

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF BUSINESS REGULATION  
1511 PONTIAC AVENUE  
JOHN O. PASTORE CENTER  
CRANSTON, RI 02920**

<b>IN THE MATTER OF:</b>	:	
	:	
<b>STATE BEVERAGE, LLC</b>	:	<b>DBR No. 11-L-0086</b>
	:	
	:	
<b>RESPONDENT</b>	:	

**EMERGENCY ORDER TO CEASE AND DESIST FROM UNLICENSED  
ACTIVITY AND SUMMARILY SUSPEND CLASS B WHOLESALER LICENSE  
AND NOTICE OF OPPORTUNITY FOR HEARING**

Pursuant to R.I. Gen. Laws §§ 3-2-2, 3-5-21, 42-35-9, and 42-35-14(c), *Commercial Licensing Regulation 8-Liquor Control Administration* (“CLR 8”) and *Central Management Regulation 2 – Rules of Procedure for Administrative Hearings* (“CMR 2”), the Director (“Director”) of the Department of Business Regulation (“Department”) hereby orders that State Beverage, LLC, currently located at 15 Morgan Mill Road, Unit A, in Johnston, Rhode Island, cease and desist from all business activity, and hereby suspends and revokes Respondent’s License (the term “License” is hereafter defined and applies to this entire Order). This Order is effective upon issuance.

Upon receipt of a written request for a hearing within thirty (30) days of the date of this Order, a Hearing Officer will be appointed by the Director and the matter will be set down for hearing no less than twenty (20) and no more than sixty (60) days from the date such request is received. The Director will promptly notify the Respondent of the time and place for any hearing. If no hearing is requested and none is ordered by the Director, this Order shall become permanent thirty (30) days after entry and shall remain in effect unless or until it is modified or vacated by the Director or his successor.

The Director makes the following findings of fact and conclusions of law with respect to entry of this Emergency Order:

## **I. FACTS**

A. Respondent has a Wholesaler License Class B, Number 13 issued by the Department of Business Regulation (the "Department") for a location at 32 Mechanic Avenue in Woonsocket, Rhode Island (the "Premises") that authorizes Respondent to keep for sale and sell alcoholic beverages at wholesale at the Premises to another license holder, and to transport such beverages and deliver the same from the place of sale to another licensed place within the state, or to a common carrier for such delivery as set forth in R.I. Gen. Laws §3-6-10 ("License").

B. On or about January 2011, Respondent, through its owner, Eric Frenze, verbally informed Department personnel that Respondent may need to relocate its business during the calendar year.

C. On or about January 2011, Department personnel verbally informed Respondent that it would need to apply for a new license pursuant to R.I. Gen. Laws §3-5-17 before it could relocate.

D. In August 2011, Department personnel received several complaints that Respondent has been delinquent on paying alcohol manufacturers and that Respondent had relocated its business operations.

E. In August 2011, Department personnel were informed by the Division of Taxation that Respondent is delinquent on its state taxes.

F. Based upon the Department's investigation of the complaints noted above, it was determined that Respondent relocated its business from the Premises to its current location at 15 Morgan Mill Road, Unit A, in Johnston, Rhode Island.

G. Based upon a review of the Department's records, Respondent has not submitted an application to the Department under either R.I. Gen. Laws §§3-5-17 or 3-5-19 for a new license or to relocate its business.

H. Based upon a review of the Department's records, Respondent does not hold a Wholesaler License Class B at 15 Morgan Mill Road, Unit A, in Johnston, Rhode Island.

I. Upon information and belief, Respondent is engaged in unlicensed activity at 15 Morgan Mill Road, Unit A, in Johnston, Rhode Island, that would require a Wholesale License Class B issued by the Department for that location.

## **II. STATUTORY AUTHORITY**

A. R.I. Gen. Laws § 3-1-5 states that "[t]his title shall be liberally construed in aid of its declared purpose which declared purpose is the promotion of temperance and for the reasonable control of the traffic in alcoholic beverages."

B. R.I. Gen. Laws § 3-5-1 states that "[n]o person shall at any time...sell or suffer to be...sold or keep or suffer to be kept on his or her premises or possession or under his or her charge for the purpose of sale within this state any beverage unless licensed to do so as provided in this title; and except as provided in this title no person shall import, or suffer to be imported beverages into this state."

C. R.I. Gen. Laws § 3-2-2(a) states that the Department "has general supervision of the conduct of the business of...keeping for sale and selling beverages" and R.I. Gen. Laws § 3-2-2(b) further states that the Department "shall supervise and inspect all licensed places to enforce the provisions of this title and the conditions, rules and regulations which the [D]epartment establishes and authorizes."

D. R.I. Gen. Laws § 3-5-21(a) provides that every license is subject to revocation or suspension and a licensee is subject to fine by the Department, on its own motion, for breach by the holder of the license of the conditions on which it was issued or for violation by the holder of the license of any statute, rule or regulation applicable. See also *Kmiec v. Liquor Control Hearing Board*, 140 A.2d 133, 136 (R.I. 1958).

E. R.I. Gen. Laws § 42-35-14(c) states, in pertinent part that, “[I]f the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of license may be ordered pending proceedings for revocation or other action.”

F. R.I. Gen Laws §3-5-20.1 state that “[t]he licensee shall be liable under any rules and regulations that the Department should impose, establish and authorize.”

