

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. Gainstoro, Esq.
Chairman

DECISION

DELUX DEPOT DINER LLC D/B/A DELUXE DEPOT DINER
417 WAVERLY STREET
FRAMINGHAM, MA 01702
LICENSE#: 042800189
VIOLATION DATE: 08/19/2015
HEARD: 10/27/2015

Delux Depot Diner LLC d/b/a Deluxe Depot Diner (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, October 27, 2015, 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. 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 Kenny's Investigative Report dated August 19, 2015; and
2. Licensee's Stipulation of Facts.

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

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

FACTS

1. On Wednesday, August 19, 2015, at approximately 1:40 p.m., Investigators Lordan and Keefe ("Investigators") investigated the business operation of Delux Depot Diner LLC d/b/a Deluxe Depot Diner to determine the manner in which the business was being conducted, and to investigate a complaint filed with this Commission.
2. Investigators entered the premises and identified themselves to the manager on duty, Larry R.

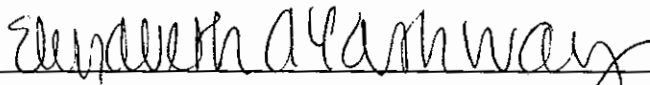
3. Investigators informed Larry that an anonymous complaint had been filed with the Commission and the Investigators would conduct an inspection of the licensed premises.
4. Investigators inspected the alcoholic beverages stored behind the bar and observed 10 bottles of alcohol which had been purchased from a package store. These bottles were taken as evidence:
 - Dekuyper Amaretto;
 - Apricot Brandy;
 - Blue Curacao;
 - Brady's Irish Cream (2);
 - Jameson Irish Whiskey;
 - Sour Apple Schnapps;
 - Dekuyper Triple Sec;
 - Burnett's Whipped Cream Vodka; and
 - Crop Harvest Earth Organic Cucumber Vodka.
5. Larry stated that once in a while they would run out of a certain type of alcohol, and someone would go to the package store across the street, or another nearby package store, to purchase the alcohol.
6. Investigators informed Larry R. 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 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. 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.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Elizabeth A. Lashway, Commissioner



Kathleen McNally, Commissioner



Dated: October 27, 2015

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
Dennis Keefe, Investigator
Lisa Lordan, Investigator
Administration
File