



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

ADARE, INC. DBA NED DEVINES
2201 FANEUIL HALL MRK PLACE
BOSTON, MA 02109
LICENSE#: 011600508
HEARD: 11/06/2012

Adare, Inc. dba Ned Devines (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, November 6, 2012, regarding an alleged violation 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. 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. Licensee's Stipulation of Facts;
2. Investigator Guarino Wilichoski's Investigative Report dated August 25, 2012; and
3. Copy of Rory O'Carroll Passport.

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

FACTS

1. On Saturday, August 25, 2012, at approximately 12:30 a. m., Investigators Velez, Keefe, and Guarino-Wilichoski conducted an Enhanced Liquor Enforcement Operation in the City of Boston and conducted an investigation of the business operation of Adare, Inc. dba Ned Devines to determine the manner in which their business was being conducted.
2. Investigators observed two (2) youthful looking patrons (male and female) sitting at a table near the bar.
3. Both patrons were in actual possession of alcoholic beverages.
4. Investigators checked these patrons for proof of age.
5. The female patron provided proof of age.
6. The male patron provided investigators with an expired/cancelled passport from Ireland bearing the name Rory O'Carroll, date of birth November 30, 1989, age twenty-three (23) years.
7. Investigators observed that the picture on the expired/cancelled passport was that of a child.
8. After further inquiry by the investigators, the male patron admitted he was under twenty-one (21) years of age and provided investigators with his real Ireland passport which showed his true name Mr. Bill O'Carroll, dated of birth October 2, 1991, age twenty (20) years.

9. Investigators observed Mr. O'Carroll in possession of a vodka and cranberry juice.
10. Investigators asked Mr. O'Carroll if he used the expired/cancelled passport to gain access to the licensed premises.
11. Mr. O'Carroll stated he did but that the doorman questioned the expired/cancelled passport so that Mr. O'Carroll then provided the doorman with his real passport.
12. Mr. O'Carroll stated that he was not asked for identification at the time of service of the alcoholic beverage.
13. Investigators spoke to the manager on duty, Mr. Vitello and showed him the passports.
14. Investigators informed the Mr. Vitello of the 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 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. As the licensee has been in business for over ten (10) years and has had no previous violations, the Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner *Susan Corcoran*

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

Kathleen McNally, Commissioner *Kathleen McNally*

DATE: November 6, 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