G. R.I. Gen. Laws §§3-5-17 and 3-5-19 requires the Department to provide a notice to certain remonstrants and hold a hearing prior to approving a new license or requested relocation.

H. CMR 2 Section 4(B) provides that the Department, on its own authority, may initiate an investigation and take action against a licensee.

I. Under CLR 8 Rule 15 the Department may initiate a hearing on its own motion to fine, revoke or suspend any type of alcoholic beverage license for any violation of Title 3 of the General laws of Rhode Island or these regulations. See also *Belconis v. Brewster*, 65 R.I. 279, 14 A.2d 701 (1940).

### **III. FINDINGS AND STATUTORY VIOLATIONS**

A. Based on the above facts and violation of statutory and regulatory requirements, the Director finds that Respondent’s willful disregard of statutory and

regulatory requirements is detrimental to the public health, safety, and welfare and emergency action is required to enforce compliance by Respondent.

B. Based on the foregoing, the Department has reason to believe that Respondent has been engaged in continuous unlicensed activity since it relocated from the Premises to 15 Morgan Mill Road, Unit A in Johnston and is therefore in violation of various provisions of Title 3, including but not limited to, R.I. Gen. Laws §§3-5-1 and 3-5-20.1, and any and all related rules and regulations.

#### **IV. ORDER**

THEREFORE, based upon the foregoing, the Director ORDERS that:

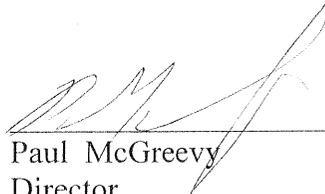
1. The Respondent's License is hereby suspended and revoked.
2. The Respondent shall immediately cease and desist operating its business at 15 Morgan Mill Road, Unit A, Johnston, Rhode Island or any other location pursuant to R.I. Gen. Laws § 42-35-14(c).
3. Within two (2) days from the date of this Order, Respondent shall provide the Deputy Director of Commercial Licensing with a complete written inventory of all of the alcoholic beverages located at 15 Morgan Mill Road, Unit A, Johnston Rhode Island and shall not dispose of such inventory until further instructed in writing by the Deputy Director of Commercial Licensing or her legal counsel.
4. Respondent shall immediately cancel all outstanding orders of alcoholic beverages and reject any and all deliveries of alcoholic beverages, and shall provide the Deputy Director of Commercial Licensing an accounting of all such activity within two (2) days from the date of this Order..

5. Respondent is placed on notice that pursuant to R.I. Gen. Laws 3-6-13, a claim may be placed against Respondent's bond/surety company as a result of said legal violations. In addition, Respondent will pay all costs and damages incurred as a result of such violations.
6. R.I. Gen. Laws §3-6-17 includes imprisonment for not more than ninety (90) days for a violation of any provisions of said laws. Accordingly, a copy of this document is also being referred to the Rhode Island Department of Attorney General and Rhode Island State Police.

**The Director reserves his right to impose any monetary fines and penalties in connection with this matter.**

If you have any questions regarding the subject matter of this ORDER, please contact Louis A. DeQuattro, Jr., Esq, CPA at (401) 462-9537 and reference the case name and number.

Dated as of the 19<sup>th</sup> day of September 2011.

  
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Paul McGreevy  
Director

**CERTIFICATION**

I hereby certify on this 19th day of September, 2011 that a copy of the within Order was hand delivered to Eric Frenze at approximately 2PM at a meeting in the Legal Conference Room at the Department of Business Regulation at 1511 Pontiac Avenue, Cranston, RI 029020.

And by certified mail to the following:

State Beverage, LLC  
c/o Eric Frenze  
15 Morgan Mill Road, Unit A  
Johnston, RI

Eric Frenze  
6 Stillwater Drive  
North Scituate, RI 02857

And by electronic delivery to the following members of the Department of Business Regulation:

Maria L. D'Alessandro, Esq.  
Deputy Director

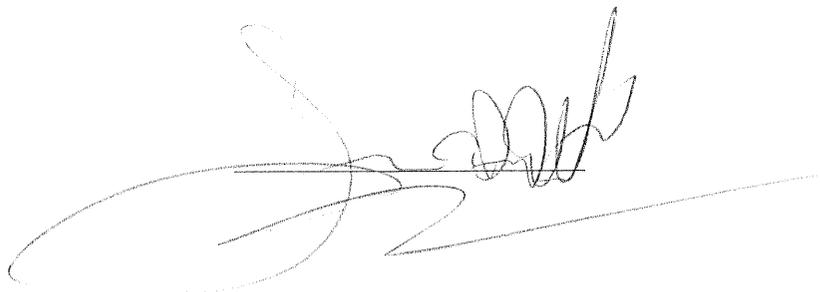
Louis A. DeQuattro, Jr., Esq., CPA  
Deputy Director & Executive Counsel

Linda Morton  
Commercial Licensing

and by facsimile to:

R.I. State Police  
401-444-1105  
311 Danielson Pike  
North Scituate, RI 02857

RI Department of Attorney General  
401-222-1302  
150 South Main Street  
Providence, RI 02903

A large, stylized handwritten signature in black ink, appearing to be 'Eric Frenze', is written over a horizontal line.