

The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Steven Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

DECISION

ONION TOWN GRILL, INC.
175 WATER ST.
DANVERS, MA 01923
LICENSE#: 026400033
VIOLATION DATE: 06/08/2013
HEARD: 09/24/2013

Onion Town Grill, Inc. (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, September 24, 2013, regarding an alleged violation of:

- 1) 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138 §23- Sale of alcoholic beverages other than those purchased from a Licensee under §18 or §19 or from a holder of a special license under §22A (16 Counts); and
- 2) 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: 26 USC §5301 (c) refilling of liquor bottles (1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provision of this chapter.

The above captioned occurred on June 8, 2013, according to Investigator Temple's Report.

The following documents are in evidence:

1. Investigator Temple's Investigative Report dated June 8, 2013;
2. Picture of Bottles of Alcohol;
3. Copies of Receipts from Package Stores; and
4. Picture of Funnel.

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

FACTS

1. On Saturday, June 08, 2013, at approximately 5:22 p.m., Investigators Bailey, Keefe, and Temple investigated the business operation of Onion Town Grill, Inc. to determine the manner in which their business was being conducted, and to investigate a complaint, that the establishment was purchasing alcoholic beverages from New Hampshire.
2. Investigators entered the licensed premises and asked to speak with the owner or manager.
3. Investigators were directed to Donald Harwood, who stated that he was the owner.
4. Investigators advised Mr. Harwood of the complaint filed with this Commission.
5. Mr. Harwood asked if his sister and co-owner, Gale Couture, be present during the questioning.

6. Ms. Couture admitted purchasing alcohol from New Hampshire and from local package stores.
7. Investigators asked Ms. Couture to identify which bottles of alcohol were not purchased from a wholesaler.
8. Ms. Couture identified 16 bottles (each bottle holding 1.75-liter) of alcoholic beverages:
 - o Bacardi Limón rum
 - o Dekuyper Buttershots liqueur
 - o Dekuyper Peach Tree liqueur (2 bottles)
 - o Dekuyper Sour Apple liqueur
 - o Dekuyper Triple Sec liqueur
 - o Dewar's Scotch Whisky
 - o Hennessy cognac
 - o Jim Beam whiskey
 - o Southern Comfort liqueur (2 bottles)
 - o Stoli Orange vodka
 - o Tanqueray gin
 - o Vanya Light vodka
 - o Zachariah Harris bourbon
9. Investigators also observed receipts from Kappy's Liquors and Merchant's Liquor Mart which were posted on the bulletin board in the office.
10. While in the storage area, investigators observed a funnel. Investigators asked Ms. Couture if she poured the cheap vodka into the more expensive bottles.
11. Ms. Couture stated that she did not do that, but that she did put the Stoli into the Stoli.
12. Investigators informed Mr. Harwood and Ms. Couture of the violation and that a report would be submitted to the Chief Investigator for review.

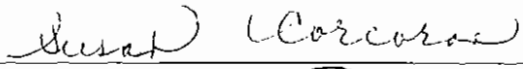
CONCLUSION


Based on the evidence, the Commission finds the licensee violated:

- 1) 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138 §23- Sale of alcoholic beverages other than those purchased from a Licensee under §18 or §19 or from a holder of a special license under §22A (16 Counts); and
- 2) 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: 26 USC §5301 (c) refilling of liquor bottles (1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provision of this chapter.

Therefore, the Commission **suspends the license for five (5) days of which five (5) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner 

Kim S. Gainsboro, Chairman 

DATE: September 24, 2013

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.

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Christopher Temple, Investigator
Rose Bailey, Investigator
Michael Mahoney, Esq. via facsimile 617-338-9225
Administration
File