

Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150-2358

Jean M. Lorizio, Esq.
Chairman

NOTICE OF SUSPENSION

November 16, 2022

PANDA ENTERPRISES INC. D/B/A PANDA EAST
103 NORTH PLEASANT ST.
AMHERST, MA 01002
LICENSE#: 02866-RS-0024
VIOLATION DATE: 2/14/2020
HEARD: 12/14/2021

After a hearing on December 14, 2021, the Commission finds Panda Enterprises Inc. d/b/a Panda East violated:

- 1) M.G.L. Ch. 138, § 2, to wit: Unlawful sale for off-premises consumption;
- 2) M.G.L. Ch. 138, § 2, Transportation, to wit: Section 22 Unlawful transportation without a permit.

The Commission **suspends the license for a period of seven (7) days to be served.**

The suspension shall commence on Monday, January 9, 2023, and terminate on Sunday, January 15, 2023. The license will be delivered to the Local Licensing Board or its designee on Monday, January 9, 2023, at 9:00 A.M. It will be returned to the licensee on Monday, January 16, 2023.

You are advised that pursuant to the provisions of M.G.L. c.138 §23, you may petition the Commission to accept an offer in compromise in lieu of suspension within twenty (20) calendar days following such notice of such suspension. If accepted, you may pay a fine using the enclosed form which must be signed by the Licensee and a Massachusetts Licensed Accountant.

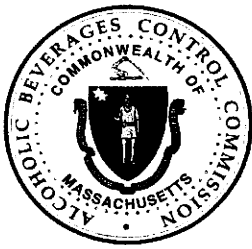
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio
Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Katelyn Quinn, Investigator
Thomas Rooke, Esq.
Administration, File



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DECISION

PANDA ENTERPRISES INC. D/B/A PANDA EAST
103 NORTH PLEASANT ST.
AMHERST, MA 01002
LICENSE#: 02866-RS-0024
VIOLATION DATE: 2/14/2020
HEARD: 12/14/2021

Panda Enterprises Inc. d/b/a Panda East (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a remote hearing via Microsoft Teams on Tuesday, December 14, 2021, regarding alleged violations of:

- 1) M.G.L. Ch. 138, § 2, to wit: Unlawful sale for off-premises consumption;
- 2) M.G.L. Ch. 138, § 2, Transportation, to wit: Section 22 Unlawful transportation without a permit.

Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Quinn's Report.

The following documents are in evidence:

1. Investigator Quinn's Report;
2. Licensee's Accela Summary Page, Transfer Approved 11/17/2016;
3. Town of Amherst Decision, 1/12/2016;
4. Town of Amherst Decision, 4/25/2016;
5. Photographs (2) of Water Bottle filled with Alcoholic Beverage;
6. Photograph of Drager Alcohol Tester with Results Displayed;
7. Photograph of Restaurant Receipt;
8. Photograph of Bottle of Vodka;
9. Town of Amherst Police Department Reports.
10. Licensee Stipulation of Facts.

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

FINDINGS OF FACT

1. Panda Enterprises Inc. d/b/a Panda East ("Licensee" or "Panda East") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12.
2. On Tuesday, February 4, 2020, Granby Police Officer James White contacted ABCC Chief Investigator Frederick Mahony regarding allegations that Panda East was delivering alcoholic beverages to underage students at the MacDuffie School located in Granby, Massachusetts. The MacDuffie School is an international college preparatory school for students in grades 6 through 12. Officer White contacted the ABCC and the Amherst Police Department to coordinate a joint investigation.
3. Officer White had received information about the alleged alcohol deliveries from Stephen Griffin, Headmaster of the MacDuffie School. Mr. Griffin reported his concerns regarding alcohol being delivered to underage students stating that Panda East was delivering alcohol and cigarettes along with food orders to McDuffie students on a nightly basis. Mr. Griffin stated the school received information from various sources over the past year, including from several student exit interviews.
4. On several occasions between February 4th and February 14th, Investigator Dennis Keefe spoke with Officer White, as well as Detective Humber of the Amherst Police Department, to coordinate a controlled purchase using an underage operative.
5. On Friday, February 14, 2020, Investigators Smith, Kujawski, and Gould ("Investigators") conducted an external surveillance of Panda Enterprises Inc. d/b/a Panda East ("Licensee" or "Panda East"). At approximately 5:46 p.m., Investigator Smith entered the licensed premises to conduct internal surveillance. She sat in close proximity to the telephone and was able to observe staff receiving orders.
6. At approximately 5:30 p.m., Investigators Keefe and Quinn travelled to the Granby Police Department where they met with Officer White, Andrew Parker, Administrator of the MacDuffie School, and the underage operative.
7. At approximately 6:38 p.m. using a Granby Police Department cellular telephone, the underage operative called Panda East. Speaking in Mandarin, the underage operative ordered Chinese food and a bottle of vodka, requesting that the vodka be placed inside a paper bag to avoid being seen. The underage operative's voice was recorded by Officer White and ABCC Investigator Quinn. The order was paid for using a gift credit card already on file with the restaurant.
8. The call ended at approximately 6:41 p.m. The underage operative reported, "they said the vodka will be put in a water bottle inside the paper bag for \$30 extra and the \$30 is to be paid in cash to the [delivery] driver." The underage operative identified the voice of the person at Panda East as one of the owners, describing him as a middle-aged Asian male.
9. Inside the restaurant, Investigator Smith simultaneously observed the manager/co-owner, Yi Ching Chiang, a middle-aged Asian male, answer the telephone and seemingly converse with someone on the other end of the telephone, speaking only in Mandarin. After hanging up the phone, he went directly into the kitchen area and out of Investigator Smith's view.

