



The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Steven Grossman
Treasurer and Receiver General

NOTICE OF SUSPENSION

Kim J. Gainsboro, Esq.
Chairman
July 11, 2014

FUSION RESTAURANT INC. DBA FUSION RESTAURANT
12 POND ST.
ASHLAND, MA 01721
LICENSE#: 004000011
VIOLATION DATE: 04/24/2014
HEARD: 07/08/2014

After a hearing on July 8, 2014, the Commission finds Fusion Restaurant Inc. dba Fusion Restaurant in violation of 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: c. 138, §34c - Possession of an alcoholic beverage by a person under twenty-one (21) years of age (2 counts).

The Commission suspends the licensee's license for a total of nine (9) days to be served. The suspension shall commence on Wednesday, September 3, 2014, and terminate on Thursday, September 11, 2014. The license will be delivered to the Local Licensing Board or its designee on Wednesday, September 3, 2014 at 9:00 A.M. It will be returned to the licensee Friday, September 12, 2014. No offer in compromise will be considered for this penalty.

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

Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Dennis Keefe, Investigator
Jan Kujawski, Investigator
Administration
File



The Commonwealth of Massachusetts
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DECISION

Kim J. Gainsboro, Esq.
Chairman

FUSION RESTAURANT INC. DBA FUSION RESTAURANT
12 POND ST.
ASHLAND, MA 01721
LICENSE#: 004000011
VIOLATION DATE: 04/24/2014
HEARD: 07/08/2014

Fusion Restaurant Inc. dba Fusion Restaurant (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, July 8, 2014, regarding an alleged violation of 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: c. 138, §34c - Possession of an alcoholic beverage by a person under twenty-one (21) years of age (2 counts). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Kujawski's Report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
2. Investigator Kujawski's Investigative Report dated April 24, 2014.

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

FACTS

1. On Thursday, April 24, 2014, at approximately 9:30 p.m., Investigators Keefe and Kujawski conducted an investigation of Fusion Restaurant Inc. dba Fusion Restaurant to determine the manner in which their business was being conducted.
2. Investigators entered the premises and observed a youthful looking female patron in possession of an alcoholic beverage identified as Corona Extra beer bottle.
3. Investigators also observed another youthful looking female patron in possession of an alcoholic beverage identified as a Scorpion Bowl mixed cocktail.
4. Investigators identified themselves and asked to see both individuals' identification. The following information with regards to the two individuals' identification was recorded: Katherine A. Arsenault actual date of birth [REDACTED] (age 20), and Christina Edmands actual date of birth [REDACTED] (age 20).
5. The Investigators spoke with the bartender on duty, Marcos A. Collazo as well as the owners of the establishment Vinny and Kim Diep and informed them that a report would be filed with the Chief Investigator for further action.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: c. 138, §34c – Possession of an alcoholic beverage by a person under twenty-one (21) years of age (2 counts). Therefore, the Commission **suspends the license for nine (9) days of which six (6) days will be served and three (3) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

By decision dated December 12, 2012, the Commission had previously ordered a three (3) day license suspension but had held the suspension in abeyance for a period of two (2) years provided no further violations occurred. Based on the violation found above, the licensee violated the conditions of that three (3) day suspension being held in abeyance. The Commission hereby orders that suspension to be served on and after the (6) day suspension. The licensee will serve a total nine (9) days. No offer in compromise will be considered for this penalty.

As an additional condition on the three (3) days held in abeyance, the Commission further orders that the Licensee must file **IMMEDIATELY** with both the Commission and the Local Board the appropriate application (including all necessary certificates and documents) to change the manager of this license and **REMOVE** Kin Diep Chang, and that such appropriate application is granted by the Local Licensing Authorities and approved by the Commission **for the license manager to be changed to an individual other than Kin Diep Cheng.**

The Commission is referring this matter regarding the Licensee's change of manager application to the Investigative Unit for further action **FORTHWITH.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



Susan Corcoran, Commissioner



Dated: July 11, 2014

You have the right to appeal this decision to the Superior Courts under the provisions of Chapter 30A of the Massachusetts General Laws within thirty (30) days of receipt of this decision.

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Dennis Keefe, Investigator
Jan Kujawski, Investigator
Administration
File