



*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*

**DECISION**

**O'BAGEL'S CAFÉ, INC. DBA FRIENDS GRILLE & CATERING**  
**117 SEYMOUR STREET**  
**PITTSFIELD, MA 01201**  
**LICENSE#: 097400007**  
**VIOLATION DATE: 05/20/2014**  
**HEARD: 08/26/2014**

O'Bagel's Café, Inc. dba Friends Grille & Catering (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, August 26, 2014, 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 provision of this chapter. Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator's Teehan's Report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
  2. Investigator Teehan's Violation Report dated May 20, 2014.
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- A. Invoices from Horizon Beverage Company; and
  - B. Invoices from United Liquors.

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

**FACTS**

1. On Friday, May 30, 2014, at approximately 9:40 p.m., Investigators Kenny and Teehan, along with members of the Pittsfield Police Department, conducted an investigation of the business operation of O'Bagel's Café, Inc. dba Friends Grille & Catering to determine the manner in which its business was being conducted.
2. Investigators entered the premises and identified themselves to the owners, Judith Tierney and Scott Washburn.
3. Investigators inspected the bar area and storage area of the licensed premises.
4. Investigators observed six 1.7 liter bottles of alcohol located in the storage area:
  - o Bacardi Rum
  - o Jack Daniels Whiskey
  - o Jose Cuervo Tequila
  - o Ketel 1 Vodka

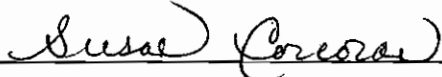
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- Ketel Citron Vodka
  - Tanqueray Gin
5. Mr. Washburn stated to investigators that they pour the alcohol from the 1.75 liter bottles into a corresponding empty 1 liter bottle located in the bar area.
  6. Investigators informed Mr. Washburn of the violation and that a report would be filed with the Chief Investigator for further action.

#### 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 provision of this chapter. As the licensee has been in business for more than ten (10) years and has had no previous violations, the Commission issues a **WARNING**.

#### **ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Susan Corcoran, Commissioner 

Kathleen McNally, Commissioner 

Dated: August 27, 2014

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  
Administration  
File