



*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150*

Jean M. Lorizio, Esq.
Chairman

DECISION

**NOCA BEVERAGES INC.
184 GRANT ROAD
NEWMARKET, NH 03857
LICENSE#: BM-LIC-000436
LICENSE#: CC-LIC-029670
VIOLATION DATES: 10/18/2022 to 10/28/2022
HEARD: 12/20/2022**

NOCA Beverages Inc. (the "Licensee" or "NOCA") holds alcohol licenses issued pursuant to M.G.L. c. 138, §§ 18A, 18B. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a remote hearing via Microsoft Teams on Tuesday, December 20, 2022, 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 facts alleged in Investigator Terasconi's Report.

The following documents are in evidence:

1. Investigator Terasconi's Report;
2. Licensee's ABCC Certificate of Compliance file;
3. Licensee's ABCC Broker file;
4. Entertainment and Harbor Cruises LLC's ABCC Ship Master File;
5. Text Messages, Ticket Payment, Event Ticket, Website Screenshots, and Email from Investigator Terasconi's Investigation;
6. Credit Card Activity Screenshot;
7. Licensee and Entertainment and Harbor Cruises LLC's Agreement;
8. Licensee and Entertainment and Harbor Cruises LLC's Wire Transfer Details;
9. Licensee's Stipulation of Facts.

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

FINDINGS OF FACT

1. NOCA Beverages Inc. (“NOCA”) holds a M.G.L c. 138, §18A Broker license approved by the Commission on May 14, 2019, and a §18B Certificate of Compliance permit approved by the Commission on May 6, 2019. NOCA is a Delaware corporation with a principal place of business at 184 Grand Road, Newmarket, New Hampshire. Both licenses are exercised at 184 Grant Road, Newmarket, New Hampshire. Current directors and principal stockholders include Richard Roy, Galen Hand, Alex Febonio, and Gary Thomas. NOCA produces flavored malt beverages. (Testimony, Exhibits 1, 2, 3)
2. Entertainment and Harbor Cruises LLC d/b/a Sir Winston (“EHC”) holds a M.G.L. c. 138, § 13, Ship Master license approved by the Commission on June 29, 2021. The Sir Winston vessel has a docking address of 60 Rows Wharf, Boston, Massachusetts. EHC is a Florida corporation whose principal stockholders are Mehdi Hosseini and Austin Hosseini. (Testimony, Exhibits 1, 4)
3. On Tuesday, October 18, 2022, at approximately 8:10 p.m., Investigator Terasconi received a text message from NOCA Boozy Water regarding an upcoming booze cruise, “FAM! NOCA Booze Cruise & Afterparty 10/28. You know the deal. Tix will SELL OUT. First come first serve!” A link was provided and brought Investigator Terasconi to the website of Eventbrite.com which displayed a digital flyer advertising “NOCA’s Halloween Bash Booze Cruise and After Party – Friday Oct. 28th Booze Bash-Booze Cruise & Club Afterparty! Bring your best costume (\$500 prize) by NOCA BOOZY Water.” (Testimony, Exhibits 1, 5)
4. The flyer stated the event would be held at 60 Rows Wharf, Boston, starting October 28, 2022, at 6:00 p.m. and ending on October 29, 2022, at 2:00 a.m. “NOCA Boozy Water – Organizer of NOCA Halloween Bash-Booze Cruise & After Party – We host laid back events where people can enjoy good music, people, and even better booze!” Id.
5. On Wednesday, October 19, 2022, Investigator Terasconi visited the event website and purchased one ticket to the NOCA Halloween Booze Cruise, using an undercover name. The Investigator received an order confirmation number and was emailed the ticket. Id.
6. On October 20, 2022, the Investigator received an electronic statement for the credit card used to pay for the ticket purchase. The statement identified the recipient as “EB NOCA HALLOWEEN BAS 801-413-7200 CA.” Id.
7. On Thursday, October 20, 2022, at approximately 6:27 p.m., Investigator Terasconi received a text message from NOCA Boozy Water with an update on the after party, which stated, “After Party Update: Royale for DJ Telykast concert!! (Party Buses & Entry incl’d) FYI y’all are crazy! Tix R flying! Code: “bash”.” Id.
8. On Friday, October 21, 2022, at approximately 3:00 p.m., Investigator Terasconi received a text message from NOCA Boozy Water which stated, “Y’all asked! Here it is! Text back “deal” for the 10/28 Halloween Party Promo code. CRUISE + PARTY BUS + CLUB FYI The Royale afterparty is a costume party!” Id.

