



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

**Jean M. Lorizio, Esq.**  
*Chairman*

**DECISION**

**OUR LADY OF MOUNT CARMEL SOCIETY, INC.  
13-15 WINTHROP STREET  
SPRINGFIELD, MA 01105  
LICENSE#: 00150-CL-1226  
VIOLATION DATE: 8/15/2019  
HEARD: 03/10/2020**

Our Lady of Mount Carmel Society, Inc. (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a hearing on Tuesday, March 10, 2020, regarding alleged violations of:

- 1) 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 from a licensee under § 18 or § 19 or from a holder of a special permit under § 22A; and
- 2) 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 94 § 186 – Falling Below the Standard of Purity.

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

The following documents are in evidence:

1. Investigator Velez's Investigative Report;
  2. Licensee Stipulation of Facts;
  3. Copy of New License/Late Renewal Approval, May 26, 1989;
  4. Copy of New License/Late Renewal Approval, January 6, 2011.
- A. Quality Beverage Invoices, November 4, 2019 and February 3, 2020.

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

**FINDINGS OF FACT**

1. On Thursday, August 15, 2019, at approximately 4:30 p.m., Investigators Bolcome, Teehan, Watson, and Velez ("Investigators") conducted an investigation of the business

operation of Our Lady of Mount Carmel Society Inc. to determine the manner in which the business was being conducted.

2. Upon entering the licensed premises, Investigators identified themselves to Francis Magagnoli, President of the club, and advised him of the inspection.
3. Investigators observed multiple bottles of alcohol behind the bar which had a glue-like substance in the shape of retail prices stickers on the outside.
4. Based on their training and experience, Investigators determined that the glue-like residue indicated that the bottles of alcohol had been purchased from a \$ 15 retail package store.
5. Investigators removed the following bottles from the bar area as evidence:
  - o One 750ML bottle of Sweet Silhouette Grapefruit Moscato wine;
  - o One 1.75L bottle Salvador's Ruby Red Grapefruit Paloma mix tequila;
  - o One 4L bottle of Carlo Rossi White Zinfandel wine;
  - o One 1.75L bottle Kirkland Signature Original Spiced Rum.
6. Investigators continued their inspection of the bar area and found multiple bottles of alcohol containing fruit flies, flies, and foreign matter floating within them. Investigators removed the following bottles from the bar as evidence:
  - o One 1.75L bottle Canadian Club whiskey;
  - o One 1 L bottle Jose Cuervo Especial Tequila;
  - o One 1 L bottle M. W. Heron's Southern Comfort liqueur;
  - o One 1 L bottle Old Mexico Tequila;
  - o One 1.75L bottle Tullamore D.E.W. Irish Whiskey;
  - o One 1 L bottle Mr. Boston vodka;
  - o One 1 L bottle Majorska gin;
  - o One 1 L bottle Stoli Strasberi vodka;
  - o One 1 L bottle Szambelan vodka;
  - o One 750ML bottle Ciroc Red Berry vodka;
  - o One 750ML bottle Ciroc Peach vodka;
  - o One 1 L bottle Beefeater London Dry gin;
  - o One 750ML bottle Yukon Jack liqueur.
7. Investigators asked Mr. Magagnoli where the bottles had been purchased and more specifically if the bottles in question had been purchased from a licensed wholesaler. Mr. Magagnoli stated he did not know. Investigators then asked to see the invoices for these alcohol purchases, but Mr. Magagnoli could not find any invoices on the licensed premises. Investigators requested that the invoices be sent via email and left contact information with Mr. Magagnoli.
8. Investigators informed Mr. Magagnoli of the violations and that a report would be filed with the Chief Investigator for further review.

9. On August 23, 2019, Attorney Daniel Kelly, counsel for the Licensee contacted Investigator Velez by letter and stated that the Licensee did not possess any records pertaining to the purchase of the alcoholic beverages which had been taken into custody.
10. Attorney Kelly appeared at the Commission hearing along with Mr. Magagnoli.
11. The Commission was informed that the Licensee operates a small club that is run entirely by member volunteers, all of whom have now completed the TIPS certification program.
12. Prior to this incident, Mr. Magagnoli had delegated the duty of ordering alcohol to a member who admittedly failed to comply with M.G.L. c. 138.
13. Mr. Magagnoli immediately took control of all alcohol related duties and has since purchased any alcohol for the club from a wholesaler.
14. The Licensee has implemented a new policy to periodically check all hard alcohol bottles for evidence of fruit flies, flies, or foreign matter.
15. Attorney Kelly informed the Commission that the club has been in operation since 1897.
16. The Licensee has no record of any prior violations with the Commission.

#### CONCLUSION

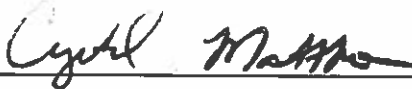
Based on the evidence, the Commission finds the Licensee violated:

- 1) 204 CMR 2.05(2)-Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, § 23 – Sale of alcoholic beverages other than those purchased from a licensee under § 18 or § 19 or from a holder of a special permit under § 22A; and
- 2) 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 94 § 186 – Falling Below the Standard of Purity.

The Commission issues a **WARNING**.

#### ALCOHOLIC BEVERAGES CONTROL COMMISSION

Crystal Matthews, Commissioner



Jean M. Lorizio, Chairman



Dated: May 7, 2020

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  
Nicholas Velez, Investigator  
David Bolcome, Investigator  
Michael Teehan, Investigator  
Lisa Watson, Investigator  
Daniel Kelly, Esq.  
Administration, File