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Chairman

*Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
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DECISION

**OFF THE BOAT INC. D/B/A D'AMELIO'S OFF THE BOAT RESTAURANT
304-306 REVERE STREET
REVERE, MA 02151
LICENSE#: 1022-00135
VIOLATION DATE: 5/18/2018
HEARD: 7/17/2018**

Off the Boat Inc. d/b/a D'Amelio's Off the Boat Restaurant (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, July 17, 2018, regarding an alleged violation of 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. Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Temple's Report.

The following documents are in evidence:

1. Investigator Temple's Investigative Report; and
2. Licensee's Stipulation of Facts.
 - A. Licensee's Letter 7/13/2018 to ABCC; and
 - B. Invoices from Wholesaler.

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

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

FINDINGS OF FACT

1. On Friday, May 18, 2018, at approximately 1:00 p.m., Investigator Watson and Temple ("Investigators") conducted an investigation of the business operation of Off the Boat Inc. d/b/a D'Amelio's Off the Boat Restaurant 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, identified themselves, and asked to speak to the owner or manager. Investigators were directed to the bar manager who then brought Investigators to the liquor storage area downstairs.

3. In the storage area Investigators observed several empty boxes with shipping labels attached which indicated the alcoholic beverages had been purchased from various retail package stores. Investigators took the cases into custody as evidence.
4. Investigators spoke with the owner, Antonietta D'Amelio, over the telephone. Ms. D'Amelio stated to Investigators that she occasionally does buy alcohol from retail package stores because she has had some financial issues and has filed for bankruptcy.
5. D'Amelio informed Investigators that she was now cash-on-delivery ("COD") with her wholesalers and everything was being corrected. Investigators informed D'Amelio that a restaurant § 12 license holder may not purchase alcoholic beverages from a § 15 retail package store.
6. Investigators then went behind the bar area and observed a bottle of wine with a price sticker affixed to it. Investigators also observed some additional bottles of wine with price stickers affixed to them on a wine rack near the kitchen. Based on their training and experience, Investigators determined the alcoholic beverages had been purchase from a § 15 retail package store.
7. Investigators then spoke with the executive chef, Edgar Alleyne, who stated he was going to be a partner in the business. Alleyne stated that there were times that wholesalers would not deliver to the premises on weekends, so when the restaurant was low one of the owners would run out or send someone else to pick up whatever they needed from a package store.
8. Mr. Alleyne also provided Investigators with invoices from M.S. Walker, a wholesaler, for some recent alcohol purchases.
9. Investigators informed Mr. Alleyne of the violation and that a report would be filed with the Chief Investigator for further review.

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated 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. As the Licensee has had no prior violation, the Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Elizabeth A. Lashway, Commissioner Elizabeth A. Lashway

Kathleen McNally, Commissioner Kathleen McNally

Jean M. Lorizio, Chairman Jean M. Lorizio

Dated: July 19, 2018

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
Christopher Temple, Investigator
Lisa Watson, Investigator
Administration, File