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

Sleven Grossman Treasurer and Receiver General

DECISION

Kim S. Gainsboro, Esq. Chairman

A.J. Leaver, Corp. dba Back to the Boathouse 294 Tyngsborough Road Dracut, MA 01826 License#: 029200030

Heard: August 23, 2011

A.J. Leaver, Corp. dba Back to the Boathouse (the "Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, August 23, 2011, regarding an alleged violation of M.G.L. c.94, §186 (3 counts). Prior to the commencement of the hearing the licensee stipulated to the facts detailed in Investigator Michael Teehan report.

The following documents are in evidence:

- 1. Licensee's Stipulation of Facts;
- 2. Investigator Michael Teehan's Report; and
- 3. Three (3) Bottles of Contaminated Alcohol.

There is one (1) tape of this hearing.

FACTS

- 1. On Tuesday, May 17, 2011, Investigators inspected the business operation of A.J. Leaver, Corp. dba Back to the Boathouse.
- 2. The investigators observed three (3) bottles containing fruit flies.
- 3. A bottle of Bushmill's Black Bush Irish Whiskey was contaminated.
- 4. A bottle of Juarez Tequila Gold Anisette was contaminated.
- 5. A bottle whose label was badly torn and unreadable was contaminated.
- 6. Administrative review of the file indicates this was the first violation by the licensee in three (3) years of existence.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated M.G.L. c.94, §186 (3 counts). Therefore, the Commission suspends the license for three (3) days of which one (1) day will be served and two (2) 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

Robert H. Cronin, Commissioner_	Kolut /4 (uning
Kim S. Gainsboro, Chairman	Muan Corcoran

Dated: October 5, 2011

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
Michael Teehan, Investigator
Administration
File

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

Steven Grossman Treasurer and Receiver General Kim S. Gainsboro, Esg. Chairman

OFFER IN COMPROMISE IN LIEU OF SUSPENSION

Mailing Address (if different from line 2) Type of License (Restaurant, Package Store, Club, Hotel, Tavem, General on Premise, Veterans Club The above referenced licensee is submitting this Offer to the Alcoholic Beverages Co Commission in reference to a recent decision, resulting in a suspension: 2. Violation Date: b. Total Number of Days Suspended: If this offer is accepted, the licensee waives all rights to appeal and waives judicial revithe Commission's decision. The licensee certifies that this offer is calculated according to the formula set forth in Chapter 138, §23. The amounts on the following line items (Item #10 and Item #11) may be from either twelve months immediately preceding the date of this violation (Item # 5a above) or, licensees that have been in business for more than one year, from the licensee's most a full fiscal (income tax) year. State the period covered by the figures on lines 10 and 11: Total annual receipts from the sale of ONLY alcoholic beverages: \$	Name of Licensee (include d.b.a., if any)	
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Gross annual alcoholic beverage profit:	Total annual receipts from the sale of ONLY	alcoholic beverages:
	Total annual invoiced costs of ONLY alcoho	olic beverages sold:
Item# 10 (receipts) minus Item #11 (invoiced costs)		d costs)

13.	Annual number of days of operation Example:	n:	
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	 7 day annual operation = 36 6 day annual operation = 31 	55	
	- All others (Special Lineaus)	(3 /0 + m /	
	- All others (Special Licenses, enter actual days of operatio	Seasonal Licenses)	
	preceding the violation date.	n during the year	•
14.	•		
17,	Daily gross alcoholic beverage profit	· ·	\$
	(Divide Line 12 by Line 13)		
15.	Enter 50% of amount indicated on L	ina 14.	
	or another mulcated on Line 14:		\$
16.	Daily Fine (enter the greater of Line 1	i5 or \$40.00):	•
17.			¥
17.	Enter the number of days the License (From Line 5b.)	is suspended:	_
	(1 Total Latte 50.)		
18.	Offer in Compromise:		_
	(Multiply Line 16 by Line 17)		
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orkine	d Under the Penalties of Perjury,	•	
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Signat	ure of Licensee (If Licensee is a Corpor		·
_	(21 Electisee is a Corpor	ration, Manager of Recon	d signs)
		•	•
	ACCOUNTANT	'S CERTIFICATION	
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ased or	under the pains and penalties of perjury n the books and records of the above re	that the figures contained	in the petition are correct
	and records of the above fe	terenced licensee.	•
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LEASE	NOTE:		
· > (Offer MUST be delivered to the A.B.C.(C. within 20 calendar days	after receipt of
_			receipt of
- (Offer MUST be accompanied by a Bank	an Could till to a	

- Offer MUST be accompanied by a Bank or Certified check for the full amount on Line 18 made payable to the Commonwealth of Massachusetts, A.B.C.C.
 Offer MUST be examined and certified by a Massachusetts Licensed Accountant.

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

Steven Grossman Treasurer and Receiver General Kim S. Gainsboro, Esq.

NOTICE OF SUSPENSION

October 5, 2011

A.J. Leaver, Corp. dba Back to the Boathouse 294 Tyngsborough Road Dracut, MA 01826 License#: 029200030 Heard: August 23, 2011

After a hearing on August 23, 2011, the Commission finds A.J. Leaver, Corp. dba Back to the Boathouse in violation of Massachusetts General Laws c. 94, §186.

The Commission suspends the licensee's license for a total of one (1) day to be served. The suspension shall commence on Wednesday, November 30, 2011 and terminate on Wednesday, November 30, 2011. The license will be delivered to the Local Licensing Board or its designee on Wednesday, November 30, 2011 at 9:00 A.M. It will be returned to the licensee Thursday, December 1, 2011.

You are advised that pursuant to the provisions of M.G.L. c.138 §23, you may petition the Commission to accept an offer in compromise in lieu of suspension within twenty (20) calendar days following such notice of such suspension. If accepted, you may pay a fine using the enclosed form. All checks must be certified and accompanied by the enclosed form, which must be signed by a Massachusetts Licensed Accountant.

You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro Chairman

cc:

Local Licensing Board Frederick G. Mahony, Chief Investigator Michael Teehan, Investigator File

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