

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

Steven Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

DECISION

FUSION RESTAURANT INC. DBA FUSION RESTAURANT
12 POND ST.
ASHLAND, MA 01721
LICENSE#: 004000011
VIOLATION DATE: 09/27/2012
HEARD: 12/11/2012

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, December 11, 2012, regarding an alleged violation of 204 CMR 2.05 (2)- Permitting An Illegality on the licensed premises, to wit: c. 138, §34C- Person under the age of twenty-one (21) in possession of an alcoholic beverage. Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Guarino-Wilichoski's Report.

The following documents are in evidence:

1. Investigator Guarino-Wilichoski's Investigative Report dated October 19, 2012; and
2. Licensee's Stipulation of Facts.

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

FACTS

1. On Thursday, September 27, 2012, at approximately 11:00 p.m., Investigators Capurso, Teehan, and Guarino-Wilichoski conducted an investigation of Fusion Restaurant Inc. dba Fusion Restaurant to determine the manner in which their business was being conducted.
2. Investigators Capurso and Teehan conducted an undercover surveillance inside the establishment, while Investigator Guarino-Wilichoski remained outside the premises.
3. Investigators observed three (3) tables containing youthful looking patrons in actual possession of alcoholic beverages.
4. Investigators contacted Investigator Guarino-Wilichoski to come in to check identifications.
5. Investigator Guarino-Wilichoski entered the premises and checked the identification of three (3) youthful looking patrons.
6. One female patron presented Investigator Guarino-Wilichoski with a valid Massachusetts Driver's License in the name of Kristen Baptista, date of birth June 26, 1989, age twenty-three (23) years.
7. Investigator Guarino-Wilichoski observed that the picture on the license was not that of the person in front of her. That female in front of her had a different shaped face and had a mole on her face.

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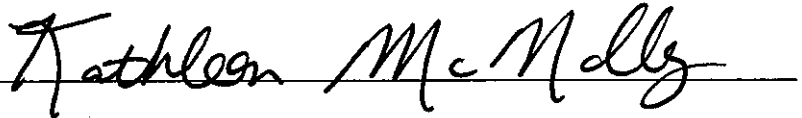
8. The female patron admitted that the license was not her but was that of her sister. She provided the following true information: Kyssila Baptista, date of birth June 1, 1992, age twenty (20) years.
9. Investigators Capurso and Teehan observed Ms. Baptista drinking from a glass containing a Cosmopolitan.
10. Ms. Baptista was placed under arrest by the Ashland Police Department.
11. Investigators informed Mr. Diep, who was on the premises, of the above violation and that a report would be submitted to the Chief Investigator for review.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated of 204 CMR 2.05 (2), to wit: c. 138, §34C- Possession of an alcoholic beverage by a person under 21 years of age. Therefore, the Commission **suspends the license for three (3) days of which 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.**

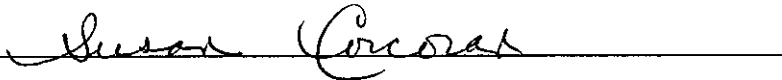
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



I, the undersigned, hereby certify that I have reviewed the hearing record and concur with the above decision.

Susan Corcoran, Commissioner



DATE: December 12, 2012

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
Caroline Guarino-Wilichoski, Investigator
Administration
File