10. Investigator Smith had previously observed Mr. Chiang and other staff members enter items into an electronic register whenever they took a telephone order. Investigator Smith did not observe Mr. Chiang enter any information into the register while speaking on the telephone with the underage operative or after hanging up the telephone at the conclusion of their call.
11. At approximately 6:45 p.m., Investigator Smith exited the restaurant and returned to the vehicle where ABCC Investigators and Amherst Police Detective Feliciano were conducting external surveillance of Panda East.
12. At approximately 7:26 p.m., Investigators and Detective Feliciano observed a white Honda CRV depart Panda East's parking lot. Investigators observed the vehicle heading in the direction of the MacDuffie School. Investigators followed the Honda to the MacDuffie School where several marked and unmarked police vehicles were waiting.
13. At approximately 7:42 p.m., the delivery driver called the underage operative and stated he had arrived on campus and arranged to meet her at the front entrance of the school.
14. At approximately 7:43 p.m., the Panda East delivery driver arrived at the front entrance of the MacDuffie School where he was met by uniformed officers of the Granby Police Department, as well as by Detective Feliciano and Officer White. ABCC Investigators were also on scene.
15. Police Officers approached the Honda CRV and instructed the driver, later identified as Mei Sheng Chiang, to open the trunk while they searched the vehicle. Officers observed several food orders in the trunk. The orders were packaged in brown bags placed inside of plastic bags.
16. Police officers identified the order placed by the underage operative. The underage operative's order contained unique Chinese markings on the outside which differed from markings on the other food orders. Officers observed that the underage operative's order was kept separate from other orders in the trunk and contained an Aquafina water bottle which appeared to have a broken cap seal.
17. At approximately 7:50 p.m., the uniformed police officers on scene utilized a Drager alcohol tester on the contents of the Aquafina water bottle and confirmed it contained alcohol. Investigator Quinn took photographs of the evidence at the scene.
18. At approximately 8:15 p.m., ABCC Investigators, accompanied by Detective Feliciano, departed the MacDuffie School and proceeded to Panda East. Investigators entered the licensed premises. Investigators Keefe and Quinn went to identify the manager or owner. Investigators Gould and Smith inspected the bar, kitchen and liquor storage areas while Investigator Kujawski monitored the dining and bar areas.
19. Investigators spoke with Yi Ching Chiang, the manager and owner, and informed him of the complaints about the restaurant delivering alcohol with food delivery orders to a nearby boarding school. Investigators informed Mr. Chiang of the order placed earlier that evening by an underage operative who asked for alcohol with the food delivery, and that

the delivery driver was intercepted by police who found a water bottle containing vodka inside the food order.

20. Investigator Keefe asked Mr. Chiang how frequently the restaurant delivers alcohol. Chiang stated, "tonight was the first time." Investigator Keefe asked again how often Panda East delivers alcohol to underage students at the MacDuffie School. Mr. Chiang stated "we used to do it a long time ago [...] it stopped for about a year and then tonight was the first time." Investigators then asked for a copy of the receipt relating to the underage operative's order. Mr. Chiang indicated the receipt contained only food items and did not mention the alcohol. Mr. Chiang printed the receipt in the amount of \$ 37.45 which showed only food items with no alcohol listed.
21. Mr. Chiang stated to Investigators that he was the person who took this order over the telephone and stated that since it was Valentine's Day, he would give the underage students "a little" alcohol. He explained that when the person on the phone asked him for a bottle of vodka, he said no but said he would give "a little bit" and that was why he used the water bottle. Chiang stated to Investigators that he then went down to the basement where the liquor is stored and poured vodka into a water bottle which he packaged with the rest of the food order. Mr. Chiang stated that no one else knew he was doing this, not even the delivery driver. Chiang retrieved the bottle of vodka he had used to fill the water bottle. Investigator Quinn took custody of the vodka bottle as evidence.
22. Investigator Kujawski advised Mr. Chiang of the violations and that a report would be submitted to the Chief Investigator for further action.

CONCLUSION

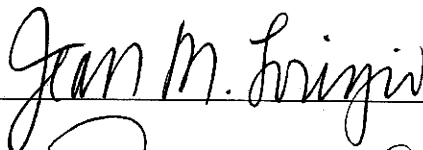
Based on the evidence, the Commission finds the Licensee violated:

- 1) M.G.L. Ch. 138, § 2, to wit: Unlawful sale for off-premises consumption;
- 2) M.G.L. Ch. 138, § 2, Transportation, to wit: Section 22 Unlawful transportation without a permit.

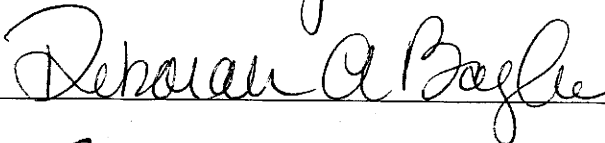
Therefore, the Commission **suspends the license for a period of seven (7) days to be served.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



Deborah A. Baglio, Commissioner



Crystal Matthews, Commissioner



Dated: November 16, 2022

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Katelyn Quinn, Investigator
Brian Gould, Investigator
Dennis Keefe, Investigator
Jan Kujawski, Investigator
Nicole Smith, Investigator
Officer James White, Granby Police Department
Detective Feliciano, Amherst Police Department
Andrew Parker, Administrator, The MacDuffie School
Thomas Rooke, Esq.
Administration, File