

Jean M. Lorizio, Esq.
Chairman

Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
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NOTICE OF SUSPENSION

May 15, 2018

BATTERY PARK LOUNGE AND RESTAURANT GROUP LLC
33-35 BATTERYMARCH STREET
BOSTON, MA 02109
LICENSE#: 0116-00618
VIOLATION DATE: 11/19/2017
HEARD: 5/01/2018

After a hearing on May 1, 2018, the Commission finds Battery Park Lounge and Restaurant Group LLC 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 (9 counts).

The Commission **suspends the license for a period thirty-three (33) days of which seven (7) days will be served, and twenty-six (26) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur. This seven (7) day suspension to run concurrently with the suspension imposed as a result of the 12/31/2017 violation.**

The suspension shall commence on Wednesday, June 27, 2018 and terminate on Tuesday, July 3, 2018. The license will be delivered to the Local Licensing Board or its designee on Wednesday, June 27, 2018 at 9:00 A.M. It will be returned to the Licensee July 4, 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.

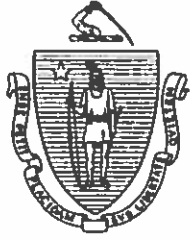
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Joseph Di Cicco, Investigator
Dennis Keefe, Investigator
Lisa (Lordan) Watson, Investigator
Christopher Temple, Investigator
Nicholas Velez, Investigator
Administration, File



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DECISION

**BATTERY PARK LOUNGE AND RESTAURANT GROUP LLC
33-35 BATTERYMARCH STREET
BOSTON, MA 02109
LICENSE#: 0116-00618
VIOLATION DATE: 11/19/2017
HEARD: 5/01/2018**

Battery Park Lounge and Restaurant Group LLC (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, May 1, 2018, 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 by a person under twenty-one (21) years of age (9 counts). Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Di Cicco's Report.

The following documents are in evidence:

1. Investigator Di Cicco's Investigative Report;
2. Licensee's Stipulation of Facts;
3. Photocopy of Fraudulent Licenses;
4. RMV Printout for Underage DH;
5. RMV Printout for Underage JM; and
6. RMV Printout for Underage MV.

A. Fraudulent Driver's Licenses.

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

The Commission took Administrative Notice of the Licensee's record, and of the testimony given in the hearing on the 12/31/2017 violation.

FINDINGS OF FACT


1. On Sunday, November 19, 2017, at approximately 12:30 a.m., Investigators Keefe, Lordan, Temple, Velez, and Di Cicco, with Chief Investigator Mahony, ("Investigators"), conducted an investigation of the business operation of Battery Park Lounge and Restaurant Group LLC to determine the manner in which its business was being conducted.
2. Upon entering the premises, Investigators observed youthful appearing individuals in possession of alcoholic beverages. Investigators identified themselves and asked to see proof of legal drinking age.
3. Underage #1, actual date of birth 5/19/1997 (age 20) was in possession of a bottle of Bud Light beer. She presented to Investigators a Massachusetts driver's license that was not her own. Investigators determined that the person on the license was not the individual before them.
4. Underage #2, actual date of birth 3/27/1997 (age 20) was in possession of a bottle of Bud Light beer. She presented to Investigators a passport from the United States of America that was not her own. Investigators determined that the person on the passport was not the individual before them.
5. Underage #3, actual date of birth 9/9/1997 (age 20) was in possession of a bottle of Bud Light beer. He presented to Investigators a Massachusetts driver's license that was not his own. Investigators determined that the person on the license was not the individual before them.
6. Underage #4, actual date of birth 1/10/1998 (age 19) was in possession of a bottle of Bud Light beer. She presented to Investigators a fraudulent Connecticut driver's license.
7. Underage #5, actual date of birth 5/23/1998 (age 19) was in possession of a bottle of Bud Light beer. She presented to Investigators a fraudulent Connecticut driver's license.
8. Underage #6, actual date of birth 1/25/1998 (age 19) was in possession of a bottle of Bud Light beer. She presented to Investigators a fraudulent Connecticut driver's license.
9. Underage #7, actual date of birth 10/08/1997 (age 20) was in possession of a mixed drink with tequila. She presented to Investigators a fraudulent South Carolina driver's license.
10. Underage #8, actual date of birth 5/15/1999 (age 18) was in possession of a bottle of Bud Light beer. He presented to Investigators a fraudulent New Hampshire driver's license.
11. Underage #9, actual date of 12/15/1997 (age 20) presented to Investigators a fraudulent New Yorker driver's license. He stated to Investigators that he had been drinking Bud Light beer and mixed alcoholic beverages.
12. Underage #10, actual date of 12/02/1997 (age 20) was in possession of a gin mixed drink. He presented to Investigators a fraudulent South Carolina driver's license.
13. Underage #11, actual date of 9/16/1997 (age 20) was in possession of a gin mixed drink. She presented to Investigators a fraudulent Rhode Island driver's license.
14. Underage #12, actual date of 3/13/1998 (age 19) was in possession of a gin mixed drink. He presented to Investigators a fraudulent Maine driver's license.

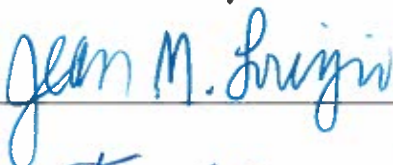
15. Investigators identified all the youthful individuals listed above to staff members, who advised Investigators that they would ensure safe transport home for them.
16. Investigators asked for identification from two additional youthful appearing individuals.
17. Underage #13, actual date of 7/14/1997 (age 20), presented to Investigators a fraudulent Rhode Island driver's license. When Investigators determined the Rhode Island license was counterfeit, she then presented them with her true Massachusetts driver's license.
18. Underage #14, actual date of 8/05/1997 (age 20), presented to Investigators a fraudulent Illinois driver's license. When Investigators determined the Illinois license was counterfeit, she then presented them with her true Massachusetts driver's license.
19. Investigators informed staff members of the violations and that a report would be filed for further review.
20. Investigators charged the Licensee with only 9 counts of minors in possession of alcoholic beverages because of the 14 minors, 5 of them either were not in possession of alcoholic beverages, or had presented identifications upon which the Licensee could reasonably rely.

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 by a person under twenty-one (21) years of age (9 counts). Therefore, the Commission **suspends the license for a period of thirty-three (33) days of which seven (7) days will be served, and twenty-six (26) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur. This seven (7) day suspension to run concurrently with the suspension imposed as a result of the 12/31/17 violation.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Elizabeth A. Lashway, Commissioner 

Jean M. Lorizio, Chairman 

Kathleen McNally, Commissioner 

Dated: May 15, 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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