petitioner's business that evidences an attempt to avoid the revocation of Tobacco & Vape #1

Corp.'s certificate of registration. At the hearing, Mr. Alzandani explained that he intended to keep Mr. Anam working in the business because Mr. Alzandani lived in Pennsylvania. Although he continued to be employed, there is no indication in the record or claim that Mr. Anam otherwise benefitted from petitioner selling cigarettes. Mr. Anam's involvement in petitioner's business, alone, does not evidence an attempt to avoid his previous revocation.

F. In addition, the Division argues that petitioner's use of a variation in the address of the business shows that the sale was to avoid the effect of a previous revocation. On its application for a certificate of registration and form DTF-17, petitioner listed the address of its business location as "145 W ORANGEBURG RD UNIT 10." This address matches the address on the bill of sale, business purchase agreement and promissory note. On Tobacco & Vape #1 Corp.'s form DTF-17, the address of its business location is listed as "1-45 Orangeburg Road, Unit # 10." Mr. Martin testified that the actual address should be 10 West Orangeburg Road based on his visits to the location.

While it is clear that the addresses differ, what also seems to be clear is that the Division had no issue determining petitioner's business was located at the same premises as Tobacco & Vape #1 Corp. Two days after petitioner submitted its application for a certificate of registration on February 27, 2024, the Division sent a letter to petitioner, dated February 29, 2024, which stated that the Division's records indicated that petitioner's "place of business [wa]s on the same premises as a retail cigarette or tobacco products dealer whose registration was suspended or revoked." Furthermore, the Division sent its letter revoking Tobacco & Vape #1 Corp.'s certificate of registration to "145 W Orangeburg Rd., Unit 10," the same address petitioner used on its application for a certificate of registration. At some point, even the Division believed this to be the correct address. Accordingly, it is not clear that petitioner varied the address of the

business, let alone varied the address to avoid the effect of the revocation of Tobacco & Vape #1 Corp.'s certificate of registration, and the Division's argument is rejected.

G. The Division also argues that petitioner did not provide adequate documentation to show that the sale of the business was an arm's length transaction. After receiving its application for a certificate of registration and, as noted, determining petitioner's place of business was at the same premises as a business whose certificate of registration was revoked, the Division requested documentation demonstrating that petitioner acquired the business in an arm's length transaction. In response, petitioner provided a bill of sale, business purchase agreement and promissory note. The Division then forwarded petitioner's application to the Criminal Investigations Division for further review. At no point did the Division request further documentation from petitioner.

The Division notes that the business purchase agreement indicated other documents would be provided at closing, including an affidavit of title and an assignment of assumed name, and that it would expect to see an assignment of lease and a bulk sale notification. The Division had the business purchase agreement and seemingly the experience in registration matters to request these specific documents but chose not to do so. The Division cannot now hold it against petitioner that the documents were not provided.

H. The Division further contends that the timing of petitioner's application for a certificate of registration, payment of the registration fee by Tobacco & Vape #1 Corp. and alleged misrepresentations in petitioner's documents demonstrate that the sale of the business was an attempt to avoid the effect of the revocation of Tobacco & Vape #1 Corp.'s certificate of registration. These facts, however, are not without reasonable explanation.

Petitioner did, in fact, purchase the business after Tobacco & Vape #1 Corp.'s certificate of registration was revoked for three years and, thereafter, apply for a certificate of registration.

Albeit quick, less than a month, it is not determinative here. Petitioner's registration fee was paid out of the account of Tobacco and Vape #1 Corp., however, as claimed by Ms. Garcia, similar mistakes have been made due to the similarity in the names of the two businesses. Petitioner submitted its form DTF-17 before it purchased the business but, on the form, indicated that petitioner would begin business on March 1, 2024, a date after petitioner purchased the business. The form DTF-17 also indicated that petitioner did not intend to sell cigarettes. While true, the form also described petitioner's business activities as that of a convenience and smoke shop and petitioner did, in fact, submit an application for a cigarettes and tobacco products certificate of registration.

I. Tax Law § 480-a (1) (e) provides that the Division "may" refuse to issue a certificate of registration if it determines that the sale of the business was conducted for the purpose of permitting the original registrant to avoid the effect of the previous revocation for the same premises. The effect of the revocation of Tobacco & Vape #1 Corp.'s certificate of registration is that Mr. Ahmed and Mr. Anam cannot sell cigarettes at the same location for three years. All facts and circumstances considered, the record does not establish that Tobacco & Vape #1 Corp.'s business was sold to petitioner to allow Mr. Ahmed and Mr. Anam to continue to sell cigarettes at the same location and, in turn, avoid the effect of the revocation of Tobacco & Vape #1 Corp.'s certificate of registration.

J. The petition of Tobacco & Conv. Corp. is granted, and the notice of refusal to issue a cigarettes and tobacco certificate of registration, dated September 24, 2024, is cancelled.

DATED: Albany, New York
January 30, 2025

/s/ Jennifer L. Baldwin
ADMINISTRATIVE LAW JUDGE