



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

Jean M. Lorizio, Esq.
Chair

NOTICE OF REVOCATION

May 16, 2023

**MONSIEUR TOUTON SELECTION OF MASSACHUSETTS LTD.
230 LOWELL STREET, UNIT 21
WILMINGTON, MA 01887
LICENSE#: WA-LIC- 000222
VIOLATION DATES: VARIOUS IN 2018-2019
HEARD: 5/17/2022**

After a hearing on May 17, 2022, the Commission finds Monsieur Touton Selection of Massachusetts Ltd. ("Licensee" or "Touton-MA") violated

- 1) M.G.L. Ch. 138, § 18B No person who holds a certificate under this section shall hold or be granted a license under section 18;

The Commission **REVOKES** the license of **Monsieur Touton Selection of Massachusetts Ltd. EFFECTIVE FORTHWITH.**

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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यह दस्तावेज़ महत्वपूर्ण है और इसका तुरंत अनुवाद किया जाना चाहिए
Dokiman sa a enpòtan epi li ta dwe tradwi touswit
‘Đây là tài liệu quan trọng và cần được dịch ngay’
ឯកសារនេះសំខាន់ណាស់ ហើយត្រូវបកប្រែជាបន្ទាន់។

2021-000120--ad-enf

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Nicholas Velez, Investigator
Christopher Temple, Investigator
Joshua Segal, Esq.
Administration, File



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Alcoholic Beverages Control Commission
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DECISION

**MONSIEUR TOUTON SELECTION OF MASSACHUSETTS LTD.
230 LOWELL STREET, UNIT 21
WILMINGTON, MA 01887
LICENSE#: WA-LIC-000222
VIOLATION DATES: VARIOUS IN 2018-2019
HEARD: 5/17/2022**

Monsieur Touton Selection of Massachusetts Ltd. (“Licensee” or “Touton-MA”) holds an all alcoholic beverages wholesaler license issued pursuant to M.G.L. c. 138, § 18. The Alcoholic Beverages Control Commission (“ABCC” or “Commission”) held a remote hearing via Microsoft Teams on Tuesday, May 17, 2022, regarding alleged violations of:

- 1) M.G.L. Ch. 138, § 18B No person who holds a certificate under this section shall hold or be granted a license under section 18;
- 2) M.G.L. Ch. 138 § 18 In order to ensure the necessary control of traffic in alcoholic beverages for the preservation of the public peace and order, the shipment of such beverages into the commonwealth, except as provided in this section and section 19F, is hereby prohibited;
- 3) M.G.L. Ch. 138, § 18 All alcoholic beverages, wines and malt beverages purchased by any licensee under this section, and all alcoholic beverages, wines and malt beverages shipped into the commonwealth pursuant to any such purchase, shall be warehoused at the warehouse facilities of such licensee and held in his physical possession at such warehouse prior to reshipment to persons holding licenses under section 12 or section 15;
- 4) M.G.L. Ch. 138, § 23 Transfer of the privilege of a license without proper approval.

Prior to the commencement of the hearing, the Licensee signed a Stipulation of Facts regarding M.G.L. Ch. 138, § 18B, as alleged in Investigator Velez’s Report.¹

¹ In contemplation of the Stipulation of Facts being signed by the Licensee, the Enforcement Division withdrew a charge of a violation of M.G.L. Ch. 138, § 2, to wit: M.G.L. Ch. 138, § 77.

The following documents are in evidence:

1. Investigator Velez's Report;
 2. Monsieur Touton Selection of Massachusetts, Ltd. M.G.L. Chapter 138 §18 Wholesale Commission file;
 3. Monsieur Touton Selection of Massachusetts, Ltd. M.G.L. Chapter 138 §20 Storage Permits for facilities in Agawam and Framingham;
 4. Monsieur Touton Selection, Ltd. M.G.L. Chapter 138 § 18B Certificate of Compliance Commission file;
 5. Monsieur Touton Selection, Ltd. New York State Liquor Authority Licensee file;
 6. Lone Star Wine & Spirits LLC M.G.L. Chapter 138 § 18B Certificate of Compliance Certificates;
 7. Fond du Lac Storage M.G.L. Chapter 138 § 18B Certificate of Compliance Printout;
 8. Poulin Enterprises, Inc. M.G.L. Chapter 138 § 22 Transportation Permits;
 9. Letter, dated 2/5/2020, surrendering Monsieur Touton Selection, Ltd.'s Certificate of Compliance § 18B license;
 10. Photograph of exterior of Monsieur Touton Selection of Massachusetts, Ltd Framingham storage facility;
 11. Photographs of interior of Monsieur Touton Selection of Massachusetts, Ltd Framingham storage facility;
 12. Photograph of the door to Monsieur Touton Selection of Massachusetts, Ltd wholesale office in Wilmington, Massachusetts;
 13. Email to Investigator Velez, dated 2/11/2020;
 14. Invoices;
 15. Check Deposits;
 16. Monsieur Touton Selection of Massachusetts, Ltd Bank Statements;
 17. Lone Star Wine and Spirits Invoices;
 18. Email Communications;
 19. Checks paid to Monsieur Touton Selection;
 20. Checks paid to Monsieur Touton – Mass from Wegmans;
 21. Email Communication;
 22. Follow up response on March 2, 2020 with a list of follow-up questions;
 23. Licensee's Partial Stipulation of Facts.
- A. Licensee's Hearing Memorandum.

There is one (1) audio recording of this hearing and four (4) witnesses testified.

