

**STATE OF VERMONT
DEPARTMENT OF LIQUOR AND LOTTERY
DIVISION OF LIQUOR CONTROL
BOARD OF LIQUOR AND LOTTERY**

**IN RE: FOUR QUARTERS BREWING
 D/B/A 5TH ANNIVERSARY FESTIVAL
 70 MAIN STREET
 WINOOSKI, VERMONT**

DOCKET NO. 2019-014

BOARD DECISION AND ORDER

The Board of Liquor and Lottery (“Board”) held a Formal Hearing in Montpelier, Vermont on May 8, 2019 to consider proposed sanctions against Licensee, Four Quarters Brewing’s Educational Sampling Event Permit for an alleged violation of General Regulation No. 16. Licensee appeared and was represented by Brian Eckert and Larry Williams, co-owners. The Department of Liquor and Lottery (“DLL”) appeared and was represented by Jacob A. Humbert, Esq., Assistant Attorney General. The Board rules as follows:

FINDINGS OF FACT

1. DLL alleges that the Licensee violated the following regulations on or about March 30, 2019:

General Regulation No. 16: No licensee or licensee employee, or any individual involved in the sale, preparation or furnishing of alcoholic beverages, or sale of tobacco products and/or the enforcement on the premises of the laws, rules and regulations of this State pertaining to the sale or furnishing of alcoholic beverages, or sale of tobacco products, shall consume or display the effects of alcohol or any illegal substance while in the performance of their duties.

2. DLL called Investigator Mathew Gonyo to testify. He has served for 18 years as a DLL investigator and has been a certified, full time law enforcement officer since 1997.

3. On March 30, 2019 at approximately 1:45 p.m., Investigator Gonyo, along with another DLL Investigator, conducted an inspection of Licensee's event, a beer-sampling event with approximately 15 vendors and about 200 attendees.
4. Investigator Gonyo observed one vendor's employee drinking from a Dunkin' Donuts coffee cup after that person dispensed beer from one or more taps into the coffee cup. To Investigator Gonyo, it appeared as a normal consumption of a drink, not a mere sample or taste.
5. Investigator Gonyo issued an administrative ticket corresponding to General Regulation No. 16, identified above in the amount of \$510.00.
6. Licensee contested the violation and the associated fine. At the Hearing, Licensee agreed that the the violation occurred as DLL alleged.

CONCLUSIONS OF LAW

1. The Board is established as the paramount authority in the administration of Vermont's liquor statutes and regulations. *See Verrill, Jr. v. Daley, Jr.*, 126 Vt. 444, 446 (1967).
2. When passing upon the question of whether a license shall be sanctioned for the violation of a liquor statute or regulation, the Board sits as a tribunal with a judicial function to perform. Under Title 7, we have statutory authority to impose sanctions, including monetary penalties against at Licensee for violating the provisions of Title 7 or any regulation. *See In Re: Wakefield*, 107 Vt. 180, 190 (1935).
3. Licensee held an Education Sampling Permit pursuant to 7 V.S.A. §251 and is, therefore, subject to this Board's jurisdiction.
4. Licensee was properly notified of its alleged violations and of its right to appear at a hearing to respond to these alleged violations consistent with 3 V.S.A. §809(a)-(c). The Hearing was held, all necessary parties appeared, and the evidence closed on May 8, 2019.

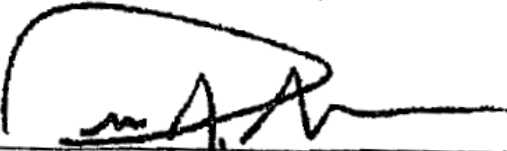
5. DLC must prove all alleged violations by a preponderance of the evidence. If any violation(s) are found, then the Board has concluded that DLC has met its burden. Notably, Licensee does not contest the alleged violation. The Board notes that the sponsor of sampling events, such as this one, is responsible for the conduct of its vendors and their employees as the license holder.
6. Consistent with the above *Findings of Fact*, the Board concludes that Licensee did violate General Regulation No. 16.
7. Since an Education Sampling Permit is for a limited, and now lapsed duration of time, there is no license to suspend or revoke. A monetary penalty is appropriate, however. Under 7 V.S.A. §210, “[a]s an alternative to and in lieu of the authority to suspend or revoke any permit or license, the liquor control board shall also have the power to impose an administrative penalty of up to \$2,500.00 per violation against a [...] holder of a first, second or third class license for a violation of the conditions under which the license was issued or of this title or of any rule or regulation adopted by the board. The administrative penalty may be imposed after a hearing before the board [.]” By contesting the violation, the Board is free to impose a sanction other than which is on the administrative ticket, \$510.00. The Board finds no reason to deviate from the traditional waiver fine for such violations.
8. The Board will, therefore, impose the penalty listed on the administrative ticket for violations of General Regulations Nos. 16, a fine of \$510.00.

ORDER

Based on the foregoing *Findings of Fact* and *Conclusions of Law*, Licensee, has violated General Regulations No. 16 and the Board hereby **ORDERS** that Licensee pay a fine of \$510.00.

DATED at Montpelier, Vermont this 9th day of May 2019.

VERMONT LIQUOR CONTROL BOARD



Thomas J. Lauzon, Member

RIGHT TO APPEAL

Within 30 days after copies of this Order have been mailed, either party may appeal to the Vermont Supreme Court by filing a Notice of Appeal with the Department of Liquor and Lottery and paying the requisite filing fee. *See* 3 V.S.A. § 815(a); V.R.A.P. 4 and 13(a).