

*Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
Telephone: 617-727-3040
Facsimile: 617-727-1510*

Jean M. Lorizio, Esq.
Chairman

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: 12/31/2017
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 (3 counts).

The Commission **suspends the license for a period nine (9) days of which three (3) days will be served, and six (6) 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 three (3) day suspension to run concurrently with the suspension imposed as a result of the 11/19/2017 violation.**

The suspension shall commence on Wednesday, June 27, 2018 and terminate on Friday, June 29, 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 upon completion of the 11/19/2017 suspension, on 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

A handwritten signature in cursive script, reading "Jean M. Lorizio".

Jean M. Lorizio
Chairman

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Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφραστούν αμέσως.
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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Christopher Temple, Investigator
Lisa (Lordan) Watson, 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: 12/31/2017
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 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 (3 counts);
- 2) 204 CMR 2.05 (2), to wit: 527 CMR 1.05 § 20.1.5.6.4 Failure to Complete the Fire & Building Safety Checklist, as prescribed by the State Fire Marshal, on each day of operation prior to opening the facility to patrons Fire & Building Safety Checklist; and
- 3) 204 CMR 2.05 (2), to wit: 527 CMR 1.05 § 10.5.2.1 Overcrowding or admittance of any person beyond the established posted occupant load shall be prohibited.

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

The following documents are in evidence:

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

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

The Commission took Administrative Notice of the Licensee's record, and of the Licensee's testimony given in the hearing on the 11/19/2017 violation.

FINDINGS OF FACT

1. On Sunday, December 31, 2017, at approximately 10:15 p.m., Investigators Lordan, Velez, and Temple, 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 three youthful appearing females in possession of alcoholic beverages. Investigators identified themselves and asked to see proof of legal drinking age.
3. Underage #1, actual date of birth 1/20/1997 (age 20) was in possession of a Cranberry Svedka vodka. She stated to Investigators that she used a friend's passport to gain entry to the premises.
4. Underage #2, actual date of birth 6/29/1997 (age 20) was in possession of a cranberry vodka drink. She presented to Investigators a fraudulent Connecticut driver's license.
5. Underage #3, actual date of birth 3/22/1997 (age 20) was in possession of a cranberry vodka drink. She presented to Investigators a Massachusetts driver's license that was not her own.
6. Underage #4, actual date of birth 2/28/1997 (age 20) was in possession of a Bud Light beer. She presented to Investigators a Maryland driver's license that was not her own.
7. Investigators identified another youthful appearing female who was not in possession of an alcoholic beverage. She presented to Investigators a fraudulent New York driver's license. She stated that she has just arrived and had not yet ordered a beverage.
8. Investigators identified the underage individuals to the night manager who stated he was in charge because the manager of record and owner were not there.
9. Investigators asked the night manager about the occupancy load of the premises. He informed Investigators the occupancy limit was 149 persons. Investigators then asked the doorman for his count of patrons. The doorman stated he counted 173 persons in and 17 persons left [156 persons]. Investigators informed the night manager that he was over capacity.
10. The night manager stated that he did not complete the fire safety checklist and none of the staff were crowd managers. He informed Investigators that the promoter for the event was Connor Yildirim.
11. Investigators asked the night manager if Mr. Yildirim was the same promoter who organized the event at which the prior violation occurred on 11/19/2017. The night manager said it was the same promoter but the owner had chosen him.
12. Investigators informed the night manager of the violations and that a report would be filed for further review.
13. At the hearing, the charge of Overcrowding was withdrawn by Chief Mahony.
14. During the hearing, the Licensee testified that it had completed that Fire and Building Safety Checklist for 12/31/2017. However, the staff member questioned by Investigators was not aware of this. (Testimony)

CONCLUSION

Based on the evidence and testimony presented, the Commission finds NO VIOLATION of 204 CMR 2.05 (2), to wit: 527 CMR 1.05 § 20.1.5.6.4 Failure to Complete the Fire & Building Safety Checklist, as prescribed by the State Fire Marshal, on each day of operation prior to opening the facility to patrons Fire & Building Safety Checklist.

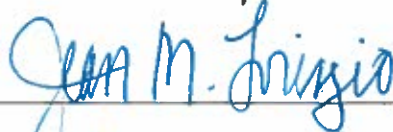
Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, § 34C- Possession of an alcoholic beverage by a person under twenty-one (21) years of age (3 counts). Therefore, the Commission **suspends the license for a period nine (9) days of which three (3) days will be served, and six (6) 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 three (3) day suspension to run concurrently with the suspension imposed as a result of the 11/19/17 violation.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

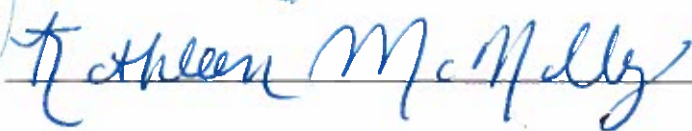
Elizabeth A. Lashway, Commissioner



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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