

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

December 10, 2012

OXCO, INC. DBA CENTERFOLDS 2000
139 SOUTHBRIDGE ROAD
OXFORD, MA 01537
LICENSE #: 0944-00015
VIOLATION DATE: 03/ 16/2012
HEARD: 11/27/2012

After a hearing on November 27, 2012, the Commission finds Oxco Inc. dba Centerfolds 2000 in violation of 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: 26 USC §5301 (c) refilling of liquor bottles (1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provisions of this chapter.

The Commission **suspends the licensee's license for a total of six (6) days to be served. The suspension shall commence on Wednesday, January 23, 2013 and terminate on Monday, January 28, 2013.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, January 23, 2013 at 9:00 A.M. It will be returned to the licensee Tuesday, January 29, 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.

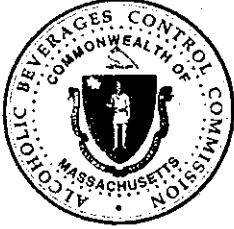
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Brad Doyle, Investigator
Paul E. Sporn, Esq. via Facsimile 781-261-2521
Administration
File

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The Commonwealth of Massachusetts
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DECISION

OXCO, INC. DBA CENTERFOLDS 2000
139 SOUTHBRIDGE ROAD
OXFORD, MA 01537
LICENSE #: 0944-00015
VIOLATION DATE: 03/16/2012
HEARD: 11/27/2012

Oxco Inc. dba Centerfolds 2000 (the "Licensee") holds an alcohol license issued pursuant to Massachusetts General Laws c.138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, November 27, 2012 regarding an alleged violation of 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: 26 USC §5301 (c) refilling of liquor bottles (1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provisions of this chapter. Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Doyle's Report.

The following documents and physical items are in evidence:

1. Licensee's Stipulation of Facts;
2. Investigator Doyle's Violation Report dated March 16, 2012;
3. Photos Depicting Pourers on Open Bottles (A);
4. Photos Depicting Differing Levels of Liquor in Similar Bottles (B);
5. Eight (8) Liter Bottles Showing Worn Labels and Dirty Appearance (C);
6. Photo of Trash Barrel in Liquor Storage Room (D);
7. Box with Approximately 200 - 300 Bottle Caps (E);
8. Physical Evidence (Plastic Pitcher) (F);
9. Photo of Metal Bin Found in Liquor Storage Room (G);
10. Invoices for Liquor Purchased June 2011 - February 2012(H);
11. Cost Analysis Reflected in Invoices Provided (I); and
12. Horizon Beverage Invoices for 2011 (J) (3 Pages).

FACTS

1. On Friday, March 16, 2012, Investigators Bailey and Doyle investigated the business operation Oxco, Inc. dba Centerfolds 2000 to determine the manner in which their business was being conducted, and in response to a complaint of tampering with alcoholic liquor bottles.
2. Investigators identified themselves and asked to speak with the manager on duty.
3. Investigators met with Mr. Maril Muska, the day manager, and Mr. Peter Allard, the night manager, and informed them of the complaint and the inspection of the licensed premises.
4. Investigator Doyle asked the managers what was their best selling alcohol.
5. Mr. Muska stated that Sobieski Vodka was their best seller and provided Investigators with a recent invoice reflecting several cases of this product delivered within the past week.
6. Investigators followed Mr. Muska downstairs to a lower level where he opened the locked storage room.
7. Inside the storage area, Investigators observed between two hundred (200) to three hundred (300) bottles of liquor.
8. Investigators observed that approximately forty (40) to fifty (50) liquor bottles were opened and had pourers attached on top.
9. The remaining liquor bottles were sealed as they would be when delivered by a wholesaler. (Exhibit 3)
10. Investigators observed that the "open" liquor bottles consisted of higher cost or more expensive brands of liquor, such as Grey Goose vodka, Bacardi rum, and Southern Comfort whiskey.
11. Adjacent to these open liquor bottles on the shelves, Investigators observed sealed bottles of similar less expensive brands of liquor, such as Sobieski vodka, Ron Roberto rum, and Southern Host whiskey. (Exhibit 3)
12. Investigators asked Mr. Muska why some liquor bottles were sealed and some were opened with pourers already inserted in them.
13. Mr. Muska stated that he did not handle the alcohol and he was unaware why the bottles were this way.
14. Mr. Muska stated that a man named Mr. John Muccino ordered the alcoholic liquor for the club.
15. Investigators also observed that similar bottles had different levels of liquor in them, which indicated to them that the composition of the bottles had been changed or tampered with from their original state. (Exhibit 4)
16. Since his work shift was ending, Mr. Muska called Mr. Allard to come to the storage room.
17. Mr. Allard came to the storage room, and Investigators asked both managers why some bottles had pourers on them.
18. Neither manager gave an answer.
19. Mr. Allard stated that an employee (known as the "bar back") would bring bottles of liquor upstairs to the bar area if the bar ran out of a certain brand.
20. Investigators requested to speak to this employee; however, Mr. Allard stated he was not on the premises at this time.
21. Investigator Doyle asked that Mr. Allard contact the owner.
22. Mr. Allard gave the owner's phone number to Investigators.
23. Investigator Doyle wrote down the owner's number, and again requested that Mr. Allard to contact the owner by phone.
24. Investigators asked that Mr. Allard accompany them to the bar area and remain there to answer any questions which might arise.
25. Investigators observed that seven (7) to ten (10) liquor bottles of the brands they found in the storage room were not available for sale in the bar area. The brands not sold were all lower priced brands of liquor.

