

MASSACHUSETTS SUPREME JUDICIAL COURT

Craft Beer Guild, LLC v. Alcoholic Beverages Control Comm'n, 481
Mass. 506

117 N.E.3d 676 (2019) · Decided February 28, 2019

SUMMARY

The Massachusetts Supreme Judicial Court reviews alcoholic-beverage control commission decisions penalizing a beer wholesaler and a restaurant retailer for rebate and kickback arrangements. The court affirms the wholesaler's penalties for price discrimination and violation of the commission's commercial-bribery regulation, holding that the regulation remained valid after repeal of a related statutory provision. It reverses the retailer's penalty because the regulation did not apply to the retailer's acceptance of money derived from the wholesaler's kickbacks.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Gants, C.J.; Cypher, J.; Gaziano, J.; Kafker, J.; Lenk, J.; Lowy, J.
JURISDICTION	Massachusetts
DECIDED	February 28, 2019
DISPOSITION	other
PROCEDURAL POSTURE	Craft and Rebel separately sought judicial review under G. L. c. 30A, § 14, of Alcoholic Beverages Control Commission decisions imposing penalties for alleged statutory and regulatory violations. Superior Court judges granted the Commission's motions for judgment on the pleadings, and both appellants sought direct appellate review.
STANDARD OF REVIEW	Questions of law are reviewed de novo. Agency factual findings are reviewed under G. L. c. 30A, § 14, including the substantial-evidence standard. The court gives substantial deference to a reasonable agency interpretation of a statute and due weight to the agency's experience, technical competence, specialized knowledge, and discretionary authority, but does not defer to an incorrect statutory interpretation.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Craft Beer Guild, LLC, Rebel Restaurants, Inc. v. Alcoholic Beverages Control Commission

TOPICS

judicial review of agency action

administrative law

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PRACTICE AREAS

administrative law

alcoholic beverage regulation

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statutory interpretation

QUESTIONS PRESENTED

1. Whether Craft's differing and selectively offered rebates violated G. L. c. 138, § 25A (a), even though the rebates were paid indirectly through affiliated management or marketing companies.
2. Whether Craft's rebate arrangements constituted price discrimination despite the absence of differing front-line prices before rebates and despite Craft's contention that contemporaneous sales were not sufficiently established.
3. Whether 204 Code Mass. Regs. § 2.08 remained valid after repeal of G. L. c. 138, § 25A (b).
4. Whether the Commission properly found Craft liable under § 2.08 for giving money to third parties to induce retailers to purchase particular beer brands.
5. Whether § 2.08 applies to a licensed retailer merely because the retailer received inducement money.

HOLDINGS

1. Craft violated § 25A (a) by offering rebates selectively to favored retailers or their affiliated entities and by offering different rebate amounts to retailers purchasing the same brands of beer of like age and quality.
2. Section 2.08 remains valid because it is reasonably harmonized with the Liquor Control Act and furthers the legislative purpose of preventing tied houses, covert commercial bribery, and unfair control of retail liquor outlets.
3. Craft violated § 2.08 by giving money to third-party management and marketing companies to induce them to persuade licensed retailers to purchase particular Craft-distributed beer brands; the target retailers need not themselves receive the money.
4. Rebel did not violate § 2.08 solely by receiving money as an inducement to purchase particular beer brands because the regulation prohibits giving or permitting money to be given, not receiving an inducement.

KEY QUOTATIONS

"Duly promulgated regulations of an administrative agency are presumptively valid and 'must be accorded all the deference due to a statute.'" (481 Mass. at 520)

"In sum, because 204 Code Mass. Regs. § 2.08 can be read harmoniously with the legislative mandate underlying G. L. c. 138, it remains valid despite the repeal of § 25A (b)." (481 Mass. at 523)

"Here, the commission's decision against Rebel was premised upon an error of law." (481 Mass. at 527)

FACTUAL BACKGROUND

Craft, a licensed Massachusetts wholesaler of craft beer, negotiated kickback arrangements with beer suppliers, retailers, and affiliated management or marketing companies. It paid differing rebates, including payments of fifteen or twenty dollars per keg and annual payments for dedicated tap lines, while concealing the payments through invoices for purported services. Rebel Marketing, an affiliated management company for licensed retailer Rebel Restaurants, received twenty dollars per keg from Craft and passed a total of \$8,420 to Rebel. The Commission found Craft violated the price-discrimination statute and the commercial-bribery regulation, and found Rebel violated the regulation by accepting the payments.

PROCEDURAL HISTORY

The Commission found Craft violated G. L. c. 138, § 25A (a), by engaging in discriminatory rebate practices, and violated 204 Code Mass. Regs. § 2.08 by participating in a commercial-bribery scheme. It found Rebel violated § 2.08 by accepting money passed through from Craft. The Superior Court affirmed both agency decisions. The Supreme Judicial Court affirmed the judgment against Craft but reversed the judgment against Rebel and remanded for entry of judgment in Rebel's favor.

