



*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150-2358*

Jean M. Lorizio, Esq.
Chairman

DECISION

**AYER SHOP 'N SAVE LLC D/B/A AYER SHOP 'N SAVE
22 FITCHBURG ROAD
AYER, MA 01432
LICENSE#: 0060-00032
VIOLATION DATE: 3/14/2019
HEARING DATE: 7/09/2019**

Ayer Shop 'N Save LLC d/b/a Ayer Shop 'N Save (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 15. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, July 9, 2019, regarding an alleged violation of 204 CMR 2.04 (1) No holder of a license issued under M.G.L. c. 138, § 15 shall sell or offer to sell any alcoholic beverages at a price less than invoiced cost. Cost is defined as net cost appearing on the invoice for said alcoholic beverages. Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Carey's Report.

The following documents are in evidence:

1. Investigator Carey's Report;
2. Licensee's New License Application, approved 9/9/2015;
3. Licensee's Advertisement;
4. Licensee's Invoice;
5. Store Manager Jacob Szelest's Email, 3/14/2019; and
6. Licensee's Stipulation of Facts.

There is one (1) audio recording of this hearing.

FACTS

1. Investigator Carey was assigned to investigate a complaint against Ayer Shop 'N Save LLC d/b/a Ayer Shop 'N Save. The complaint alleged that the Licensee was selling 18-packs of Rolling Rock beer for \$7.99. The Licensee advertised this price in its weekly flyer, which was included in the complaint.
2. On Tuesday, March 12, 2019, Investigator Carey contacted the Licensee, spoke to the store manager, Jacob Szelest, and informed him of the complaint.
3. Mr. Szelest stated that he was aware of the price in the flyer, but he did not believe that the beer was being sold below cost. Szelest advised Investigator Carey that he would check his invoices and get back to him.
4. On Thursday, March 14, 2019, Szelest called Investigator Carey and reported that he had calculated the wrong price for 18-pack Rolling Rock beer. Szelest stated he mistakenly

thought that 18-packs came two to a case (which is how 12-packs of beer are delivered). The 18-pack was invoiced as one unit per case. Investigator Carey asked Mr. Szelest to send him this explanation in an email.

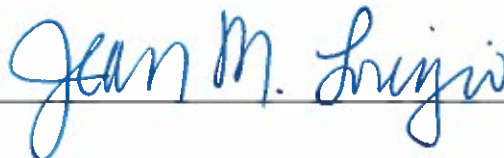
5. Investigator Carey advised Mr. Szelest of the violation and that a report would be submitted to the Chief Investigator for further review.
6. Jacob Szelest testified at the Commission hearing and was found to be a credible witness. The Commission believes the price discrepancy was an honest mistake.
7. The Licensee has no prior violations.

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.04 (1) No holder of a license issued under M.G.L. c. 138, § 15 shall sell or offer to sell any alcoholic beverages at a price less than invoiced cost. Cost is defined as net cost appearing on the invoice for said alcoholic beverages. The Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



Elizabeth Lashway, Commissioner



Kathleen McNally, Commissioner



Dated: July 11, 2019

You have the right to appeal this decision to the Superior Courts under the provisions of Chapter 30A of the Massachusetts General Laws within thirty (30) days of receipt of this decision.

This document is important and should be translated immediately.
Este documento es importante y debe ser traducido inmediatamente.
Este documento é importante e deve ser traduzido imediatamente.
Ce document est important et devrait être traduit immédiatement.
Questo documento è importante e dovrebbe essere tradotto immediatamente.
Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφραστούν αμέσως.
这份文件是重要的，应立即进行翻译。

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Jack Carey, Investigator
Administration, File