

Re: Newton Beverage Shop, Inc.
D/B/A: All Star Liquors
Premise: 1220 Chestnut Street
City/Town: Newton, MA 02464
License #: 080000087
Heard: June 29, 2010

DECISION

Newton Beverage Shop, Inc. dba All Star Liquors (“the licensee”) holds an all alcohol license issued pursuant to Massachusetts General Laws chapter 138, §15. The Alcoholic Beverages Control Commission (“the Commission”) held a hearing on June 29, 2010 regarding an alleged violation of Massachusetts General Laws c. 138, §23. Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator John Carey’s investigative Report.

The following documents are in evidence:

1. Licensee’s Stipulation of Facts; and
2. Investigative Report of Investigator John Carey

There is one (1) tape of this hearing.

FACTS

1. On, April 22, 2010 at approximately 10:45 a.m., Commission Investigators investigated the business operation of Newton Beverage Shop, Inc., d/b/a All Star Liquors.
2. The investigation was in response to a complaint filed with the Investigative Enforcement Division.
3. On April 22, 2010, Investigators Michael Teehan and John Carey went to B.J.’s in Dedham and talked with an assistant manager, Nancy James, they asked her if she was aware of Newton Beverage Shop and if the licensee was buying their alcohol at this location. She told Investigators that she was unaware if this particular licensee had been in the store buying alcoholic beverages but she was aware of the restriction of the retail license at B.J.’s to be selling to other licensees. When Investigators showed her a computer printout that had been provided by the person making the complaint, she informed Investigators that it looked like a B.J.’s member record and looked up the member number that was on it. That number was one that was assigned to Newton

Beverage Shop. She informed Investigators that Newton Beverage Shop was a corporate member of B.J.'s and had several cards issued to employees with different numbers. She was asked if she could tell who the main contact was. She told Investigators that it was a person by the name of Jeffrey Brown who was known to be the owner of Newton Beverage Shop. She was then asked if she could give Investigators a printout of all the purchases made by Jeffrey Brown and the number assigned to him. She told us that she was unable to do that but it something that the home office could do and later report to Investigators.

4. After Investigators exited the premises they proceeded to Newton Beverage Shop in Newton. Upon arrival at Newton Beverage Shop a employee stated that Jeff Brown was not in and was out for a few days. Investigator Carey left his business card with the clerk and asked to have Mr. Brown call upon his return. Investigators then left Newton Beverage Shop.

5. At approximately 3:00 p.m. on April 22, 2010, Investigators received a call from Nancy James at B.J.'s and were informed that a lawyer would contact investigators on April 26, 2010 about the information previously requested.

6. On April 23, 2010, at approximately 2:30 p.m., Investigator Carey received a phone call from Jeff Brown of Newton Beverage Shop. A conversation took place where Mr. Brown was informed of the information received by the investigators. Mr. Brown did announce that he has been purchasing from B.J.'. Brown also added that he has had a very difficult year with the wholesalers. Brown is presently not listed bu they are not extending credit. Investigators informed Brown that they would be writing a report and would get back to him at a later date.

7. On April 26, 2010, a call was not received from B.J.'s as planned. Investigators made an attempt to contact the store but were unsuccessful. A demand letter requesting the information of all purchases of alcoholic beverages by any member number associated with Newton Beverage Shop. The letter was then delivered to B.J.'s in Dedham at approximately 3:00 p.m. On April 27, 2010, Investigators received a phone call from Attorney Howard Wayne of Wayne, Richard, & Hurwitz, representative of B.J.'s, and said he would be getting information requested to the investigators as soon as possible. A package was received on April 30, 2010 from Mr. Wayne's associate, Eugene R. Richard that contained three (3) printouts from three (3) different member numbers associated with Newton Beverage Shops.

8. In the first report provided by the person making the complaint, the Member Number is **05850024425**. This is the member number for Jeff Brown, the owner of Newton Beverage Shop. In the calendar year January 1, 2009 through December 31, 2009, Mr. Brown made twenty-seven (27) purchases of alcohol at B.J.'s. The second report is Member Number **05850223177**. That is the same number of the person who made the complaint. During the same time period, there were ten (10) purchases of alcoholic beverages for this member. The printout that I was provided by this member shows that there were two (2) additional purchases made in 2010. Investigators were also

supplied with a third Member Number **05850176683**. During the same calendar year, there were two (2) alcoholic beverages purchases.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated Massachusetts General Laws c. 138, §23. As the licensee has had no previous violations the Commission **suspends the license for forty-three (43) days of which ten (10) days will be served and 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

Susan Corcoran, Commissioner _____

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

Robert H. Cronin, Commissioner _____

Dated in Boston, Massachusetts this 10th day of August 2010.

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 days of receipt of this decision.

cc: Newton Licensing Board
Frederick G. Mahony, Chief Investigator
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