

*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, Massachusetts 02114
Tel. (617) 727-3040
Fax: (617) 727-1510*

Jean M. Lorizio, Esq.
Chairman

NOTICE OF SUSPENSION

December 13, 2018

**AVIARCH, LLC D/B/A COLONIAL PARK LIQUORS
35 LOWELL ST.
WILMINGTON, MA 01887
LICENSE#: 1482-00009
VIOLATION DATE: 9/27/2018
HEARD: 12/11/2018**

After a hearing on December 11, 2018, the Commission finds Aviarch, LLC d/b/a Colonial Park Liquors 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 the holder of a special permit under § 22A.

The Commission suspends the license for a period of seven (7) days of which five (5) days will be served, and two (2) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.

The suspension shall commence on Wednesday, February 6, 2019 and terminate on Sunday, February 10, 2019. The license will be delivered to the Local Licensing Board or its designee on Wednesday, February 6, 2019 at 9:00 A.M. It will be returned to the Licensee on February 11, 2019.

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 which must be signed by the Licensee and a Massachusetts Licensed Accountant.

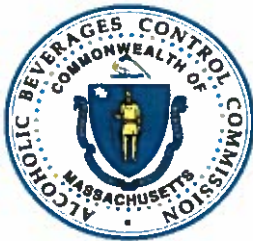
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio
Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Joseph Di Cicco, Investigator
Dennis Keefe, Investigator
Danilo J. Gomez, Esq. via facsimile 978-655-7952
Administration, File



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DECISION

**AVIARCH, LLC D/B/A COLONIAL PARK LIQUORS
35 LOWELL ST.
WILMINGTON, MA 01887
LICENSE#: 1482-00009
VIOLATION DATE: 9/27/2018
HEARD: 12/11/2018**

Aviarch, LLC d/b/a Colonial Park 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 hearing on Tuesday, December 11, 2018, 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 the holder of a special permit under § 22A. Prior to the commencement of the hearing, the Licensee stipulated to the violation alleged in Investigator Di Cicco's report.

The following documents are in evidence:

1. Investigator Di Cicco's Investigative Report;
2. Licensee's Stipulation of Facts; and
3. Photographs of Alcohol Inventory.

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

The Commission took Administrative Notice of the Licensee's record.

FINDINGS OF FACT

1. On Thursday, September 27, 2018, at approximately 8:30 p.m., Investigators Keefe and Di Cicco ("Investigators"), conducted an investigation of the business operation of Aviarch, LLC d/b/a Colonial Park Liquors to determine the manner in which its business was being conducted, and to investigate a complaint filed with this Commission.
2. Investigators entered the licensed premises and observed approximately ten (10) cases of 16-ounce cans of Budweiser and Bud Light beer on display, available for purchase.

Investigators observed that the cans of beer on display did not have a five-cent redemption stamp on them.

3. Investigators made contact with Ken, the clerk on duty. Investigators asked Ken if he could contact the owner, Paresh Patel. Mr. Patel spoke with Investigators and said he would come down to the licensed premises.
4. After his arrival at the store, Investigators asked Mr. Patel about the alcohol inventory, specifically about the cans of beer without a five-cent redemption stamp.
5. Patel informed Investigators that he purchased the 16-ounce cans of Budweiser and Bud Light beer in New Hampshire. He stated that cost of purchasing the beer in New Hampshire was approximately \$9.00 less per case than the cost if he had purchased the beer from an approved Massachusetts distributor.
6. Investigators informed Mr. Patel of the violation and that a report would be filed with the Chief Investigator for review.
7. Administrative review of the Licensee's records indicates that the Licensee received a 6-day suspension, which was held in abeyance for 2 years, for the same violation type which occurred in 2013.

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 the holder of a special permit under § 22A. Therefore, the Commission **suspends the license for a period of seven (7) days of which five (5) days will be served, and two (2) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Elizabeth A. Lashway, Commissioner

Jean M. Lorizio, Chairman

Dated: December 13, 2018

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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