

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

February 28, 2012

Melinda Industrial Group, Inc.
d/b/a Melinda's Restaurant
271 Broadway
Lawrence, MA 01841
LICENSE#: 059400194
HEARD: 11/22/2011

After a hearing on November 22, 2011, the Commission finds Melinda Industrial Group, Inc. d/b/a Melinda's Restaurant in violation of M.G.L. c. 138, §23 (8 counts).

The Commission suspends the licensee's license for a total of one hundred and twenty-seven (127) days. The suspension shall commence on Wednesday, April 18, 2012 and terminate on Thursday, August 23, 2012. The license will be delivered to the Local Licensing Board or its designee on Wednesday, April 18, 2012 at 9:00 A.M. It will be returned to the licensee Friday, August 24, 2012. No offer in compromise will be considered for seven (7) days of the one hundred and twenty seven (127) day penalty.

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.

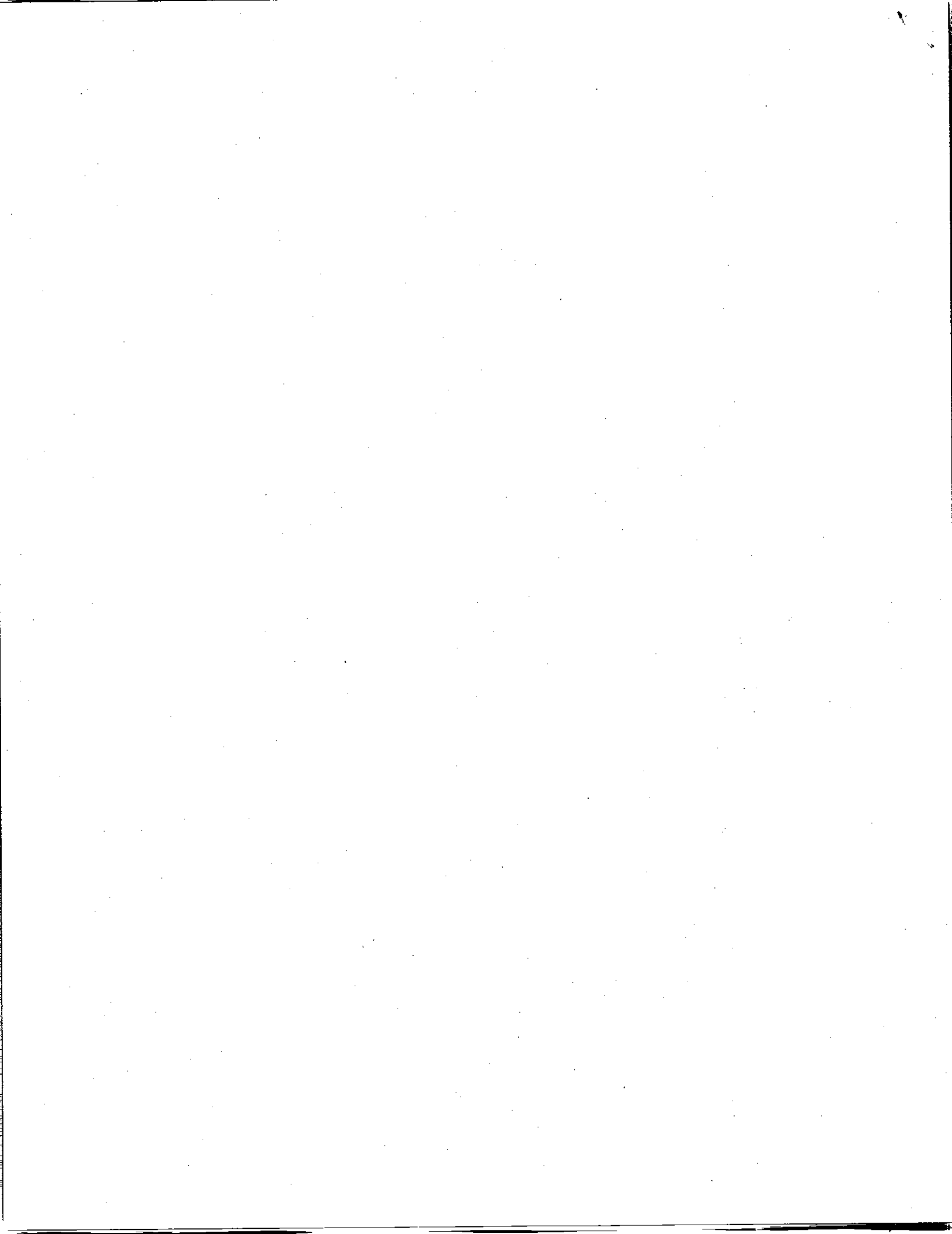
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

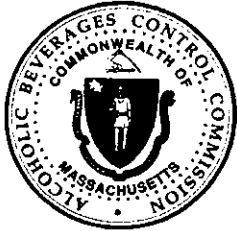
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Jan Kujawski, Investigator
Brad Doyle, Investigator
Administration
File

