



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

DECISIONS

NEW WAVE CAFÉ, INC.
143-145 NORTH FRONT STREET
NEW BEDFORD, MA 02740
LICENSE#: 077800101
HEARD: 3/29/2011

New Wave Café, Inc. ("Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, March 29, 2011, regarding an alleged violation of M.G.L. c.138, §23 (12 counts). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Jamie Binienda's report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
2. Investigator Jamie Binienda's Report.

A. Email Correspondence.

There is one (1) tape of this hearing.

FACTS

1. On Thursday, August 26, 2010, at approximately 10:10 p.m., Investigators Capurso and Binienda investigated the business operations of New Wave Cafe, Inc.
2. The investigators conducted an inspection of the bar area as well as the liquor storage area and observed twelve (12) bottles with whole or partial package store price stickers affixed to them indicating that the bottles were purchased at a package store.
3. The investigators took inventory of the bottles and recorded them as follows:
 - 1.75 Liter Peachtree Schnapps
 - (1)1.75 Liter J & B Scotch Whiskey
 - Liter Paraiso Brandy
 - Liter Allen's Amaretto Liqueur
 - Liter Tequila 1800
4. There were also five (5) plastic bottles that are exclusive alcoholic beverages to the wholesaler M.S. Walker. They include:
 - (3) 1.75 Liters of Rubinoff Vodka

- (2) 1.75 liters of Kimmoff Vodka
- 5. These alcoholic beverages could only be purchased from the wholesaler M.S. Walker.
- 6. The investigators informed the manager of the violation.
- 7. The manager stated that he occasionally would go to package stores to purchase alcoholic beverages.

DISCUSSION

The investigator testified that he spoke with a representative of M.S. Walker who claimed that there was not any account on file with M.S. Walker with the licensee's name or account. An exhibit of an email was entered into evidence regarding this correspondence. The licensee testified that he owned the establishment for fourteen (14) years without any violations and that he has not purchased and does not plan to purchase any alcohol from package stores in the future.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated M. G. L. c. 138, §23 (12 counts). Therefore, the Commission **suspends the licensee's license for a period of twelve (12) days of which twelve (12) 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

Susan Corcoran, Commissioner

Susan Corcoran

Robert H. Cronin, Commissioner

Robert H Cronin

Dated: May 13, 2011

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: File
Local Licensing Board
Frederick G. Mahony, Chief Investigator
Jamie Binienda, Investigator
Adelia Domingos via Facsimile 508-295-0314
Administration