

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

ERCOLI INC. d/b/a VIA ALTO
27 HIGH STREET
CLINTON, MA 01510
LICENSE#: 023400043
VIOLATION DATE: 04/11/2013
HEARD: 04/01/2014

Ercoli Inc. d/b/a Via Alto (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, April 1, 2014, regarding an alleged violation of 204 CMR 2.05 (2) Permitting an Illegality on the licensed premises, to wit: c. 138 §34 Sale or Delivery of an Alcoholic Beverage to a person under twenty-one (21) years of age. Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Bailey's Report.

The following documents are in evidence as exhibits:

1. Licensee's Stipulation of Facts; and
2. Investigator Bailey's Compliance Check Field Report dated April 11, 2013; and
3. Notice of Violation dated April 11, 2013.
 - A. Photo depicting the Licensee playing college football;
 - B. Photo depicting the Licensee at present;
 - C. Medical Records and Reports of the Licensee dated December 13, 2013 (6 pages); and
 - D. Licensee's Declaration of Financial Status (47 pages).

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

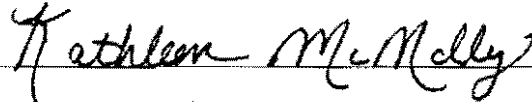
FACTS

1. On Thursday, April 11, 2013, at approximately 7:17 p.m., Investigators Bailey and Doyle conducted an investigation of the business operation of Ercoli Inc. d/b/a Via Alto.
2. An underage operative, working with investigators, purchased an alcoholic beverage, a bottle of Bud Light beer for three dollars (\$3.00). The underage operative was not asked for identification.

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: c. 138 §34 Sale or Delivery of an Alcoholic Beverage to a person under twenty-one (21) years of age. The Commission, upon deliberation, took into consideration the extremely serious medical and financial circumstances of the licensee. Therefore, the Commission **suspends the license for one (1) day of which one (1) day 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

Kathleen McNally, Commissioner 

Susan Corcoran, Commissioner 

Dated: April 7, 2014

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: Gerard T. Leone, Jr. Esq. via facsimile 855-816-1946
Local Licensing Board
Frederick G. Mahony, Chief Investigator
Rose Bailey, Investigator
Brad Doyle, Investigator
Administration
File