



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

Jean M. Lorizio, Esq.
Chairman

DECISION

**PACIFIC BAY INC. D/B/A TIKI PORT RESTAURANT
712 IYANNOUGH ROAD
BARNSTABLE, MA 02601
LICENSE#: 0070-00084
VIOLATION DATE: 12/14/2018
HEARD: 5/28/2019**

Pacific Bay Inc. d/b/a Tiki Port Restaurant (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission (the "Commission" or "ABCC") held a hearing on Tuesday, May 28, 2019, regarding an alleged violation of 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, § 34C – Possession of an alcoholic beverage to a person under twenty-one years of age (1 count¹). Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Binienda's Report.

The following documents are in evidence:

1. Investigator Binienda's Investigative Report;
2. Licensee Stipulation of Facts to One Count;
3. Photocopy of Fraudulent Driver's Licenses;
4. Licensee's Applications; and
5. RMV Printout for Minor.

A. Licensee's Alcohol Service Procedures.

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

FINDINGS OF FACT

1. On Friday, December 14, 2018, Investigators Kenny and Binienda ("Investigators") conducted an investigation of the business operation of Pacific Bay Inc. d/b/a Tiki Port Restaurant to determine the manner in which its business was being conducted. (Exhibit 1)

¹ The Investigative Unit announced at the start of the hearing that although the hearing notice and Investigative Report cited two violations, it was only moving forward with the first of the two counts. (Testimony)

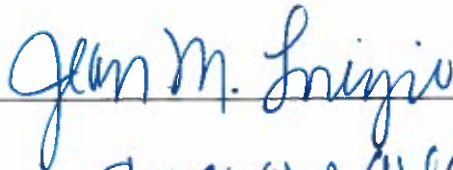
2. Investigators entered the licensed premises and observed several youthful looking patrons in possession of alcoholic beverages. Investigators identified themselves and asked to see proof of legal age. (Exhibit 1)
3. Underage #1, actual date of birth 4/22/1999 (age 19), was in possession of a Scorpion Bowl mixed drink. He presented to Investigators an expired Maine driver's license, in another person's name, which he had used to gain entry to the premises. (Exhibit 1)
4. Investigators spoke to Leung Leung, the waiter who served the alcoholic beverages. There was a language barrier in speaking with Mr. Leung. When Investigators explained to him that the Identification did not belong to the individual who presented it, Mr. Leung stated, "I don't know." (Exhibit 1)
5. Investigators informed the manager, Andy Wong, of the violation and that a report would be filed with the Chief Investigator for further action. (Exhibit 1)
6. Following the investigation, the Licensee had all of its employees complete TIPS training. The Licensee implemented an alcohol policy for its employees and now uses a scanner for all identifications. (Testimony, Exhibit A)
7. The Licensee has been in business since 1976 with no prior violations. (Testimony)

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: M.G.L. c. 138, § 34C – Possession of an alcoholic beverage to a person under twenty-one years of age (2 counts). In accordance with the above, the Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



Elizabeth A. Lashway, Commissioner



Kathleen McNally, Commissioner



Dated: June 3, 2019

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.

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Jamie Binienda, Investigator
Mark Kenny, Investigator
Stephen V. Miller, Esq.
Administration, File