

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

Deborah B. Goldberg
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

DECISION

FAIRHAVEN POST NO. 166 AMERICAN LEGION D/B/A AMERICAN LEGION
54 MAIN STREET
FAIRHAVEN, MA 02719
LICENSE#: 038400010
VIOLATION DATE: 07/10/2015
HEARD: 02/02/2016

Fairhaven Post No. 166 American Legion d/b/a American Legion (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, February 2, 2016, regarding an alleged violation of 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 (1 Count). Prior to the commencement of the hearing, the Licensee stipulated to the violation alleged in Investigator Keefe's Report.

The following documents are in evidence:

1. Investigator Velez's Investigative Report dated July 10, 2015; and
2. Licensee's Stipulation of Facts.

A. Wholesaler/Distributor Invoices to Licensee.

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

The Commission took Administrative Notice of the Licensee's records.

FACTS

1. On Friday, July 10, 2015, at approximately 7:15 p.m., Investigators Kujawski and Velez ("Investigators") investigated the business operation of Fairhaven Post No. 166 American Legion d/b/a American Legion to determine the manner in which the business was being conducted.

2. Investigators entered the premises and identified themselves to the manager on duty, Majbritt Zahn.
3. Investigators asked Ms. Zahn if she purchased any alcohol at a liquor store.
4. Ms. Zahn stated that she had purchased alcohol from Douglas Wine and Spirits in Fairhaven, MA. She then identified the alcohol which had been purchased from the liquor store.
5. Investigators inspected each of the 1.75 liter bottles of alcohol and took them as evidence:
 - Bacardi Limon rum;
 - Bacardi Superior rum;
 - Canadian Club whiskey;
 - Christian Brothers brandy;
 - Dewar's Blended Scotch whiskey;
 - Fireball Cinnamon whiskey;
 - Jose Cuervo tequila;
 - Patron XO Café coffee liqueur; and
 - Pinnacle Whipped vodka; and
 - Tanqueray gin.
6. Investigators informed Ms. Zahn of the violation and that a report would be submitted to the Chief Investigator for review.
7. Ms. Majbritt Zahn testified before the Commission that the Licensee has filed an application to change the Officers and Directors.
8. The new Officers and Directors, who have not yet been approved by this Commission, are currently operating the licensed premises.
9. During the hearing the license notified the Commission that it has not filed its annual reports as required by M.G.L. c. 138, § 1.
10. The Licensee has been in existence for more than 60 years with no history of prior violations.

CONCLUSION

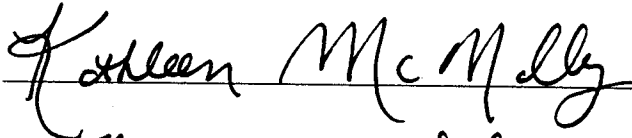
Based on the evidence, the Commission finds the Licensee violated M.G.L. C. 138, §23 Sale of alcoholic beverages other than those purchased from a licensee under §18 or §19 or from a holder of a special license under §22A (1 Count). Therefore, the Commission **suspends the license for two (2) days of which 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.**

The Commission further requires that the Licensee must file with both the Commission and the Local Licensing Authority the appropriate annual reports pursuant to M.G.L. c. 138, §1 for the calendar years 2006 through 2016.

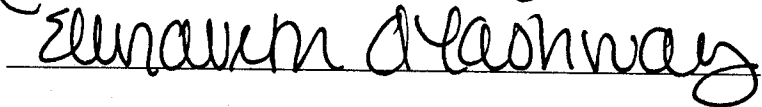
The Commission refers the matter regarding the Licensee's failure to submit applications for new officers and/or directors, to the Investigative Unit for further action forthwith.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



Elizabeth A. Lashway, Commissioner



Dated: March 11, 2016

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.

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Nicholas Velez, Investigator
Jamie Binienda, Investigator
Jan Kujawski, Investigator
Administration, File