

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

Deborah B. Goldberg
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

NOTICE OF SUSPENSION

March 4, 2016

HOME TEXTURES INC. D/B/A JOHNNY'S BEACH CLUB
87 WAHCONAH STREET
PITTSFIELD, MA 01201
LICENSE#: 097400043
VIOLATION DATE: 10/15/2015
HEARD: 02/02/2016

After a hearing on February 2, 2016, the Commission finds the Licensee violated:

- 1) 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 provision of this chapter;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the licensed premises, to wit: 527 CMR 1.05 § 20.1.5.6.1 – Failure of the owner or operator of nightclub, dance hall, discotheque or bar, with an occupant load of 100 persons or more shall designate one crowd manager for every 250 occupants, or portion thereof, based upon the Certificate of Inspection under 780 CMR;
- 3) 204 CMR 2.05 (2) - Permitting an Illegality on the licensed premises, to wit: 527 CMR 1.05 § 20.1.5.6.4 - Failure to complete the fire & building safety checklist as prescribed by the Marshall, on each day of operation prior to opening the facility to patrons.

In total the Commission will suspend the license for a period of two (2) days to be served, and three (3) days to 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 27, 2014, the Commission had previously ordered a three (3) day license suspension to be held in abeyance for a period of two (2) years provided no further violations occurred. Based on the violations 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 two (2) day suspension. The Licensee will serve a total five (5) days.

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The suspension shall commence on Wednesday, April 20, 2016 and terminate on Sunday, April 24, 2016. The license will be delivered to the Local Licensing Board or its designee on Wednesday, April 20, 2016 at 9:00 A.M. It will be returned to the Licensee Monday, April 25, 2016.

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 which must be signed by the Licensee and 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.

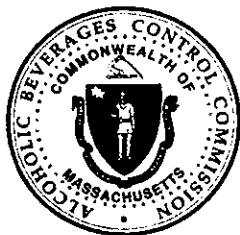
ALCOHOLIC BEVERAGES CONTROL COMMISSION



Kim S. Gainsboro
Chairman

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Questo documento è importante e dovrebbe essere tradotto immediatamente.
Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφραστούν αμέσως.
这份文件是重要的，应立即进行翻译。

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Michael Teehan, Investigator
Mark Kenny, Investigator
Administration
File



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DECISION

HOME TEXTURES INC. D/B/A JOHNNY'S BEACH CLUB
87 WAHCONAH STREET
PITTSFIELD, MA 01201
LICENSE#: 097400043
VIOLATION DATE: 10/15/2015
HEARD: 02/02/2016

Home Textures Inc. d/b/a Johnny's Beach Club (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, February 2, 2016, regarding alleged violations of:

- 1) 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 provision of this chapter;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the licensed premises, to wit: : 527 CMR 1.05 § 20.1.5.6.1 – Failure of the owner or operator of nightclub, dance hall, discotheque or bar, with an occupant load of 100 persons or more shall designate one crowd manager for every 250 occupants, or portion thereof, based upon the Certificate of Inspection under 780 CMR;
- 3) 204 CMR 2.05 (2) - Permitting an Illegality on the licensed premises, to wit: : 527 CMR 1.05 § 20.1.5.6.4 - Failure to complete the fire & building safety checklist as prescribed by the Marshall, on each day of operation prior to opening the facility to patrons.

Prior to the commencement of the hearing, the Licensee stipulated to the violations alleged in Investigator Teehan's Report.

The following documents are in evidence:

1. Investigator Teehan's Investigative Report dated October 15, 2015; and
2. Licensee's Stipulation of Facts.

A. Licensee's Crowd Control Manager Certifications.

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

The Commission took Administrative Notice of the Licensee's file.

FACTS

1. On Friday, October 15, 2015, at approximately 9:45 p.m., Investigators Kenny and Teehan, along with members of the Pittsfield Police Department, conducted an investigation of the business operation of Home Textures Inc. d/b/a Johnny's Beach Club to determine the manner in which its business was being conducted.
2. Investigators entered the licensed premises and identified themselves to the bartender on duty, Destiny Culpo.
3. Investigators inspected the bar and the storage areas of the licensed premises. In the storage area, Investigators observed three 1.75 liter bottles:
 - o Captain Morgan Spiced rum;
 - o Jack Daniels whiskey;
 - o Jose Cuervo tequila.
4. Ms. Culpo stated to Investigators that they pour the contents of the 1.75 liter bottles into empty 1 liter bottles located in the bar area.
5. While on the premises, Investigators observed that the licensed capacity of the bar was 184 persons. Investigators asked Ms. Culpo if she or any other staff member filled out the Fire and Building Safety Checklist.
6. Ms. Culpo was unaware of this checklist but when Investigators explained it to her, she stated she has never completed the checklist.
7. Investigators then asked Ms. Culpo for the crowd manager certificate for the designated crowd manager. Ms. Culpo was unable to provide this certificate to Investigators.
8. Investigators informed Ms. Culpo of the violation and that a report would be filed with the Chief Investigator further action.

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated:

- 1) 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 provision of this chapter;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the licensed premises, to wit: : 527 CMR 1.05 § 20.1.5.6.1 – Failure of the owner or operator of nightclub, dance hall, discotheque or bar, with an occupant load of 100 persons or more shall designate one crowd manager for every 250 occupants, or portion thereof, based upon the Certificate of Inspection under 780 CMR;
- 3) 204 CMR 2.05 (2) - Permitting an Illegality on the licensed premises, to wit: 527 CMR 1.05 § 20.1.5.6.4 - Failure to complete the fire & building safety checklist as prescribed by the Marshall, on each day of operation prior to opening the facility to patrons.

On the first violation, 204 CMR 2.05 (2), to wit: 26 USC §5301 (c), the Commission issues a **WARNING**.

On the second violation, 204 CMR 2.05 (2), to wit: 527 CMR 1.05 § 20.1.5.6.1, the Commission suspends the license for five (5) days of which two (2) days will be served and three (3) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.

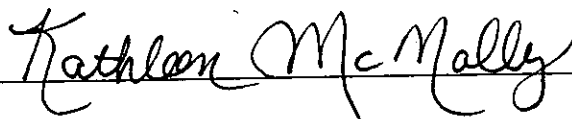
On the third violation, 204 CMR 2.05 (2), to wit: 527 CMR 1.05 § 20.1.5.6.4, the Commission suspends the license for five (5) days of which two (2) days will be served and three (3) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur. This suspension held in abeyance to run concurrently with those above.

In total the Commission will suspend the license for a period of two (2) days to be served, and three (3) days to be held in abeyance for a period of two (2) years, provided no further violations of Chapter 138 or Commission Regulations occur.

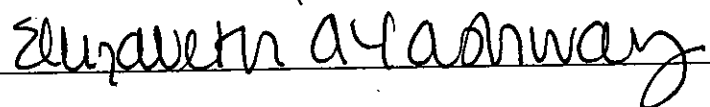
By decision dated August 27, 2014, the Commission had previously ordered a three (3) day license suspension to be held in abeyance for a period of two (2) years provided no further violations occurred. Based on the violations found above, the Licensee violated the conditions of that three (3) day suspension being held in abeyance. The Commission hereby orders that suspension to be served on and after the two (2) day suspension. The Licensee will serve a total five (5) days.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



Elizabeth A. Lashway, Commissioner



Dated: March 4, 2016

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
Michael Teehan, Investigator
Mark Kenny, Investigator
Administration, File