



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

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

**DECISION**

**GGNP INC. D/B/A PLAZA LIQUORS  
1150 UNION STREET  
WEST SPRINGFIELD, MA 01089  
LICENSE#: 89408-PK-1418  
VIOLATION DATE: 1/29/2020  
HEARD: 12/07/2021**

GGNP Inc. d/b/a Plaza Liquors (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 15. The Alcoholic Beverages Control Commission (the "Commission") held a remote hearing via Microsoft Teams on Tuesday, December 7, 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. The above-captioned occurred on January 29, 2020, according to Investigator Gould's Report.

The following documents are in evidence:

1. Investigator Gould's Report;
2. ABCC Application Summary Review, License Transfer Approved, 9/25/2018.

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

**FINDINGS OF FACT**

1. On Wednesday, January 29, 2020, at approximately 12:30 p.m., Investigators Kujawski and Gould ("Investigators") inspected the business operation of GGNP Inc. d/b/a Plaza Liquors to determine the manner in which its business was being conducted and to investigate a complaint filed with this Commission. (Testimony, Exhibit 1)
2. Investigators entered the licensed premises and identified themselves to the clerk on duty, Hasmukh Gogri, who is an owner of the Licensee entity and also the Manager of Record. Investigators advised Mr. Gogri about a complaint received regarding a bottle of Hennessy White being offered for sale. Hennessy White is not sold in the United States. Id.
3. Investigators observed a bottle of Hennessy White in a display case, with a tag indicating a price of \$125.00. Id.
4. Mr. Gogri informed Investigators the bottle of Hennessy White was given to him by a customer in exchange for another type of Hennessy. Id.

5. While at the premises, another owner, Toralben Patel, arrived. She concurred with Mr. Gogri as to how the bottle of Hennessy White was obtained. Id.
6. Investigators accompanied Mr. Gogri to the storage area and did not observe any other Hennessy White. The remaining products on the premises had been purchased from a licensed Massachusetts distributor. Id.
7. Investigators informed Mr. Gogri and Ms. Patel of the violation and that a report would be filed with the Chief Investigator for further action. Id.
8. Mr. Gogri appeared at the Commission hearing. He testified he had not been aware he was not allowed to sell the bottle he obtained from the customer. Mr. Gogri confirmed he understood that he may only sell products purchased from a properly licensed Massachusetts entity. (Testimony)
9. The Licensee has held a license under M.G.L. c. 138, § 15 since 2018 with no prior violations. (Commission Records)

### 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 Licensee is charged with a violation of 2.04 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.

According to 204 C.M.R. 2.05(2), “No licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible therefor, whether present or not.”

The Licensee’s obligation under 204 C.M.R. 2.05(2) to maintain control over the premises and to comply with Chapter 138 and local regulations is well-settled. The responsibility of the Licensee is to “exercise sufficiently close supervision so that there is compliance with the law on the premises.” Rico’s of the Berkshires, Inc. v. Alcoholic Beverages Control Comm’n, 19 Mass. App. Ct. 1026, 1027 (1985) (table). A licensee who sells alcohol is “bound at his own peril to keep within the condition of his license.” Burlington Package Store, Inc. v. Alcoholic Beverages Control Comm’n, 7 Mass. App. Ct. 186, 190 (1979); accord Commonwealth v. Gould, 158 Mass.

499, 507 (1893). "It is, thus, quite possible for a Licensee to offend the regulatory scheme without scienter." Rico's of the Berkshires, 19 Mass. App. Ct. at 1027.

M.G.L. Ch. 138, § 23 states:

No license issued under section twelve, fourteen or fifteen, and no certificate of fitness issued under section thirty shall authorize the sale of any alcoholic beverages other than those purchased from a licensee under section eighteen, nineteen or 19F or nineteen C or from a holder of a special permit to sell issued under section twenty-two A; provided, that the holder of a license under section twelve or fifteen may sell alcoholic beverages acquired as the result of the purchase of a warehouse receipt for such beverages if the said receipt was purchased from the holder of a license under section eighteen, nineteen, 19F or nineteen C or from a broker registered under chapter one hundred and ten A who is authorized thereunder to deal in warehouse receipts for alcoholic beverages; and provided, further, that nothing contained in this section shall be construed to authorize a licensee under section twelve or fifteen to import alcoholic beverages into the commonwealth except through the holder of a license issued under section eighteen or 19F. M.G.L. c. 138, § 23

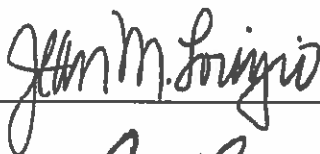
Mr. Gogri testified the bottle of Hennessy White had been obtained in a trade with a customer. (Testimony) The subject bottle was found by Investigators to be displayed in a case and labeled for sale. (Testimony) The Commission is persuaded by the evidence that a violation of 204 CMR 2.05 (2) Permitting 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, did occur.

#### CONCLUSION

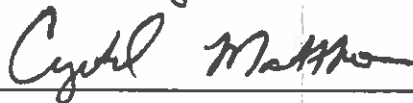
Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05 (2) Permitting an Illegality on the licensed premises, to wit: M.G.L. c. 138, § 23- Sale of alcoholic beverages other than those purchased under §18 or §19 or from a holder of a special permit under § 22A. As the Licensee has had no prior violation, the Commission issues a **WARNING**.

#### **ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



Dated: June 16, 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  
Brian Gould, Investigator  
Jan Kujawski, Investigator  
Administration, File