

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

Steven Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

DECISION

Re: Delmy Ramirez
DBA: Conchagua Bar
Premise: 3 Mill Street
City/Town: Worcester, MA
License #: 150800519
Heard: March 8, 2011

Delmy Ramirez dba Conchagua Bar (the "Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, March 8, 2011, regarding an alleged violation of M.G.L. c.138, §23 (5 counts), M.G.L. c.94, §186 (7 counts), and 204 CMR 2.05 (2) (1 count). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Rose Bailey's report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts;
2. Chief Investigator Rose Bailey's report;
3. Five (5) Bottles of Alcohol pertaining to Ch. 138, §23;
4. Seven (7) Bottles of Alcohol pertaining to Ch. 94, §186; and
5. Three (3) Bottles of Alcohol pertaining to 204 CMR 2.05 (2).

There is one (1) tape of this hearing.

FACTS

1. On Thursday, November, 4, 2010, at approximately 9:35 p.m., Investigator Kujawski and Investigator Bailey entered Delmy Ramirez dba Conchagua Bar to investigate a complaint filed with the Commission.
2. Upon entering the premises, the investigators identified themselves to the bartender and asked to speak to the manager on record. The manager, Delmy Ramirez, stated she was the owner.
3. Investigator Kujawski asked Ms. Ramirez where she purchased alcoholic beverages and she stated A & E and Atlas.
4. She was then asked to provide the invoices for the alcoholic beverages.
5. Subsequent to this, an inspection of the bar area revealed five (5) bottles of alcoholic beverages with a sticky residue like substance on the exterior of the alcoholic beverage bottles.

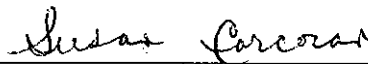
6. All five (5) bottles of alcoholic beverages were placed to the side of the bar area to be taken as evidence.
7. Based upon the investigator's experience and training, the sticky residue like substance, in their opinion, was evidence that the alcoholic beverages had been purchased from a \$15 retail package store.
8. Investigator Kujawski again asked Ms. Ramirez where she had purchased the alcoholic beverages and she stated she sometimes purchased the alcohol from a package store.
9. While inspecting the bar area, the Investigators observed multiple bottles of alcoholic beverages containing a foreign matter, specifically fruit flies.
10. Investigator Kujawski observed in an adjacent room, a funnel and two bottles of 1.75 liter Jose Cuervo Tequila and a 1 liter bottle of Jose Cuervo Tequila.
11. Ms. Ramirez admitted to the Investigator that she pours alcohol from the larger bottle into the smaller bottles which is in direct violation of 26 USC §5301 (c).

CONCLUSION

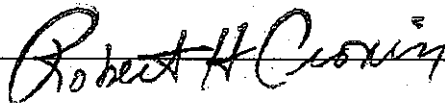
Based on the evidence, the Commission finds the licensee violated M.G.L. c.138, §23 (5 counts), M.G.L. c.94, §186 (7 counts), and 204 CMR 2.05 (2) (1 count). Therefore, the Commission **suspends the licensee's license for thirteen (13) days of which five (5) will be served and eight (8) will be held in abeyance for a period of one (1) year provided no further violations of Chapter 138 or Commission Regulations occur.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner



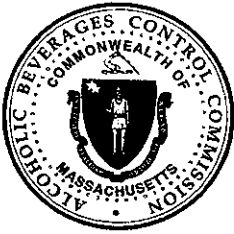
Robert H. Cronin, Commissioner



Dated: April 28, 2011

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
Rose Bailey, Investigator
File



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Department of the State Treasurer
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NOTICE OF SUSPENSION

April 28, 2011

Re: Delmy Ramirez
DBA: Conchagua Bar
Premise: 3 Mill Street
City/Town: Worcester, MA
License #: 150800519
Heard: March 8, 2011

After a hearings on March 8, 2011, the Commission finds Delmy Ramirez dba Conchagua Bar in violation of M.G.L. c.138, §23 (5 counts), M.G.L. c.94, §186 (7 counts), and 204 CMR 2.05 (2) (1 count). The Commission **suspends the licensee's license for a total of five (5) days to be served.** The suspension shall commence on **Wednesday, June 8, 2011 and terminate on Sunday, June 12, 2011.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, June 8, 2011 at 9:00 A.M. It will be returned to the licensee Monday, June 13, 2011.

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 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
Rose Bailey, Investigator
File.