



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

September 25, 2013

ED LIMA'S WINE & SPIRITS, INC. DBA VILLAGE PACKAGE STORE
2 & 4 COUNTY ROAD, P.O. BOX 29
MATTAPOISETT, MA 02739
LICENSE#: 067400011
VIOLATION DATE: 03/13/2013
HEARD: 09/24/2013

After a hearing on September 24, 2013, the Commission finds Ed Lima's Wine & Spirits, Inc. dba Village Package Store in violation of 204 CMR 2.05(2)-Permitting an illegality on the licensed premises, to wit: c. 138 §15 – Alcoholic beverages drunk (consumed) on the licensed premises.

The Commission **suspends the licensee's license for a total of eight (8) days to be served. The suspension shall commence on Wednesday, November 13, 2013, and terminate on Wednesday, November 20, 2013.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, November 13, 2013 at 9:00 A.M. It will be returned to the licensee Thursday, November 21, 2013.

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.

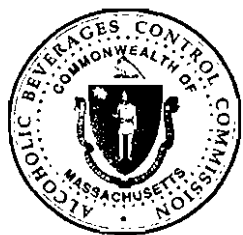
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Jamie Binienda, Investigator
Scott LeBlanc, Mattapoisett Police Officer, via facsimile 508-758-4146
Administration
File

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

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DECISION

ED LIMA'S WINE & SPIRITS, INC. DBA VILLAGE PACKAGE STORE
2 & 4 COUNTY ROAD, P.O. BOX 29
MATTAPOISETT, MA 02739
LICENSE#: 067400011
VIOLATION DATE: 03/13/2013
HEARD: 09/24/2013

Ed Lima's Wine & Spirits, Inc. dba Village Package Store (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, §15. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, September 24, 2013, regarding an alleged violation of 204 CMR 2.05(2)-Permitting an illegality on the licensed premises, to wit: c. 138 §15 – Alcoholic beverages drunk (consumed) on the licensed premises. The above captioned occurred on March 13, 2013, according to Investigator Binienda's Report.

The following documents are in evidence:

1. Investigator Binienda's Investigative Report dated March 13, 2013;
2. Mattapoisett Police Report reference # 13-93-OF dated March 13, 2013; and
3. Photocopy of Massachusetts Driver's License for E. Lima.

There is one (1) audio recording of this hearing, and one witness testified.

FACTS

1. On Wednesday, March 13, 2013, at approximately 8:51 p.m., Mattapoisett Police Officers Scott LeBlanc and Sergeant Boivin were dispatched to Ed Lima's Wine & Spirits, Inc. dba Village Package Store to investigate a report of an intoxicated male party. (Exhibit 2, Testimony)
2. A known individual indicated that Edward Lima, the owner of the store was intoxicated, preparing to leave the store and operate his motor vehicle. (Exhibit 2, Testimony)
3. Officer LeBlanc and Sergeant Boivin arrived at the licensed premises and spoke to Mr. Lima.
4. Both Officer Scott LeBlanc and Sergeant Boivin observed that Mr. Lima's speech was slow and that he was unsteady on his feet. There was a strong odor of alcohol emanating from Mr. Lima's breath. (Exhibit 2, Testimony)
5. Both officers formed the opinion that Mr. Lima was under the influence of alcohol. The officers were concerned about Mr. Lima's ability to safely operate his car. (Exhibit 2, Testimony)
6. The officers advised Mr. Lima that they would not permit him to drive home and that he would have to make arrangements for a ride. (Exhibit 2, Testimony)
7. Mr. Lima contacted his wife and advised her of the situation. (Exhibit 2, Testimony)
8. The officers remained on the scene for the arrival of Mrs. Lima. (Exhibit 2, Testimony)

9. While waiting for Mrs. Lima the officers continued to speak with Mr. Lima. (Exhibit 2, Testimony)
10. Mr. Lima admitted that he consumed several beers in a one-hour period while he was working behind the counter. (Exhibit 2, Testimony)
11. During the hearing, Mr. Lima again admitted that he had consumed several beers in a one-hour period that evening, but disputed that it was on his licensed premises. (Testimony)
12. Mr. Lima testified that he consumed the beers at a restaurant down the street during dinner. (Testimony)
13. However, Officer LeBlanc testified that Mr. Lima never said he was drinking the alcoholic beverages in question at a restaurant down the street. (Testimony)
14. Officer LeBlanc also testified that he and Sergeant Boivin explained to Mr. LeBlanc the seriousness of consuming alcoholic beverages while inside his Section 15 licensed premises. (Testimony)
15. Officer LeBlanc testified that this conversation would have been unnecessary if Mr. Lima had said he was consuming beers at a restaurant. (Testimony)
16. The Commission does not find Mr. Lima to be credible, and credits the testimony of Officer LeBlanc.

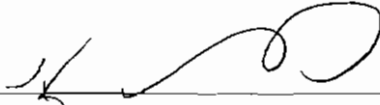
CONCLUSION

Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05(2)-Permitting an illegality on the licensed premises, to wit: c. 138 §15 – Alcoholic beverages drunk (consumed) on the licensed premises. Therefore, the Commission **suspends the license for ten (10) days of which five (5) days will be served and five (5) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

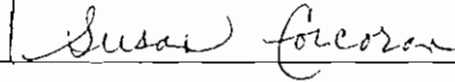
By decision dated August 23, 2011, the Commission had previously ordered a three (3) day license suspension, but had held the suspension in abeyance for a period of two (2) years provided no further violations occurred. Based on the violation found above, the licensee violated the conditions of that three (3) day suspension being held in abeyance. The Commission hereby orders that suspension to be served on and after the five (5) day suspension. The licensee will serve a total eight (8) days.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro, Chairman



Susan Corcoran, Commissioner



DATE: September 25, 2013

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
Jamie Binienda, Investigator
Scott LeBlanc, Mattapoisett Police Officer, via facsimile 508-758-4146
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