



Jean M. Lorizio, Esq.
Chairman

*Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
Telephone: 617-727-3040
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NOTICE OF SUSPENSION

June 21, 2018

**ARISTOCRAT HOSPITALITY LLC D/B/A THE SOCIAL REGISTER
401 D ST.
BOSTON, MA 02210
LICENSE#: 0116-00097
VIOLATION DATE: 2/09/2018
HEARD: 6/05/2018**

After a hearing on June 5, 2018, the Commission finds Aristocrat Hospitality LLC d/b/a The Social Register 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 by a person under twenty-one (21) years of age (5 counts).

The Commission suspends the license for a period eighteen (18) days of which five (5) days will be served, and thirteen (13) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.

The suspension shall commence on Wednesday, August 8, 2018 and terminate on Sunday, August 12, 2018. The license will be delivered to the Local Licensing Board or its designee on Wednesday, August 8, 2018 at 9:00 A.M. It will be returned to the Licensee on August 13, 2018.

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

A handwritten signature in black ink, appearing to read "Jean M. Lorizio".

Jean M. Lorizio
Chairman

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Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφραστούν αμέσως.
这份文件是重要的，应立即进行翻译。

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Michael Teehan, Investigator
Joseph Di Cicco, Investigator
Dennis Keefe, Investigator
Stephen V. Miller, Esq.
Administration, File



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DECISION

**ARISTOCRAT HOSPITALITY LLC D/B/A THE SOCIAL REGISTER
401 D ST.
BOSTON, MA 02210
LICENSE#: 0116-00097
VIOLATION DATE: 2/09/2018
HEARD: 6/05/2018**

Aristocrat Hospitality LLC d/b/a The Social Register (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, June 5, 2018, regarding alleged violations of:

- 1) 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 by a person under twenty-one (21) years of age (5 counts);
- 2) M.G.L. Ch. 138 § 23 – Transfer of the privilege of a license without proper approval (1 count).

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

The following documents are in evidence:

1. Investigator Teehan's Investigative Report;
2. Licensee's Stipulation of Facts; and
3. Photocopy of Fraudulent Licenses.

There is one (1) audio recording of this hearing and four (4) witnesses testified.

The Commission took Administrative Notice of the Licensee's record.

FINDINGS OF FACT

1. On Friday, February 9, 2018, at approximately 11:30 p.m., Investigators Keefe, Di Cicco, and Teehan, with Chief Investigator Mahony, ("Investigators"), conducted an investigation of the business operation of Aristocrat Hospitality LLC d/b/a The Social

Register to determine the manner in which its business was being conducted. (Testimony, Exhibit 1)

2. While on the premises, Investigators observed five youthful appearing female individuals in possession of alcoholic beverages. Investigators identified themselves and asked to see proof of legal age. (Testimony, Exhibit 1)
3. Underage #1, actual date of birth 1/12/1999 (age 19) was in possession of a mixed drink. She presented to Investigators a fraudulent Maine driver's license which she used to gain entry to the premises. (Testimony, Exhibits 1, 3)
4. Underage #2, actual date of birth 9/16/1997 (age 20) was in possession of a vodka and Red Bull energy drink. She presented to Investigators a fraudulent Maine driver's license which she used to gain entry to the premises. (Testimony, Exhibits 1, 3)
5. Underage #3, actual date of birth 2/03/1999 (age 20) was in possession of a mixed drink, a vodka and Red Bull energy drink. She presented to Investigators a fraudulent Rhode Island driver's license which she used to gain entry to the premises. (Testimony, Exhibits 1, 3)
6. Underage #4, actual date of birth 5/27/1999 (age 18) was in possession of a mixed drink, Sex on the Beach. She presented to Investigators a fraudulent Maine driver's license which she used to gain entry to the premises. (Testimony, Exhibits 1, 3)
7. Underage #5, actual date of birth 5/16/1997 (age 20) was in possession of a mixed drink, vodka and cranberry juice. She presented to Investigators a fraudulent Ohio driver's license which she used to gain entry to the premises. (Testimony, Exhibits 1, 3)
8. Investigators observed two other youthful individuals. One person provided Investigators with a fraudulent Maine driver's license, but she was not in possession of an alcoholic beverages. (Testimony, Exhibits 1, 3)
9. The second female presented Investigators with a Massachusetts driver's license in a name not her own. Investigators determined that the Licensee reasonably relied on this identification; therefore, they did not charge the Licensee with committing a violation for this additional minor in possession of an alcoholic beverage. (Testimony, Exhibit 1)
10. Chief Mahony spoke to the manager on duty, Russell deMariano, who stated that he gives the promoter 10% of all sales (including sale of alcohol) from the event and a percentage of the cover charge. Mr. deMariano stated that the promoter, Frankie Stavrianopoulos, collects the money and handles the cash register that is owned by the Licensee. (Testimony, Exhibit 1)
11. Chief Investigator Mahony informed Mr. deMariano of the violations and that a report would be filed with the Commission for further action. (Testimony, Exhibit 1)
12. The Licensee testified that the promoter was terminated the same evening as the investigation, and the Licensee did not pay the promoter the 10% cash proceeds collected for the sale of alcohol and the cover charge/entrance fees collected at the door. (Testimony)

