



*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150-2358*

Jean M. Lorizio, Esq.
Chairman

DECISION

**GUSTO INC. D/B/A ENZO'S
186 COMMERCIAL STREET
PROVINCETOWN, MA 02657
LICENSE#: 00097-RS-1004
VIOLATION DATE: 2/11/2021
HEARD: 11/16/2021**

Gusto Inc. d/b/a Enzo's (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission (the "Commission") held a remote hearing via Microsoft Teams on Tuesday, November 16, 2021, regarding an alleged violation of 204 CMR 2.05 (2) Permitting an Illegality on the licensed premises, to wit: M.G.L. c. 138, § 23- Sale of alcoholic beverages other than those purchased under §18 or §19 or from a holder of a special permit under § 22A (1 Count). Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Binienda's Report.

The following documents are in evidence:

1. Investigator Binienda's Report;
2. ABCC Form 43, License Transfer Approval, 7/13/2005;
3. Licensee's Stipulation of Facts.

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

FINDINGS OF FACT

1. On Thursday, February 11, 2021, at approximately 7:30 p.m., Investigators Kenny and Binienda ("Investigators") conducted an inspection of the business operation of Gusto Inc. d/b/a Enzo's to determine the manner in which its business was being conducted, and to investigate a complaint filed with this Commission.
2. Investigators entered the licensed premises and identified themselves to the hostess, Siobhan Carew, and advised her of the complaint.
3. Investigators conducted an inspection of the liquor storage area and observed approximately 15 boxes of wine, with 12 bottles in each box. Investigators observed that several of the boxes had stickers on them which said, Sal's Place Provincetown.
4. Union Wharf Holdings LLC d/b/a Sal's Place holds a seasonal retail on-premises all-alcohol license issued pursuant to M.G.L. c. 138, § 12, exercised at 99 Commercial Street, Provincetown. Ms. Carew is the owner and licensed manager of record for Sal's Place.


5. Ms. Carew informed Investigators that they had moved the boxes of alcoholic beverages from Sal's to this licensed premises, Enzo.
6. Ms. Carew informed Investigators she was operating a "pop-up" where she goes into another restaurant to operate during Sal's Place's off season. Ms. Carew further informed Investigators she believed this arrangement was allowed.
7. Investigator Binienda gave Ms. Carew his business card and asked her to email to him copies of the invoices for the alcoholic beverages moved from Sal's to Enzo's. Ms. Carew stated she would have her daughter, who keeps track of the invoices, do this. As of March 29th, Investigator Binienda had not received any invoices.
8. Investigators informed Ms. Carew of the violation and that a report would be filed with the Chief Investigator for further action.
9. John Yingling, Licensee and Manager of Record, appeared at the Commission hearing with his son, Guillermo Yingling. Guillermo Yingling also works at the licensed premises. The Commission was informed there was clearly some confusion or misunderstanding that this type of arrangement was allowed. The Licensee has since been advised by counsel and is now fully aware that is not the case.
10. The Licensee has held a license under M.G.L. c. 138, § 12 since 2005 with no prior violations.

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: M.G.L. c. 138, § 23- Sale of alcoholic beverages other than those purchased under §18 or §19 or from a holder of a special permit under § 22A (1 Count). As the Licensee has been in business for more than 15 years with no previous violation, the Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



I, the undersigned, hereby certify that I have reviewed the hearing record and concur with the above decision.

Jean M. Lorizio, Chairman



Dated: June 3, 2022

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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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Jamie Binienda, Investigator
Mark Kenny, Investigator
Stephen V. Miller, Esq.
Administration, File