

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

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

**DECISION**

**SUNRISE LOGISTICS LLC  
200 CUSHING STREET, SUITE 9  
STOUGHTON, MA 02072  
LICENSE#: TR-LIC-008333  
VIOLATION DATE: 6/16/2020 and 8/7/2020  
HEARD: 12/07/2021**

Sunrise Logistics LLC ("Licensee" or "Sunrise") holds a Transportation Permit issued pursuant to M.G.L. c. 138, § 22. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a remote hearing via Microsoft Teams on Tuesday, December 7, 2021, regarding alleged violations of M.G.L. Ch. 138, § 22 Unlawful delivery of products sold by a licensee under section 19F, to wit: Ch. 138, § 19F Under this section a Direct Wine Shipper licensee may make sales and delivery of wine directly to residents of the Commonwealth who are 21 years of age or older, for personal use and not for resale (2 counts).

The following documents are in evidence:

1. Investigator Velez's Report, 6/16/2020;
2. Investigator Bolcome's Report, 8/7/2020;
3. Licensee's 2020 Transportation & Delivery Permit;
4. Vin-Go LLC's 2020 Direct Wine Shipper License;
5. Screenshots of 10<sup>th</sup> Mountain Whiskey Advertisement & Transaction;
6. Screenshots of Horse Soldier Bourbon Advertisement & Transaction.

Hearings regarding two alleged violations which occurred on June 16, 2020, and August 7, 2020, were initially scheduled separately. At the commencement of the first hearing, the Licensee requested the Commission consolidate the hearings and the Commission allowed this request.

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

**FINDINGS OF FACT**

1. On Friday, May 29, 2020, Investigator Velez ("Investigator"), visited a website, [www.10thwhiskey.com](http://www.10thwhiskey.com), and purchased one 750 ml. bottle of distilled spirits, Colorado Clear Mountain Moonshine, for \$25.00 to be delivered to an address in Falmouth, Massachusetts. (Testimony, Exhibits 1, 5)

2. Investigator Velez received his order of one 750 ml. bottle of Colorado Clear Mountain Moonshine on Tuesday, June 16, 2020. The label indicated the bottle contained 100% corn whiskey, 80 proof and 40% alcohol by volume. Id.
3. Investigator Velez observed the packing slip indicated delivery was made by Gio Express ("Gio"). The point of origin was Ship Manager, 14257 Don Julian Road, Industry, California. Id.
4. Investigator Velez researched this address and found it belonged to Vin-Go LLC.
5. Vin-Go holds a Direct Wine Shipper license issued pursuant to M.G.L. Ch. 138, § 19F which authorizes Vin-Go to make sales and delivery of wine directly to residents of legal age in Massachusetts. Id.
6. On July 30, 2020, Investigator Velez spoke with Dominic Merante, the owner of Gio Express. Mr. Merante stated that Gio Express does not hold a transportation permit to deliver alcohol in Massachusetts. He informed the Investigator that Gio's deliveries of alcohol are handled by Sunrise Logistics, a company which holds a permit to transport alcoholic beverages in Massachusetts. Id.
7. On the same date, Investigator Velez then contacted Sunrise Logistics LLC and spoke to owner, Michele Fitzgerald. Investigator Velez provided Fitzgerald with the tracking number of his package, and she confirmed Sunrise Logistics delivered this package to the Falmouth address. Id.
8. Investigator Velez informed Ms. Fitzgerald of the violation and that a report would be filed with the Chief Investigator for review. Id.
9. On Tuesday, July 21, 2020, Investigator Bolcome ("Investigator"), visited the website for American Freedom Distillery LLC d/b/a Horse Soldier, [www.horsesoldierbourbon.com](http://www.horsesoldierbourbon.com) and purchased one 750 ml. bottle of Horse Soldier Premium Bourbon Whiskey to be delivered to an address in Beverly, Massachusetts. (Testimony, Exhibits 2, 6)
10. Investigator Bolcome received his order of one 750 ml. bottle of Horse Soldier Premium Bourbon Whiskey on Friday, August 7, 2020. The label indicated the bottle contained 43.5% alcohol by volume. Id.
11. Investigator Bolcome observed that the label on the package indicated delivery was made by Gio Express. The point of origin was Ship Manager, 14257 Don Julian Road, Industry, California. Id.
12. Investigator Bolcome acknowledged Investigator Velez researched the above-referenced address and found it belonged to Vin-Go LLC. Id.
13. On August 21, 2020, Investigator Bolcome contacted Sunrise and spoke to Michele Fitzgerald. Investigator Bolcome provided Ms. Fitzgerald with the tracking number for his package, and she confirmed the Licensee delivered this package to the Beverly address. Id.
14. Michelle Fitzgerald, President of Sunrise, and Kevin Trundley, General Manager, appeared at the Commission hearing. (Testimony)

15. Dominic Merante appeared on behalf of Gio Express. Id.
16. Douglas Jones appeared on behalf of Vin-Go. Id.
17. Gio Express is a freight forwarder with offices in New York and New Jersey. Gio contracted with Vin Go to make deliveries. Gio is not licensed in Massachusetts. Id.
18. The Licensee was asked by Gio Express to act as its agent in delivering wine in Massachusetts. Sunrise then obtained the necessary licensure and began making deliveries. Id.
19. In both instances, the orders of 6/16/2020 and 8/7/2020, the Licensee received a sealed box and believed it contained wine. Id.
20. The packages came to the Licensee directly from the shipper, via a common carrier, with the required label indicating the package contained alcohol and that the signature of a person 21 years of age or older was required. There was no labeling on the boxes which indicated distilled spirits were contained within. Id.

