



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

BUDDY'S PUB, LLC DBA XSTATIC
240 CHESTNUT ST.
SPRINGFIELD, MA 01130
LICENSE#: 122600279
VIOLATION DATE: 02/07/2013
HEARD: 05/21/2013

Buddy's Pub, LLC dba Xstatic (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, May 21, 2013, regarding an alleged violation of:

- 1) M.G.L. Ch. 138, §23- Sale of Alcoholic Beverages other than those purchased from a licensee under §18 or §19 or from a holder of a special license under §22A (10 Counts); and
- 2) 204-2.07 Substitution of Beverages: The substitution of any alcoholic beverages of a kind or brand different from that ordered by a purchaser is prohibited unless it is done with the consent of the person or licensee making the purchase. (6 Counts)

Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Kujawski's Report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts;
2. Investigator Kujawski's Investigative Report dated February 7, 2013;
3. Copy of Licensee's Massachusetts Driver's License;
4. Box of Ten Alcohol Bottles Seized; and
5. Box of Fifteen Alcohol Bottles Seized.

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

FACTS

1. On Thursday, February 7, 2013, at approximately 9:15 p.m., Investigators Keefe and Kelleher investigated the business operation Buddy's Pub, LLC dba Xstatic to determine the manner in which their business was being conducted, and to investigate a complaint filed with this Commission.
2. Investigators identified themselves to the manager on duty, later identified as Samuel Velazques, and informed him of the complaint. They asked to see where the alcohol was stored.

1787 1387

1

3. Investigators went downstairs into the basement area of the establishment and conducted an inspection of the area.
4. Investigators observed ten bottles in a trash barrel. The bottles were labeled Table and Vine.
5. Investigators asked Mr. Velazques from where these bottles come.
6. Mr. Velazques stated the bottles came from a local package store.
7. Investigators took inventory of the bottles:
 - Eight 1.75 liter bottles of Table and Vine Vodka; and
 - Two 1.75 liter bottle of Genuine Mexican Tequila.
8. Investigators also observed a table with several large and small bottles on it with an orange funnel.
9. Investigators asked Mr. Velazques about the funnel and the bottles.
10. Mr. Velazques stated that he refills the smaller bottles with a cheaper brand of alcohol.
11. Investigators secured the bottles and took them for evidence. They were:
 - Eight larger bottles of Table and Vine Vodka
 - Four smaller bottles of Absolut Vodka'
 - One larger bottle of Ron Roberto Coconut Rum; and
 - Two smaller bottles of Malibu Caribbean Rum with Coconut Liqueur.
12. Investigators informed Mr. Velazques of the violation and that a report would be filed with the Chief Investigator for further action.
13. The licensee has temporarily closed and terminated all employees. He has hired new staff.

CONCLUSION

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

- 1) M.G.L. Ch. 138, §23- Sale of Alcoholic Beverages other than those purchased from a licensee under §18 or §19 or from a holder of a special license under §22A (10 Counts); and
- 2) 204-2.07 Substitution of Beverages: The substitution of any alcoholic beverages of a kind or brand different from that ordered by a purchaser is prohibited unless it is done with the consent of the person or licensee making the purchase. (6 Counts)

As the licensee has been in business for ten (10) years and has had no previous violations, the Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner *Susan Corcoran*

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

Kathleen McNally, Commissioner *Kathleen McMalley*

DATE: May 21, 2013

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
Jan Kujawski, Investigator
Dennis Keefe, Investigator
Daniel D. Kelly, Esq. via fax 413-733-1245
Administration
File