26. Investigators observed that all of the higher priced brands of liquor, which had pourers on them downstairs, were available for sale in the bar area.
27. Investigator Doyle spoke to the bartender on duty, Ms. Valeri Hasslet.
28. Ms. Hasslet stated that she had been employed at the licensed premises for approximately six (6) months.
29. Investigator Doyle asked Ms. Hasslet about how the bar was re-stocked when she ran out of any liquor.
30. Ms. Hasslet stated that usually an employee brought a new bottle of liquor from the storage area, and she had been instructed to save the empty liquor bottles for recycling.
31. Investigator Doyle asked if the new bottles were sealed.
32. Ms. Hasslet stated some liquor bottles were sealed and some had pourers on them already.
33. Investigator Doyle asked Ms. Hasslet as to where the Sobieski vodka was stored.
34. Ms. Hasslet showed Investigators a bottle of Sobieski Cytron (citrus) vodka in the bar area.
35. Investigator Doyle asked her where the unflavored Sobieski vodka was stored.
36. Ms. Hasslet stated that they did not carry the unflavored Sobieski vodka, just the Cytron (citrus) version.
37. Investigator Doyle then asked Ms. Hasslet how much a shot of "Southern Host" whiskey would cost.
38. Ms. Hasslet responded, "Do you mean Southern Comfort?"
39. Investigator Doyle said, "No, Southern Host Whiskey"
40. Ms. Hasslet stated that she had never heard of such a brand.
41. Investigators looked around to speak to Mr. Allard, but he was not present.
42. An employee stated that Mr. Allard was downstairs.
43. Investigators went downstairs and asked Mr. Allard if he had contacted the owner.
44. Mr. Allard stated he had not done so.
45. Investigators asked Mr. Allard to follow them to the storage room.
46. Mr. Allard opened the locked storage room and entered with Investigators.
47. Investigators asked Mr. Allard why he did not stay in the bar area during the inspection as requested.
48. Mr. Allard did not answer.
49. Investigators asked how long he was employed at this location.
50. Mr. Allard stated that he had worked at the licensed premises for about eleven (11) years.
51. Upon further inspection in the storage room, Investigators observed that bottles with pourers on them appeared dirty with worn labels. (Exhibit 5)
52. Investigators informed Mr. Allard that several of the less expensive brands of liquor found in the storage room were not available for sale upstairs in the bar area.
53. Mr. Allard stated "What do you mean not for sale?"
54. Investigators informed Mr. Allard that the bar area did not have any Sobieski vodka, Ron Roberto rum or Evan Williams whiskey available for sale.
55. Mr. Allard paused for a moment, than stated he didn't really handle the alcohol.
56. Investigators observed a trash bag full of empty liquor bottles inside a large barrel, and a box of caps from opened liquor bottles. (Exhibit 6)
57. Investigators observed the cardboard box contained five (5) to ten (10) yellow caps from Sobieski Cytron vodka, and seventy-five (75) to eighty-five (85) red caps from Sobieski regular unflavored vodka. (Exhibit 7)
58. When Investigators asked about these caps, Mr. Allard shrugged his shoulders and did not give an answer.
59. Investigators also observed a plastic pitcher and several large metal bins. The metal bins smelled of liquor. (Exhibit 8, 9)
60. Investigators asked Mr. Allard about the metal bins, and he did not have an answer.
61. Investigators asked Mr. Allard to provide nine (9) months of invoices for any liquor purchased.

62. Investigators left the premises without incident.
63. A representative of the corporation submitted the requested copies of invoices to Investigators. (Exhibit 10).
64. Administrative review of the invoices¹ revealed that several of higher cost or more expensive brands of liquor, such as Jack Daniels Sour Mash², had not been purchased in the previous nine (9) months, while the less expensive brands of liquor, such as Evan Williams Sour Mash whiskey, had been purchased. The less expensive brands of liquor, however, were not available for sale at the bar area.
65. Investigator Doyle spoke with Ms. Donna Chiaro, of Horizon Beverage, to inquire about the licensee and their purchases.
66. Ms. Chiaro stated that they had made only three (3) deliveries to the licensee in 2011, and none in 2012. (Exhibit 12)
67. Ms. Chiaro also stated that several brands³ of liquor are sold exclusively through Horizon, and therefore, are not available elsewhere.

¹ Invoices reflected seventy-two (72) liter bottles of Evan Williams purchased at ten dollars and ninety-nine cents (\$10.99) per bottle. No bottles of Jack Daniels were purchased. According to Massachusetts Beverage Business Journal, May 2012, the approximate cost of a Jack Daniels liter bottle was twenty-eight dollars and ninety-one cents (\$28.91).

² Jack Daniels was available for purchase at the bar area of the licensed premises, while Evan Williams was not. See Exhibit 11 for additional examples.

³ These brands include Jack Daniels, Bacardi rum, Southern Comfort, Grey Goose vodka, Midori Melon liqueur, and Bombay Sapphire gin.

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: 26 USC §5301 (c) refilling of liquor bottles (1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provisions of this chapter. Therefore, the Commission **suspends the license for twelve (12) days of which six (6) days will be served and six (6) 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*

Kathleen McNally, Commissioner, *Kathleen McNally*

Dated: December 10, 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
Brad Doyle, Investigator
Paul E. Sporn, Esq. via Facsimile 781-261-2521
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