### DISCUSSION

Licenses to sell alcoholic beverages are a special privilege subject to public regulation and control, Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 619 (1956), for which States have especially wide latitude pursuant to the Twenty-First Amendment to the United States Constitution. Opinion of the Justices, 368 Mass. 857, 861 (1975). The procedure for the issuance of licenses and required conduct of licensees who sell alcoholic beverages is set out in Massachusetts General Laws, Chapter 138.

Chapter 138 gives the Commission the authority to grant, revoke and suspend licenses. Chapter 138 was “enacted ... to serve the public need and ... to protect the common good.” M.G.L. c. 138, § 23. “[T]he purpose of discipline is not retribution, but the protection of the public.” Arthurs v. Bd. of Registration in Medicine, 383 Mass. 299, 317 (1981). The Commission is given “comprehensive powers of supervision over licensees.” Connolly, 334 Mass. at 617.

The “[r]egulation of the liquor industry in Massachusetts is comprehensive and pervasive.” Cellarmaster Wines of Mass., Inc. v. Alcoholic Beverages Control Comm'n, 27 Mass. App. Ct. 25, 27, 534 N.E.2d 21 (1989); see Miller Brewing Co. v. Alcoholic Beverages Control Comm'n, 56 Mass. App. Ct. 801, 808-809 (2002).

Every violation the Commission finds must be based on substantial evidence. See Embers of Salisbury, Inc. v. Alcoholic Beverages Control Comm'n, 401 Mass. 526, 528 (1988). “Substantial evidence” is “such evidence as a reasonable mind might accept as adequate to support a conclusion.” Id. Evidence from which a rational mind might draw the desired inference is not enough. See Blue Cross and Blue Shield of Mass. Inc., v. Comm'r of Ins., 420 Mass 707, 710 (1995). Disbelief of any particular evidence does not constitute substantial evidence to the contrary. New Boston Garden Corp. v. Bd. of Assessor of Boston, 383 Mass. 456, 467 (1981).

The Licensee is charged with a violation of M.G.L. c. 138, § 22 Unlawful delivery of products sold by a licensee under section 19F, to wit: c. 138, § 19F Under this section a Direct Wine Shipper licensee may make sales and delivery of wine directly to residents of the Commonwealth.

The Licensee holds a permit issued pursuant to M.G.L. c. 138, § 22 which states:

Any individual, partnership or corporation regularly and lawfully conducting a general express or trucking business or regularly and lawfully engaged in the business of leasing trucks for hire, with or without drivers, may, if authorized by a special permit issued by the commission, transport and deliver alcoholic beverages or alcohol;

Whoever knowingly transports within the commonwealth any alcoholic beverages or alcohol except as authorized by this section shall be punished by a fine of not more than two thousand five hundred dollars or by imprisonment for not more than six months, or both;

Notwithstanding any other provision of this section, any individual, partnership, or corporation, regularly and lawfully conducting a parcel delivery service, or general express or trucking business, or regularly and lawfully engaged in the business of leasing trucks for hire, with or without drivers, may, if authorized by a permit issued by the commission, transport or deliver the products sold at retail by licensees under sections 19B, 19C and 19F to the ultimate consumers of such products...Parcels transported or delivered under this paragraph shall be clearly labeled with words that indicate that the package contains alcohol and that the signature of a person, age 21 years or older, is required for deliver.

M.G.L. c. 138, § 22

M.G.L. c. 138, § 19F (d) states, "A direct wine shipper licensee under this section shall ship wine in accordance with section 22. M.G.L. c. 138, § 22

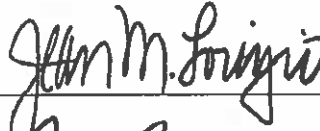
Sunrise contracted with an unlicensed, out of state, shipping entity to act as their agent in delivering wine within Massachusetts. (Testimony) As a result, Sunrise sought and was issued its § 22 license which authorized the Licensee to transport and deliver any alcoholic beverages or alcohol in Massachusetts. (Testimony, Exhibit 3) There is no evidence that the Licensee knew or should have known that the packages in question contained anything other than wine. In fact, the direct evidence indicates just the opposite. (Testimony) Therefore, the Commission is not persuaded that the Licensee violated M.G.L. c. 138, §22.

### CONCLUSION

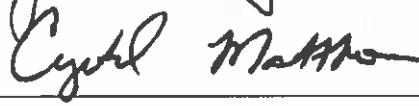
Based on the evidence, the Commission finds NO VIOLATION of M.G.L. Ch. 138, § 22 Unlawful delivery of products sold by a licensee under section 19F, to wit: Ch. 138, § 19F Under this section a Direct Wine Shipper licensee may make sales and delivery of wine directly to residents of the Commonwealth occurred.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



Dated: April 11, 2024

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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2021-000108-AD-ENF

2021-000109-AD-ENF

cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Nicholas Velez, Investigator  
David Bolcome, Investigator  
Administration, File