27722660





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

Steven Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

DECISION

Melinda Industrial Group, Inc.
d/b/a Melinda's Restaurant
271 Broadway
Lawrence, MA 01841
LICENSE#: 059400194
HEARD: 11/22/2011

Melinda Industrial Group, Inc. d/b/a Melinda's Restaurant is the holder of an all alcoholic beverages license issued pursuant to Massachusetts General Laws chapter 138, §12. The Alcoholic Beverages Control Commission ("the Commission") held a hearing on Tuesday, November 22, 2011, regarding an alleged violation of M.G.L. c. 138, §23: Sale of Alcoholic Beverages Other Than Those Purchased from a Licensee under section 18 or section 19, or from a Holder of a Special Permit under section 22 A (8 counts) which occurred on September 9, 2011 according to Investigator Jan Kujawski's Investigative Field Report.

The following documents and physical items are in evidence as Exhibits:

ABCC EXHIBITS:

1. Investigator Kujawski's Field Report dated September 9, 2011; and
2. A Box with Label from A Liquor Package Store, Espo Liquors, 434 Broadway, Lawrence, MA, containing: five (5) bottles of 750 ml bottles of Riunite Rosato wine; and three (3) bottles of 750 ml bottles of Sutter Home White Zinfandel.

LICENSEE EXHIBITS:

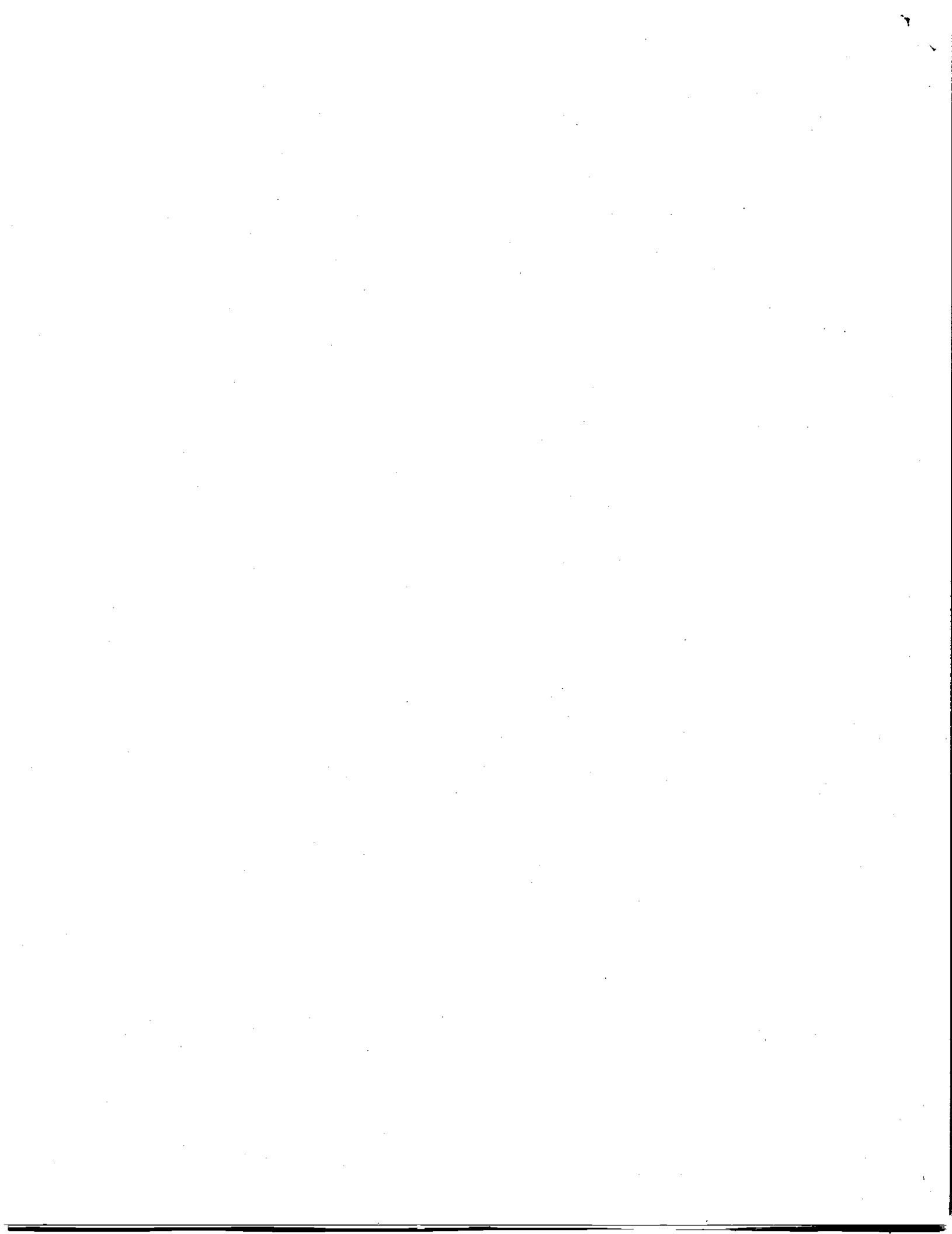
- A. Horizon Beverages Invoice dated August 25, 2011, Invoice number 687272, pg. 1;
- B. Horizon Beverages Invoice dated August 25, 2011, Invoice number 687272, pg. 2; and
- C. Menu from Melinda's Restaurant & Nightclub.

