

INDUSTRY

Craft Brewers

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OVERVIEW

CRAFT BREWERS

From small start-up brewers to the top breweries in Massachusetts, Bowditch provides legal support to craft brewers, cider makers and others in the alcohol beverage industry. Our craft brewer clients regularly turn to our team members for guidance and representation with the following:

- Type and structure of corporate organization, including entity formation, stockholder/member agreements, equity plans and compliance
- Alcoholic Beverages Control Commission (ABCC) representation
- Employment, including counseling and advice, employee benefits and executive compensation and defense of all employment-related claims
- Real estate, including leasing, permitting, acquisitions and dispositions
- Environmental regulation and compliance, including wastewater management
- Intellectual property, including licensing and protecting the brewery's name, logo, slogan trademarks and other IP assets
- Insurance liability and litigation
- Tax planning and estate and succession planning

Bowditch is a member of the Brewers Association, and the Massachusetts Brewers Guild, an organization formed in 2007 to promote craft brewing and protect the interests of craft brewers in Massachusetts. In addition to being involved with industry organizations, our members speak and write frequently on topics affecting the alcohol beverage industry, including publication of our blog focused on the craft brewing industry, At the Bar with Bowditch.

EXPERIENCE

Helping a new brewery get started

We drafted and negotiated a commercial lease agreement on behalf of a new brewery, ensuring

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language was included to allow the brewery to maintain possession of their fixtures once the lease was terminated. Clients are not always aware that many leases are written so that if they make any improvements to the space, the owner of the building can retain possession of the improvements/fixtures at the end of the lease. We wanted to ensure that our client would keep their expensive brewery equipment.

Effective communications help in securing license permits

A client needed certain liquor licenses for scheduled events important to its business. Our attorneys communicated with the client, coordinated obtaining necessary information and prepared the applications. Developing rapport with state and local licensing authorities helped move the process forward quickly and effectively. Having a point of contact for each submission ensured more timely responses. We assisted in filing a farmer-brewery license and a pouring permit application and she attended a town hearing so that the licenses were approved in time to meet the client's deadlines, helping ensure the client's business operations continued smoothly.

Obtaining a preliminary injunction keeps a craft brewery in business

When a craft brewery in Massachusetts was told that it had violated its lease, it could have put them out of business and killed a key part of its town's revitalization. The dispute was over the presence of food trucks and live music. We prevailed at a preliminary injunction stage because the judge was persuaded by our client's real life story. We were aggressive in making our case, written and oral, and it was the right strategy, since a preliminary injunction has to meet a very high legal standard. Pending final resolution, our client is still operating…business as usual.

OTHER EXPERIENCE

Litigation

- Craft brewer and employee in a non-compete suit brought by a larger-scale craft producer
- Craft brewer in licensing proceedings before the ABCC

Formation, funding and general corporate

- Assisted brewer in raising capital from a private investor (and provided tax advice), enabling the company to construct and relocate to a new brewing facility
- Majority owner in the buyout of his partner
- Participated on the Lay Advisory Board of Saint Joseph's Abbey during brewery start-up and production of Spencer Trappist Ale, America's first Trappist ale
- Brew pub that made its own beer for sale in the restaurant with financing and general corporate issues
- Lenders in financing deals with distributors of craft beers
- Served as bond and agency counsel in connection with the issuance of a $2 million tax-exempt bond on behalf of a brewer and distribution company; the bonds were used to finance the construct a new 35,000-square-foot manufacturing facility in Ipswich, MA

Intellectual property, licenses and regulatory compliance

- Brewers in registering trademarks
- Brewers at all stages of federal and state licensing application processes

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Employment

- Created employee handbooks, employment agreements and other foundational employment documents
- Sales executive with regard to her employment agreement

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