



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

Deborah B. Goldberg
Treasurer and Receiver General

Kim S. Gainsboro, Esq.
Chairman

AMENDED
NOTICE OF SUSPENSION

October 14, 2015

BELMONT INC. DBA L.A.W. GRILL
2 AMESBURY ST
LAWRENCE, MA 01841
LICENSE#: 059400152
VIOLATION DATE: 05/03/2015
HEARD: 08/18/2015

After a hearing on August 18, 2015, the Commission finds Belmont Inc. dba L.A.W. Grill violated:

- 1) 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: 204 CMR 4.03 (1)(b) No licensee or employee or agent of a license shall (b) Deliver more than two drinks to one person at a time.
- 2) 204 CMR 4.03 (1)(e) Certain Practices Prohibited: (e) sell, offer to sell or deliver drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public; and
- 3) 527 CMR 10.13 (2)(e) Failure to Complete the Fire & Building Safety Checklist as prescribed by the Marshall, on each day of operation prior to opening the facility to patrons.

The Commission suspended the Licensee's license for a total of nineteen (19) days to be served with the balance of eight (8) days suspended for 2 years. No offer in compromise will be considered for two (2) of the nineteen (19) days to be served. Your Offer in Compromise for 17 days was accepted by the Commission. The remaining two (2) days must be served.

The suspension shall commence on Wednesday, October 28, 2015 and terminate on Thursday, October 29, 2015. The license will be delivered to the Local Licensing Board or its designee on Wednesday, October 28, 2015 at 9:00 A.M. It will be returned to the licensee Friday, October 30, 2015.

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

This document is important and should be translated immediately.
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Questo documento è importante e dovrebbe essere tradotto immediatamente.
Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφραστούν αμέσως.
这份文件是重要的，应立即进行翻译。

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Caroline Guarino-Wilichoski, Investigator
Michael Teehan, Investigator
Brad Doyle, Investigator
David P. Tarlow, Esq. via facsimile 978-686-0010
Administration, File



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

Dolores B. Goldberg
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

NOTICE OF SUSPENSION

September 10, 2015

BELMONT INC. DBA L.A.W. GRILL
2 AMESBURY ST
LAWRENCE, MA 01841
LICENSE#: 059400152
VIOLATION DATE: 05/03/2015
HEARD: 08/18/2015

After a hearing on August 18, 2015, the Commission finds Belmont Inc. dba L.A.W. Grill violated:

- 1) 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: 204 CMR 4.03 (1)(b) No licensee or employee or agent of a license shall (b) Deliver more than two drinks to one person at a time.
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- 3) 527 CMR 10.13 (2)(e) Failure to Complete the Fire & Building Safety Checklist as prescribed by the Marshall, on each day of operation prior to opening the facility to patrons.

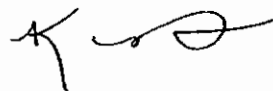
The Commission **suspends the Licensee's license for a total of nineteen (19) days to be served with the balance of eight (8) days suspended. The suspension shall commence on Wednesday, October 28, 2015 and terminate on Sunday, November 15, 2015.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, October 28, 2015 at 9:00 A.M. It will be returned to the licensee Monday, November 16, 2015.

No offer in compromise will be considered for two (2) of the nineteen (19) days to be served.

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, 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

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

Deborah B. Goldberg
Treasurer and Receiver General

DECISION

Kim J. Gainsboro, Esq.
Chairman

BELMONT INC. DBA L.A.W. GRILL
2 AMESBURY ST
LAWRENCE, MA 01841
LICENSE#: 059400152
VIOLATION DATE: 05/03/2015
HEARD: 08/18/2015

Belmont Inc. dba L.A.W. Grill (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, August 18, 2014, regarding an alleged violation of:

- 1) 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: 204 CMR 4.03 (1)(b) No licensee or employee or agent of a license shall (b) Deliver more than two drinks to one person at a time.
- 2) 204 CMR 4.03 (1)(e) Certain Practices Prohibited: (e) sell, offer to sell or deliver drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public; and
- 3) 527 CMR 10.13 (2)(e) Failure to Complete the Fire & Building Safety Checklist as prescribed by the Marshall, on each day of operation prior to opening the facility to patrons.¹

Prior to the commencement of the hearing, the Licensee stipulated to the violation alleged in Investigator Guarino-Wilichoski's Report.

¹ 527 CMR 10.13(2)(e) was repealed on January 1, 2015, and the National Fire Protection Association's NFPA-1 (2012 ed.) was adopted in its place. Section 20.1.5.6.4 of the NFPA-1, under 527 CMR 1.05, is verbatim the same as the former 527 CMR 10.13(2)(e). The Commission concludes that the Licensee's due process rights were not violated by the wrong citation on the hearing notice. The violation remained unchanged, and the Licensee had notice of the substance and nature of the violation. "[D]ue process only requires that a notice provide enough information to 'understand the substance and nature of the grounds upon which they are called to answer.'" Elander & Son, Inc. v. Luther, 74 Mass. App. Ct. 1114, *4 (2009) (issued pursuant to Rule 1:28) (quoting Langlitz v. Bd. of Registration in Chiropractors, 396 Mass. 374, 277 (1985)). "Mere defects in matters of form will not invalidate a notice if enough remains for the person whose rights may be affected reasonably to understand the substance and the nature of the ground upon which he is called upon to answer." Higgins v. License Commissioners of Quincy, 308 Mass. 142, 146 (1941).