DISPOSITION

other

REMAND INSTRUCTIONS

As to Rebel, the case is remanded to the Superior Court with instruction to enter judgment in favor of Rebel. The judgment affirming the Commission's decision against Craft is affirmed.

CASES CITED

- Vaspourakan, Ltd. v. Alcoholic Beverages Control Comm'n, 401 Mass. 347, 351, 516 N.E.2d 1153 (1987)
- Police Dep't of Boston v. Kavaleski, 463 Mass. 680, 689-690, 978 N.E.2d 55 (2012)
- Commerce Ins. Co. v. Commissioner of Ins., 447 Mass. 478, 481, 852 N.E.2d 1061 (2006)
- Van Munching Co. v. Alcoholic Beverages Control Comm'n, 41 Mass. App. Ct. 308, 309-310, 670 N.E.2d 401 (1996)
- Kszepka's Case, 408 Mass. 843, 847, 563 N.E.2d 1357 (1990)
- United States v. Chambers, 291 U.S. 217, 222, 54 S. Ct. 434, 78 L. Ed. 763 (1934)
- Cabaret Enters., Inc. v. Alcoholic Beverages Control Comm'n, 393 Mass. 13, 16, 468 N.E.2d 612 (1984)
- New York State Liquor Auth. v. Bellanca, 452 U.S. 714, 717-718, 101 S. Ct. 2599, 69 L. Ed. 2d 357 (1981)
- Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 617 n.1, 138 N.E.2d 131 (1956)
- Pettengell v. Alcoholic Beverages Control Comm'n, 295 Mass. 473, 474-475, 4 N.E.2d 324 (1936)
- Seagram Distillers Co. v. Alcoholic Beverages Control Comm'n, 401 Mass. 713, 716, 519 N.E.2d 276 (1988)
- Opinion of the Justices, 368 Mass. 857, 862, 333 N.E.2d 414 (1975)

- National Distrib. Co. v. United States Treasury Dep't, Bureau of Alcohol, Tobacco & Firearms, 626 F.2d 997, 1008-1009 (D.C. Cir. 1980)
- Affiliated Distillers Brands Co. v. Sills, 56 N.J. 251, 258, 265 A.2d 809 (1970)
- Miller Brewing Co. v. Alcoholic Beverages Control Comm'n, 56 Mass. App. Ct. 801, 807, 780 N.E.2d 80 (2002)
- Rutledge v. Electric Hose & Rubber Co., 327 F. Supp. 1267, 1275 (C.D. Cal. 1971)
- Mullally v. Waste Mgt. of Mass., Inc., 452 Mass. 526, 531, 895 N.E.2d 1277 (2008)
- A.A. Poultry Farms, Inc. v. Rose Acre Farms, Inc., 881 F.2d 1396, 1407 (7th Cir. 1989)
- Pepin v. Division of Fisheries & Wildlife, 467 Mass. 210, 221, 4 N.E.3d 875 (2014)
- Massachusetts Fed'n of Teachers, AFT, AFL-CIO v. Board of Educ., 436 Mass. 763, 771, 767 N.E.2d 549 (2002)
- Taylor v. Housing Appeals Comm., 451 Mass. 149, 153-154, 883 N.E.2d 1222 (2008)
- Goldberg v. Board of Health of Granby, 444 Mass. 627, 632-633, 830 N.E.2d 207 (2005)
- Alliance to Protect Nantucket Sound, Inc. v. Energy Facilities Siting Bd., 457 Mass. 663, 681, 932 N.E.2d 787 (2010)
- American Distilling Co. v. Wisconsin Liquor Co., 104 F.2d 582, 585 (7th Cir. 1939)
- Arthurs v. Board of Registration in Med., 383 Mass. 299, 310, 418 N.E.2d 1236 (1981)
- Fitchburg Gas & Elec. Light Co. v. Department of Telecomm. & Energy, 440 Mass. 625, 641, 801 N.E.2d 220 (2004)
- Commonwealth v. Buccella, 434 Mass. 473, 482, 751 N.E.2d 373 (2001)
- Green v. Board of Appeal of Norwood, 358 Mass. 253, 258, 263 N.E.2d 423 (1970)
- TBI, Inc. v. Board of Health of N. Andover, 431 Mass. 9, 15, 725 N.E.2d 188 (2000)
- First Nat'l Bank of Boston v. Haufler, 377 Mass. 209, 211, 385 N.E.2d 970 (1979)
- Commonwealth v. Appleby, 389 Mass. 359, 380, 450 N.E.2d 1070 (1983)
- Heublein, Inc. v. Capital Distrib. Co., 434 Mass. 698, 699, 751 N.E.2d 410 (2001)
- Peoples Super Liquor Stores, Inc. v. Jenkins, 432 F. Supp. 2d 200, 204 (D. Mass. 2006)
- Canterbury Liquors & Pantry v. Sullivan, 16 F. Supp. 2d 41, 51 (D. Mass. 1998)

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