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



FACTS

1. On Friday, September 9, 2011, at approximately 10:30 p.m., Commission Investigators Kujawski, Bailey, and Doyle, along with Chief Investigator Mahony, conducted an investigation of the business operation of Melinda Industrial Group, Inc. d/b/a Melinda's Restaurant to determine the manner in which their business was conducted.
2. Investigators entered the establishment and identified themselves to the manager of record, Nati Roario.
3. Investigators conducted an investigation of the bar area to check the alcohol.
4. Investigators then asked the manager, Mr. Roario, if he had any other alcohol anywhere else on the licensed premises.
5. Manager Roario instructed the Investigators to the kitchen area of the establishment.
6. In the kitchen area, Investigators observed a cardboard box with the label "Espo Liquors, 434 Broadway, Lawrence".
7. Investigator Doyle testified that Espo Liquors is retail package store which holds a retail package store alcohol license pursuant to M.G.L. ch. 138, section 15. Espo Liquors does not hold a wholesale or supplier license under M.G.L. ch. 138, sections 18 or 19, or hold a Special Permit under section 22 A.
8. The box contained five (5) – 750 ml bottles of Riunite Rosato wine and three (3) 750 ml bottles of Sutter Home White Zinfandel. (See Exhibit #2).
9. The Investigators then spoke to Mr. Roario and informed him that a report would be filed with the Chief Investigator for further action.
10. At the hearing before the Commission, the licensee introduced two (2) invoices from Liquor Wholesaler Horizon Beverages. (See Exhibits A and B).
11. Upon review of the licensee's invoices, one (1) bottle of Riunite Rosato 750 ml was listed as being purchased from wholesaler Horizon Beverages. (See Exhibit A).
12. The invoices did not list any of the other seven (7) bottles of alcohol which were introduced as evidence and the subject of the hearing, as being purchased from Horizon Beverages. (See Exhibits #2, A, and B).
13. Investigators Kujawski and Doyle conducted an administrative review of the file and reported that the licensee has been in business for nine (9) years, and has a history of prior violations with the Commission.
14. On August 24, 2009, the licensee received a suspension of 176 days of which 140 days were held in abeyance for two years provided no further violations of Chapter 138 or Commission Regulations occur, for committing a violation of 204 CMR 2.05 (2) – Permitting an illegality on the licensed premises, to wit: Ch. 138, section 23 – Sale of



alcoholic beverages other than those purchased from a license under section 18 or section 19, or from a holder of a special license under section 22A (176 Counts). This violation also involved Espo Liquors of Lawrence, Massachusetts.

15. On December 7, 2011, the licensee was found in violation of 204 CMR 2.05 (2) and received a suspension for a period of one hundred and eighty days (180) of which sixty (60) days are to be served, and one hundred and twenty (120) days are to be held in abeyance for a period of two (2) years provided no further violations of M.G.L. chapter 138, or Commission Regulations occur.

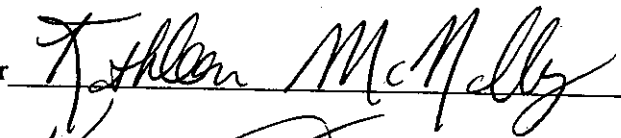
CONCLUSION

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 section 18 or section 19, or from a Holder of a Special Permit under section 22A. However, the Commission finds that that the licensee has committed a violation for seven (7) counts, and not eight (8) counts as alleged. Therefore the Commission hereby **suspends the license for a period of seven (7) days for which the licensee must be closed. No offer in compromise will be considered for this seven (7) day penalty.**

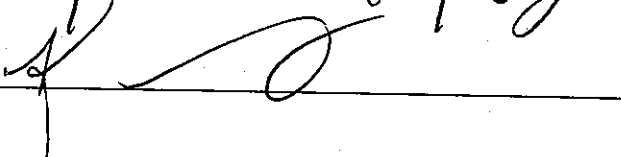
By decision dated December 7, 2011, the Commission had previously ordered a one hundred and twenty (120) day license suspension, but held the suspension in abeyance for a period of two (2) years provided no further violations occurred. The Commission finds that based on the violation found above, the licensee violated the conditions of that one hundred and twenty day (120) license suspension being held in abeyance. The Commission hereby orders that suspension to be served on and after the seven (7) day suspension. The licensee will serve a total of one hundred and twenty-seven (127) days.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



Kim S. Gainsboro, Chairman



February 28, 2012

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
Jan Kujawski, Investigator
Brad Doyle, Investigator
Administration
File