The following documents are in evidence:

1. Investigator Guarino-Wilichoski's Investigative Report dated May 4, 2015;
2. Licensee's Stipulation of Facts;
3. May 1, 2015 Crowd Manager Fire & Building Safety Checklist; and
4. Undated Crowd Manager Fire & Building Safety Checklist.

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

The Commission took administrative notice of the Licensee's file.

FACTS

1. On Sunday, May 3, 2015, at approximately 12:05 a.m., Chief Investigator Mahony, along with Investigators Teehan, Doyle, and Guarino-Wilichoski ("Investigators") investigated the business operation of Belmont Inc. dba L.A.W. Grill to determine the manner in which their business was being conducted.
2. Investigators entered the premises and observed four persons who appeared to be of legal age sitting at a table in the back room of the establishment. On the table was a 750 milliliter ("ml") bottle of Buchanan's whiskey. No employee of the establishment was in control of this bottle.
3. Investigators approached the table and asked if anyone had purchased this bottle of whiskey. One woman spoke for the group and stated she had purchased the whiskey. Investigators asked if the bottle was purchased for the four persons at this table to which the woman replied yes. When asked about the price of the bottle, she replied it cost \$80.00.
4. Investigators noted that these four persons at the table were the only persons in the room altogether.
5. Investigators then spoke to the bartender on duty, Gineses Gil, and asked her how much she charged for the bottle of whiskey. Ms. Gil responded that there was a special today and the bottle of whiskey was \$80.00.
6. Investigators asked Ms. Gil how many ounces she typically poured per drink from a 750 ml bottle of Buchanan's whiskey. Ms. Gil replied two ounces. Investigators calculated that there would be approximately 12 drinks per bottle of 750 ml whiskey; therefore at least six persons would have to purchase the 750 ml bottle of Buchanan's whiskey.
7. Investigators asked Ms. Gil how much she charges for the cheapest drink from this bottle of Buchanan's whiskey. Ms. Gil replied that she charges \$10.00 per drink.
8. Investigators calculated that the least amount the establishment could charge for the bottle of Buchanan's whiskey would be \$120.00 in order to ensure that there was no price change for a drink.
9. Investigators then requested to see the Crowd Manager and Fire & Building Safety Checklist for this night. Ms. Gil stated that she was the Crowd Manager on duty that night and she produced several Fire & Building Safety Checklists but not a checklist for this evening, May 2, 2015.

10. Investigators did find a Fire & Building Safety Checklist for May 1, 2015 but nothing dated for May 2, 2015. Investigators observed that the Safety checklist folder was unorganized and not in order by date, with two Fire & Building Safety Checklists which were not dated.
11. Investigators informed Ms. Gil of the violations and that a report would be filed with 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: 204 CMR 4.03 (1)(b) No licensee or employee or agent of a license shall (b) Deliver more than two drinks to one person at a time.
- 2) 204 CMR 4.03 (1)(e) Certain Practices Prohibited : (e) sell, offer to sell or deliver drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public; and
- 3) 527 CMR 10.13 (2)(e) Failure to Complete the Fire & Building Safety Checklist as prescribed by the Marshall, on each day of operation prior to opening the facility to patrons.

Therefore, on the first violation the Commission **suspends the license for a period of ten (10) days of which two (2) days will be served and eight (8) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

On the second violation, the Commission **suspends the license for a period of two (2) days to be served.**

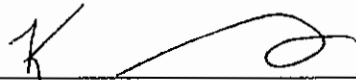
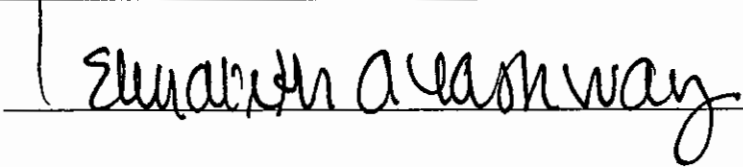
On the third violation, the Commission **suspends the license for a period of 15 days to be served.**

This is the third time since 2011 that the Licensee has violated 527 CMR 10.13 (2)(e). As a result, the Commission suspends the license for a total of twenty-seven (27) days, of which nineteen (19) days will be served and eight (8) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur. No offer in compromise will be considered for two (2) of the nineteen (19) days to be served.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro, Chairman

Elizabeth A. Lashway, Commissioner

Dated: September 10, 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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