FINDINGS OF FACT

1. Monsieur Touton Selection of Massachusetts Ltd. (“Licensee” or “MMA”) holds an all-alcoholic beverages wholesaler license issued pursuant to M.G.L. c. 138, § 18, approved by the Commission in July 1999. MMA has an office at 230 Lowell Street, Unit 21, Wilmington, Massachusetts. (Exhibits 1, 2)
2. MMA’s officers, last approved by the Commission, are Guillaume Touton, President, Secretary and Director; and Amy Collins, Treasurer and Director. MMA is 100% owned by Touton Holdings, Ltd. (“Touton Holdings”). (Testimony, Exhibits 1, 2)
3. Touton Holdings is 100% owned by Guillaume Touton. (Exhibits 1, 2)
4. Issued pursuant to M.G.L. c. 138, § 20, MMA holds a storage permit with warehouse locations at: 115 Beaver Street, Suite 115, Framingham, Massachusetts, and 53 Ramah Circle South, #2, Agawam, Massachusetts. (Exhibits 1, 3)
5. Monsieur Touton Selection, Ltd. (“MNY”) held a Certificate of Compliance issued pursuant to M.G.L. c. 138, § 18B, approved by the Commission on March 1, 2018. MNY’s office is located at 129 West 27th Street, #9B, New York City, New York and its shipping address is 78 Saw Mill Pond Road, Edison, New Jersey. (Exhibits 1, 4)²
6. Records from the New York State Liquor Authority (“NYSLA”) indicate MNY’s officers are Guillaume Touton, President; Maxime Touton, Vice President; Constance Oehmler, Secretary and Treasurer; and Francois Chateau, Trustee. MNY is 100% owned by Touton Holdings Ltd. (Exhibit 5)
7. The Licensee stipulated that “[o]n various dates in 2018 and 2019, both the Licensee, Monsieur Touton Selections of Massachusetts Ltd. and Certificate of Compliance holder Monsieur Touton Selection, Ltd. (NY), were fully owned by Touton Holdings, with Guillaume Touton listed as President, Secretary and Director.” (Exhibit 23)

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.

² On February 5, 2020, MNY surrendered its § 18B Certificate of Compliance to the Commission. (Exhibit 9)

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). “Massachusetts law requires that alcohol products sold in this State by manufacturers or suppliers be sold initially to licensed Massachusetts wholesalers. Those wholesalers in turn sell to retailers who sell to consumers. G.L. c. 138, §§ 12, 15, 18, 18B, 19.” Heublein, Inc. v. Capital Distributing Co., 434 Mass. 698, 699 (2001); see Miller Brewing Co., 56 Mass. App. Ct. at 808-809.

Section 23 provides that whenever the Commission determines that any holder of a license or permit originally issued by it, “fails to maintain compliance with the requirements of this chapter, . . . it may, after hearing or opportunity therefor, modify, suspend, revoke or cancel such license or permit.” M.G.L. c. 138, § 23. See Number Three Lounge, Inc. v. Alcoholic Beverages Control Commission, 7 Mass. App. Ct. 301 (1979) (affirming decision to revoke license). Section 23 authorizes the imposition of a suspension or revocation for noncompliance. See Cleary v. Cardullo’s, Inc., 347 Mass. 337, 346-350 (1964).

The Commission’s finding of a violation 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).

Here, the Licensee is charged with a violation of M.G.L. c. 138, § 18B: No person who holds a certificate under this section shall hold or be granted a license under section 18.

M.G.L. c. 138, § 18B instructs “[v]iolation of the provisions of this section *shall be cause for the revocation of all certificates and licenses held by the certificate holder and his immediate family.* In the case of a corporate certificate holder or licensee any person or his immediate family who owns more than ten per cent of the stock of such corporation shall be deemed to be the certificate holder or licensee under this section.” (Emphasis added) M.G.L. c. 138, § 18B.

Both MMA and MNY are wholly owned by Touton Holdings, Ltd. Touton Holdings is solely owned by Guillaume Touton. (Exhibits 2, 5)

The Commission is persuaded by the evidence and the Licensee admitted that a violation of M.G.L. c. 138, § 18B did occur. The Licensee stipulated that on various dates in 2018 and 2019, the Licensee, Monsieur Touton Selections of Massachusetts Ltd., and Certificate of Compliance holder Monsieur Touton Selection, Ltd. (NY), were wholly owned by Touton Holdings, which is 100% owned by Guillaume Touton. (Exhibit 23)

The Commission is without discretion in this matter and must revoke the Licensee’s § 18 wholesaler license. M.G.L. c. 138, § 18B; see *e.g.* Griffin’s Brant Rock Package Store, Inc. v. Alcoholic Beverages Control Commission, 12 Mass. App. Ct. 768, 774 (1981) (mandatory “shall”

removes discretion from the commission to impose greater or lesser penalties) citing City Bank & Trust Co. v. Board of Bank Incorporation, 346 Mass. 29, 31 (1963).


CONCLUSION

Based on the evidence, the Commission finds the Licensee violated M.G.L. Ch. 138, § 18B: No person who holds a certificate under this section shall hold or be granted a license under section 18. Therefore, the Commission **REVOKES** the §18 Wholesalers License of Monsieur Touton Selection of Massachusetts, Ltd.

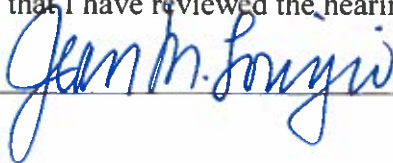
The Commission having found that the Licensee violated § 18B, revocation is dispositive, and it need not determine the merits of the remaining charges.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Crystal Matthews, Commissioner 

Deborah A. Baglio, Commissioner 

I, the undersigned, hereby certify that I have reviewed the hearing record.

Jean M. Lorizio, Chairman 

Dated: May 16, 2023

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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