

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.
Chairman

NOTICE OF SUSPENSION

October 6, 2011

FBL of Everett dba Fernandez Brothers Liquors
409-411 Main Street
Everett, MA 02149
License #: 038200045
Heard: 8/30/2011

After a hearing on August 30, 2011, the Commission finds FBL of Everett dba Fernandez Brothers Liquors in violation of M.G.L. c. 138, §23 (1 count).

The Commission **suspends the licensee's license for a total of four (4) days to be served**. The suspension shall commence on **Wednesday, November 30, 2011 and terminate on Saturday, December 3, 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 Sunday, December 4, 2011.

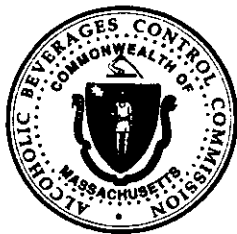
You are advised that pursuant to the provisions of M.G.L. c.138 §23, you may petition the Commission to accept an offer in compromise in lieu of suspension within twenty (20) calendar days following such notice of such suspension. If accepted, you may pay a fine using the enclosed form. All checks must 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
Paul Capurso, Investigator
Administration
File



The Commonwealth of Massachusetts
Department of the State Treasurer
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DECISION

FBL of Everett dba Fernandez Brothers Liquors
409-411 Main Street
Everett, MA 02149
License #: 038200045
Heard: 8/30/2011

FBL of Everett dba Fernandez Brothers Liquors (the "Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §15. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, August 30, 2011, regarding an alleged violation of M.G.L. c. 138, §23 (1 count). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Paul Capurso's report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts;
2. Report of Investigator Paul Capurso; and
3. Clipboard Detailing Exchange of Alcohol.

There is one (1) tape of this hearing.

FACTS

1. Cesar Fernandez is the sole officer/shareholder of the All-Alcohol §15 license located at 79 Williams Street, Chelsea.
2. Rafael Fernandez is the sole owner as an individual of the All-Alcohol §15 license located at 409-411 Main Street, Everett.
3. On November 24, 2010, Investigator Capurso conducted a stationary surveillance outside FBL of Everett dba Fernandez Brothers Liquors.
4. He observed several men loading multiple cases of Corona, Heineken, and Amstel Light beer into a small minivan.
5. The investigator followed the van to 409-411 Main Street in Everett.
6. Investigator Capurso was joined by Investigator Doyle and they watched three (3) men unload the cases of beer into the storage room of FBL of Everett dba Fernandez Brothers Liquors.
7. The investigators approached Caesar and Rafael Fernandez and questioned them as to why they bringing the beer to Everett from the Chelsea location.
8. They told the investigators they borrowed and loaned products to each other all the time.
9. Rafael Fernandez provided the investigators with a clipboard with a list of products detailing products being taken from one licensee to the other.
10. The investigators found thirty-nine (39) cases of Corona Beer transported from the Chelsea store to the Everett store.

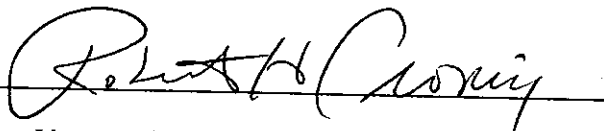
11. The investigators found ten (10) cases of Heineken Beer transported from the Chelsea store to the Everett store.
12. The investigators found ten (10) cases of Amstel Light beer transported from the Chelsea store to the Everett store.
13. Administrative review of the file indicates this was the first 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. 138, §23 (1 count). Therefore, the Commission **suspends the license for a period of seven (7) days of which four (4) days will be served and three (3) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

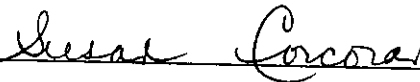
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Robert Cronin, Commissioner



I, the undersigned, hereby certify that I have reviewed the hearing record and concur with the above decision.

Susan Corcoran, Commissioner



Dated: October 6, 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
Paul Capurso, Investigator
Administration
File