DISCUSSION

Licenses to sell alcoholic beverages are a special privilege subject to public regulation and control, Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 619 (1956), for which States have especially wide latitude pursuant to the Twenty-First Amendment to the United States Constitution. Opinion of the Justices, 368 Mass. 857, 861 (1975). The procedure for the issuance of licenses and required conduct of licensees who sell alcoholic beverages is set out in Massachusetts General Laws, Chapter 138.

The Commission has the authority to suspend and revoke licenses. Their powers were authorized “to serve the public need and . . . to protect the common good.” M.G.L. c. 138, § 23. “[T]he purpose of discipline is not retribution but the protection of the public.” Arthurs v. Bd. of Registration in Medicine, 383 Mass. 299, 317 (1981). The Commission is given “comprehensive powers of supervision over licensees,” Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 617 (1956), as well as broad authority to issue regulations.

The Licensee is charged with violations 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 by a person under twenty-one (21) years of age (5 counts), and a violation of M.G.L. c. 138 § 23 – Transfer of the privilege of a license without proper approval (1 count).

The Commission’s decision must be based on substantial evidence. See Embers of Salisbury, Inc. v. Alcoholic Beverages Control Comm'n, 401 Mass. 526, 528 (1988). “Substantial evidence” is “such evidence as a reasonable mind might accept as adequate to support a conclusion.” Id. Evidence from which a rational mind might draw the desired inference is not enough. See Blue Cross and Blue Shield of Mass. Inc. v. Comm’r of Ins., 420 Mass. 707 (1995). Disbelief of any particular evidence does not constitute substantial evidence to the contrary. New Boston Garden Corp. v. Bd. of Assessor of Boston, 383 Mass. 456, 467 (1981).

The Licensee stipulated to the facts as presented by Investigator Teehan and Chief Mahony. The Commission does find, based on the evidence presented, that the Licensee committed the violation of 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: violations of M.G.L. c. 138, § 34C- Possession of an alcoholic beverage by five (5) persons under twenty-one (21) years of age on the licensed premises on February 19, 2018.

A licensee who wishes to transfer their interest in an alcoholic beverages license is required to obtain prior approval from the licensing authorities. This allows the licensing authorities to determine if the transfer is in the public interest and if the proposed transferee is someone who qualifies to hold a license.

The Licensee is charged with a violation of M.G.L. Ch. 138 § 23 – Transfer of the privilege of a license without proper approval (1 count). Implicit in the transfer of a license is the surrender of control. A “transfer of a business takes place when the person introduced to it runs the business for his own account.” Griffin’s Brant Rock Package Store, Inc. v. Alcoholic Beverages Control Commission, 12 Mass. App. Ct. 768, 771, 429 N.E.2d 62, 65 (1981). In the present case, the Commission finds, based on the evidence, that the Licensee terminated the employment relationship with the promoter on the very same evening the Investigators conducted this investigation. Furthermore, the Commission was presented with evidence that the Licensee did not

pay the promoter any money, not any of the 10% (ten percent) of the cash proceeds collected from the sale of alcoholic beverages at the premises, nor any money from cash proceeds collected at the front door from the cover fee charged for entry to the premises on this evening.

Therefore, the Commission is persuaded by the evidence that Aristocrat Hospitality LLC d/b/a The Social Register did not commit a violation of M.G.L. Ch. 138 § 23 – Transfer of the privilege of a license without proper approval.

CONCLUSION

Based on the evidence, the Commission finds **NO VIOLATION** of M.G.L. Ch. 138 § 23- Transfer of the privilege of a license without proper approval (1 count) occurred.

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 by a person under twenty-one (21) years of age (5 counts). Therefore, the Commission **suspends the license for a period of eighteen (18) days of which five (5) days will be served, and thirteen (13) 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



Elizabeth A. Lashway, Commissioner



Dated: June 21, 2018

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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