

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

Sтивен Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

DECISION

TRIPLE EIGHT DISTILLERY LLC
5 BARTLETT FARM RD
NANTUCKET, MA 02554
LICENSE#: 076200184
VIOLATION DATE: 05/04/2013
HEARD: 11/19/2013

Triple Eight Distillery LLC (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, §19E. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, November 19, 2013, regarding an alleged violation of 204 CMR 19.11: No manufacturer, importer, wholesaler, certificate of compliance holder or other Massachusetts licensee (except ship licensees) shall directly or indirectly sponsor, promote or advertise or use its name or the trade or brand name of any alcoholic beverage in connection with any cruise or event, public or private aboard a ship. No ship shall allow or accept funds or favor for such sponsorship, promotion or advertisement. Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Velez's Report.

The following documents are in evidence:

1. Investigator Velez's Field Report dated May 4, 2013;
 2. Licensee's Stipulation of Facts;
 3. Poster Advertising Brews Cruise;
 4. Facebook Advertisement for Cruise;
 5. Photocopy of Cruise Ticket;
 6. Photograph of Cases of Cisco Beer on Boat; and
 7. Photograph of Cases of Cisco Beer on Boat.
- A. Licensee's Hearing Memorandum.

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

FACTS

1. Cisco Brewers, Inc. is licensed by this Commission as a Farmer-Brewer pursuant to M.G.L. c. 138, §19C.
2. Plymouth Sea Tours LLC was licensed by this Commission in 2012 as a ship licensee pursuant to M.G.L. c. 138, §13.

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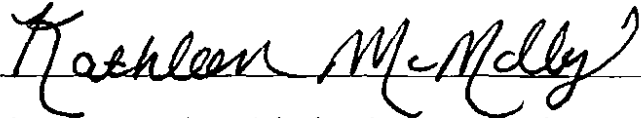
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3. The Commission file does not indicate that Plymouth Sea Tours LLC has renewed its license for 2013. The licensee's application for 2013 was filed with the Commission on May 8, 2013, and is currently pending approval.
4. On Saturday, May 4, 2013, Investigators Kenny and Velez observed a sign posted in the window of the Shanty Rose in Plymouth, a premises licensed pursuant to M.G.L. c. 138, §12. The sign stated, "Captain John Boats, Cisco Brews Cruise, Saturday, May 4, 2013 from 6:30 p.m. – 9:30 p.m." The sign also stated, "samples and sunset for \$25 dollars."
5. Cisco Brewers maintains a Facebook site that is open to the public. On this site, Investigator Velez observed the page to state, "2nd annual Cisco Brews Cruise." This Facebook page was created by Jeff Herman. Jeff Herman is employed by Cisco Brewers.
6. Investigator Velez observed information on the Facebook page which indicated that the event that is the subject of this report would be a sunset cruise with light appetizers, live music, and samples from Cisco Brewers, Triple Eight Distillery, and Nantucket Vineyards.
7. The Facebook page further stated that boarding on the Captain John Boat, "Tales of the Sea" will begin at 6:30 p.m. with a prompt departure at 7:00 p.m. The Captain John Boat, "Tales of the Sea" was described as having a capacity of 292, with number of guests limited to 175.
8. Tickets were being sold for \$25.00 and were available by telephone from Captain John Boats or in person at 10 Town Wharf, Plymouth, MA.
9. On Saturday, May 4, 2013, at approximately 6:30 p.m., Investigators Kenny and Velez boarded the vessel, "Tales of the Sea" in Plymouth to conduct an investigation.
10. Investigators spoke to the Captain of the vessel, Ervin (Russ) Bergess.
11. Captain Bergess stated to investigators that:
 - o Cisco Brewers chartered the boat for the evening and that it is a Cisco Brewers event;
 - o Cisco Brewers sold 154 tickets for \$25.00 each;
 - o Cisco Brewers is providing samples of their alcohol product; and
 - o Captain John Boat's bar was not open for the evening, and that Cisco Brewers was serving the alcohol.
12. Investigators then exited the vessel and contacted Chief Mahony.
13. On Saturday, May 4, 2013, at approximately 6:45 p.m., Chief Investigator Mahony with Investigators Kenny and Velez boarded the vessel, "Tales of the Sea."
14. Investigators spoke with an employee of Cisco Brewers, Jeff Herman. Investigators obtained a Cisco Brews Cruise boarding pass from Mr. Herman.
15. Mr. Herman stated to investigators that:
 - o Cisco Brewers sold tickets for the cruise;
 - o The alcohol on board the vessel was supplied and transported by Cisco;
 - o The alcohol would be served by Cisco employees in 2 oz. samples of beer and wine; and
 - o Mr. Herman believed he could provide samples of alcohol on a vessel, and that others do it.
16. Investigators conducted an inventory of the alcohol on board the vessel. They observed 56 12-packs of beer, a log keg, and 12 bottles of wine.
17. Mr. Herman stated to investigators that out of the 56 12-packs of beer, there would be served three different ales and two lagers served.
18. Investigators spoke with Captain Bergess and determined that a licensed manager was not on board the vessel for the night of the event.
19. Investigator Velez noted that the licensee's file indicated that the last approved manager in 2012 for "Tales of the Sea" was Bradford C. Cushing.
20. Investigators advised Captain Bergess and Mr. Herman that a violation report would be filed with the Commission for further action.


CONCLUSION

Based on the evidence, the Commission finds the licensee violated 204 CMR 19.11: No manufacturer, importer, wholesaler, certificate of compliance holder or other Massachusetts licensee (except ship licensees) shall directly or indirectly sponsor, promote or advertise or use its name or the trade or brand name of any alcoholic beverage in connection with any cruise or event, public or private aboard a ship. No ship shall allow or accept funds or favor for such sponsorship, promotion or advertisement. As the licensee has been in business for ten (10) years and has had no previous violations, the Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner 

I, the undersigned, hereby certify that I have reviewed the hearing record and concur with the above decision

Susan Corcoran, Commissioner 

Dated: November 26, 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
Nicholas Velez, Investigator
Mark Kenny, Investigator
J. Mark Dickinson, Esq. via facsimile 617-439-3987
Administration
File