9. On Monday, October 24, 2022, at approximately 12:12 p.m., Investigator Terasconi received a text message from NOCA Boozy Water which stated, "NOCA Fam! Party is Friday ... It will SELL OUT! Last few tickets! Text back "deal" for \$35 tix!" Id.
10. On Tuesday, October 25, 2022, at approximately 1:12 p.m., Investigator Terasconi received a text message from NOCA Boozy Water which stated, "ONLY 50 tix left! First 5 people to share our latest insta post & DM us will get 2 TIX for Friday An event link for www.eventbrite.com was provided and brought up a flyer which advertised, "Haunted Halloween Bash hosted by NOCA Boozy Beverages. All included in ticket price – Booze Cruise Pre-Game Sir Winston Yacht, Party Bus to Royale, and Royale After-Party Ft. DJ Telykast 10-2am." Id.
11. On Wednesday, October 26, 2022, at approximately 2:05 p.m., Investigator Terasconi received a text message from NOCA Boozy Water which stated, "PARTY UPDATE: Party Trolley's [sic] are locked in & stocked with NOCA! Giveaway: Royale table with a free magnum bottle of Grey Goose. Picking winner on cruise!" Id.
12. On Thursday, October 27, 2022, at approximately 11:32 a.m., Investigator Terasconi received a text message from NOCA Boozy Water which stated, "Party will sell out today! LETS GO! Bring ur best costume! Cruise ->Party ->Royale." Id.
13. On Friday, October 28, 2022, at approximately 2:44 p.m., Investigator Terasconi received a text message from NOCA Boozy Water which stated, "TEAM! Couple of things for tonight – Boat boards 6:00-6:30 – Party trolley pick up starts at 9:15 (multiple trips) – Royale will turn down sauced people – LETS GO!" Id.
14. On Friday, October 28, 2022, at approximately 3:30 p.m., Investigators Carey and Kujawski ("Investigators") arrived at 60 Rowes Wharf to observe the licensed vessel, Sir Winston, and any activity related to the promotional event held by NOCA. Investigators observed employees arriving to work and did not observe any promotional activity. (Exhibit 1)
15. At approximately 5:30 p.m., Investigators Carey and Kujawski entered the licensed vessel. Investigators identified themselves, and asked to speak with the manager, later identified as Mehdi Hosseini. Id.
16. Mr. Hosseini stated to Investigators that the vessel, Sir Winston, was rented for a two-hour cruise by NOCA. Investigators asked if NOCA would bring any alcohol onto the vessel to which Mr. Hosseini replied in the negative. Id.
17. Later in the evening, Mr. Hosseini introduced Investigators to Messrs. Rich Roy and Galen Hand, co-founders of the brand, NOCA. Messrs. Roy Hand informed Investigators they were hosting a Halloween Party. They further explained that they were selling tickets online and had advertised it as a Halloween Booze Cruise and After Party. Messrs. Roy and Hand informed Investigators they had contracted with a trolley company to transport patrons to an after party at Royale. Id.
18. At approximately 9:06 p.m., Investigators observed the licensed vessel return to the dock at 60 Rowes Wharf. Investigators observed many patrons exiting the vessel and proceed

to the sidewalk in front of the Boston Harbor Hotel at 70 Rowes Wharf, where they waited for the party trolleys. Id.

