

The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Steven Grossman
Treasurer and Receiver General

NOTICE OF SUSPENSION

Kim S. Gainsboro, Esq.
Chairman

August 28, 2013

HOUSE OF CHU, INC. DBA ORIENTAL PEARL RESTAURANT
576 STATE RD.
WESTPORT, MA 02790
LICENSE#: I45200017
VIOLATION DATE: 05/09/2013
HEARD: 08/27/2013

After a hearing on August 27, 2013, the Commission House Of Chu, Inc. dba Oriental Pearl Restaurant in violation of 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit; 26 USC §5301 (c) refilling of liquor bottles (1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provision of this chapter (3 Counts).

The Commission suspends the licensee's license for a total of three (3) days to be served. The suspension shall commence on Wednesday, October 16, 2013 and terminate on Friday, October 18, 2013. The license will be delivered to the Local Licensing Board or its designee on Wednesday, October 16, 2013 at 9:00 A.M. It will be returned to the licensee Saturday, October 19, 2013.

You are advised that pursuant to the provisions of M.G.L. c.138 §23, you may petition the Commission to accept an offer in compromise in lieu of suspension within twenty (20) calendar days following such notice of such suspension. If accepted, you may pay a fine using the enclosed form. All checks must be certified and accompanied by the enclosed form, which must be signed by a Massachusetts Licensed Accountant.

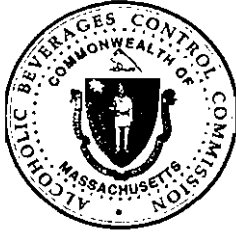
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Nicholas Velez, Investigator
Mark Kenny, Investigator
Thomas J. Freda, Esq. via facsimile 617-494-0433
Administration
File

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The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Steven Grossman
Treasurer and Receiver General

Kim S. Gainsboro, Esq.
Chairman

DECISION

HOUSE OF CHU, INC. DBA ORIENTAL PEARL RESTAURANT
576 STATE RD.
WESTPORT, MA 02790
LICENSE#: 145200017
VIOLATION DATE: 05/09/2013
HEARD: 08/27/2013

House Of Chu, Inc. dba Oriental Pearl 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, August 27, 2013, regarding an alleged violation of 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit; 26 USC §5301 (c) refilling of liquor bottles (1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provision of this chapter (3 Counts). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Velez's report.

The following documents are in evidence:

1. Investigator Velez's Investigative Report dated March 11, 2013;
2. Licensee's Stipulation of Facts;
3. One Bottle of Yukon Jack Canadian Liqueur;
4. One Bottle of Absolut Vodka; and
5. One Bottle of Kahlua Liqueur.

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

FACTS

1. On Monday, March 11, 2013, at approximately 12:15 p.m., Investigators Kenny, Keefe, and Velez investigated the business operation House Of Chu, Inc. dba Oriental Pearl Restaurant to determine the manner in which their business was being conducted.
2. Investigators identified themselves to the bartender on duty, George Gee, and conducted an inspection of the bar area.
3. Investigators observed a full 1-liter bottle of Yukon Jack; a full 1-liter bottle of Absolut Vodka; and a full 1-liter bottle of Kahlua, all presented for sale on the shelf of the bar.
4. Investigators observed that the labels on the top part and middle part of the bottle of Yukon Jack appeared to be worn.
5. Investigators observed that the bottle of Absolut Vodka was sticky, and that the bottle appeared to be filled above the normal level that would be seen from the manufacturer.

6. Investigator Velez went to a package store and took a picture of a full bottle of Absolut Vodka in order to show the difference of the fill level on the bottle.
7. Investigators observed that the labels near the top of the bottle of Kahlua appeared to be torn and worn.
8. During the inspection, investigators observed a cabinet under the bar where alcohol was stored.
9. Investigators observed a 1.75-liter bottle of Yukon Jack that was approximately half full, and a 1-liter bottle of Absolut Vodka that was approximately one quarter full.
10. Upon questioning, Mr. Gee stated that they use 1.75-liter bottles and 1-liter bottles to refill the bottles on the bar.
11. Mr. Gee also stated to investigators that they take the 1-liter full bottles to refill the 1-liter bottles on the bar.
12. Investigators informed Mr. Gee of the violation.
13. Mr. Gee stated that he was not aware that it was a problem.
14. Investigators informed Mr. Gee that a report would be submitted to the Chief Investigator for further review.

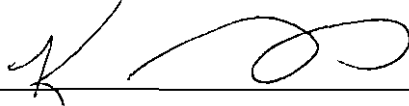
CONCLUSION

Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit; 26 USC §5301 (c) refilling of liquor bottles (1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provision of this chapter (3 Counts). Therefore, the Commission **suspends the license for four (4) days of which four (4) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

By decision dated November 9, 2011, the Commission had previously ordered a three (3) day license suspension but had held the suspension in abeyance for a period of two (2) years provided no further violations occurred. Based on the violation found above, the licensee violated the conditions of that three (3) day suspension being held in abeyance. The Commission hereby orders that suspension to be served. The licensee will serve a total three (3) days.

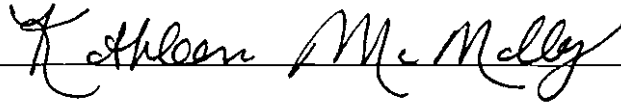
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro, Chairman _____



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

Kathleen McNally, Commissioner _____



DATE: August 28, 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
- Nicholas Velez, Investigator
- Mark Kenny, Investigator
- Thomas J. Freda, Esq. via facsimile 617-494-0433
- Administration
- File