19. On November 4, 2022, EHC provided to Investigators a copy of the Charter Agreement between NOCA and Sir Winston Boston for the cruise held on October 28, 2022. (Exhibits 1, 7)
20. An email correspondence, dated October 28, 2022, confirmed a wire transfer payment to Entertainment & Harbor Cruises LLC (“EHC”) in the amount of \$7,500. (Exhibit 8)
21. Mr. Galen Hand, Licensee, attended the Commission hearing and testified that since the incident the Licensee has done a full audit with sales and operations, and they are allocating substantial capital to ensure they are in compliance with ABCC guidelines and rules. The Licensee’s legal team now reviews all marketing campaigns, and the Licensee provides trade practice training for all employees to ensure compliance. (Testimony)
22. The Licensee has held licenses and certificates of compliance under M.G.L. c. 138, §§ 18A, 18B since 2019 with no prior violations. (Commission Records)

DISCUSSION

Licenses to sell alcoholic beverages are a special privilege subject to public regulation and control, Connolly v. Alcoholic Beverages Control Comm’n, 334 Mass. 613, 619 (1956), for which States have especially wide latitude pursuant to the Twenty-First Amendment to the United States Constitution. Opinion of the Justices, 368 Mass. 857, 861 (1975). The procedure for the issuance of licenses and required conduct of licensees who sell alcoholic beverages is set out in Massachusetts General Laws, Chapter 138.

Chapter 138 gives the Commission the authority to grant, revoke and suspend licenses. Chapter 138 was “enacted ... to serve the public need and ... to protect the common good.” M.G.L. c. 138, § 23. “[T]he purpose of discipline is not retribution, but the protection of the public.” Arthurs v. Bd. of Registration in Medicine, 383 Mass. 299, 317 (1981). The Commission is given “comprehensive powers of supervision over licensees.” Connolly, 334 Mass. at 617.

The “[r]egulation of the liquor industry in Massachusetts is comprehensive and pervasive.” Cellarmaster Wines of Mass., Inc. v. Alcoholic Beverages Control Comm’n, 27 Mass. App. Ct. 25, 27, 534 N.E.2d 21 (1989); see Miller Brewing Co. v. Alcoholic Beverages Control Comm’n, 56 Mass. App. Ct. 801, 808-809 (2002). “Massachusetts law requires that alcohol products sold in this State by manufacturers or suppliers be sold initially to licensed Massachusetts wholesalers. Those wholesalers in turn sell to retailers who sell to consumers. G.L. c. 138, §§ 12, 15, 18, 18B, 19.” Heublein, Inc. v. Capital Distributing Co., 434 Mass. 698, 699 (2001); see Miller Brewing Co., 56 Mass. App. Ct. at 808-809.

Every violation the Commission finds must be based on substantial evidence. See Embers of Salisbury, Inc. v. Alcoholic Beverages Control Comm’n, 401 Mass. 526, 528 (1988). “Substantial evidence” is “such evidence as a reasonable mind might accept as adequate to support a conclusion.” Id. Evidence from which a rational mind might draw the desired inference is not enough. See Blue Cross and Blue Shield of Mass. Inc., v. Comm’r of Ins., 420 Mass 707, 710

(1995). Disbelief of any particular evidence does not constitute substantial evidence to the contrary. New Boston Garden Corp. v. Bd. of Assessor of Boston, 383 Mass. 456, 467 (1981).

Here the Licensee is charged with a 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.

Direct evidence was presented through the testimony of Investigator Terasconi as well as documentation provided by Investigators as to the NOCA event held on the Sir Winston, Investigator Terasconi's purchasing a ticket to the event, and the financial arrangements surrounding said event. (Testimony, Exhibits 5, 6, 7, 8) In addition, the Licensee stipulated to the facts alleged. Based on the evidence in this matter, the Commission finds there was a violation of 204 CMR 19.11.

CONCLUSION

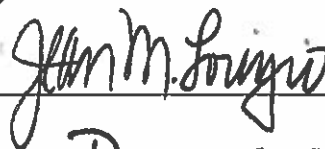
Based on the evidence, the Commission finds the Licensee violated 204 CMR 19.11: No manufacturer, importer, wholesaler, certificate of compliance holder or other Massachusetts licensee (except ship licensees) shall directly or indirectly sponsor, promote or advertise or use its name or the trade or brand 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 a result, the Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

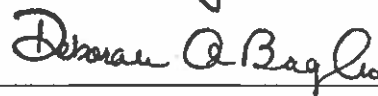
Crystal Matthews, Commissioner



Jean M. Lorizio, Chairman



Deborah A. Baglio, Commissioner



Dated: January 18, 2024

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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2022-000186-ad-enf

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Nicole Terasconi, Investigator
Jack Carey, Investigator
Jan Kujawski, Investigator
Shauna Barnes, Esq.