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Chairman

*Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
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DECISION

**KPC INC. D/B/A MURPHY'S LAW
837 SUMMER ST.
BOSTON, MA 02114
LICENSE#: 011600739
VIOLATION DATE: 8/26/2016
HEARD: 05/23/2017**

KPC Inc. d/b/a Murphy's Law (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 23, 2017, regarding an alleged violation of 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, § 12 The hours during which sales of such alcoholic beverages may be made by any licensee as aforesaid shall be fixed by the local licensing authorities either generally or specially for each licensee; provided, however, that no such sale shall be made on any secular day between the hours of 2:00 a.m. and 8:00 a.m. (8 Counts). The alleged violations occurred on Friday, August 26, 2016, at various times after 2:00 a.m. Prior to the start of the hearing, the Licensee stipulated to the violation in Investigator Di Cicco's report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts;
2. Investigator Di Cicco's Investigative Report; and
3. Video Surveillance of Licensed Premises.

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

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

FINDINGS OF FACT

1. On Thursday, October 13, 2016, Investigators Temple and Di Cicco ("Investigators") conducted an investigation of the business operation of KPC Inc. d/b/a Murphy's Law to determine the manner in which its business was being conducted.
2. Investigators entered the licensed premises to collect information about individuals who were said to have been on the premises on Thursday, August 25, 2016 through the early morning hours of Friday, August 26, 2016.
3. Investigators observed two surveillance cameras in the licensed premises. One camera ("CAM-1") was located to the right of the bar up in the corner and pointed at the main floor. The second camera ("CAM-2") was located above an automated teller machine ("ATM"), pointed at the main door of the premises.

4. Investigators served the Licensee with a subpoena for information, including sales receipts and video surveillance footage, related to the establishment covering Thursday August 25, 2016 through Friday, August 26, 2016.
5. Investigators conducted a preliminary review of the surveillance footage. The video footage cut off at approximately 2:30 a.m., and Investigators observed there were still people in the establishment consuming alcoholic beverages at that time. Investigators contacted Scott Pumphet, the manager of record who is also one of the owners of the business, to obtain the rest of the requested footage.
6. Investigator Di Cicco identified three individuals from the surveillance video: Dillon Cohen, Craig Lawlor, and Stephen Day. According to surveillance footage from CAM-2, Lawlor and Day entered the premises at approximately 1:07 a.m. and footage from CAM-1, shows Lawlor and Day walking up to the bar. CAM-2 footage shows Cohen entered the premises at approximately 1:08 a.m. He also identified Scott Pumphet and his brother, employee Lee Pumphet, in the video footage.
7. Investigator Di Cicco observed that some individuals remained on the premises after 4:30 a.m., and he noted the instances in which sale and/or delivery of alcoholic beverages after 2:00 a.m. occurred.
8. At approximately 2:02 a.m., Craig Lawlor was observed taking delivery of 4 bottles of beer from someone behind the bar. Lawlor brought the bottles to a table of individuals which included Dillon Cohen and Stephen Day.
9. At approximately 2:03 a.m., an unidentified white female (UF-1) received a drink from someone behind the bar.
10. At approximately 2:04 a.m., an unidentified white male (UM-1) approached the bar with cash in hand. A person behind the bar took the cash and delivered to UM-1 a bottle of Corona beer. Less than 30 seconds later, UM-1 raised his hand to the person behind the bar and retrieved cash from his pocket. While standing in front of the bar, UM-1 handed another bottle of Corona beer to an unidentified male (UM-2). Immediately after this, UM-1 gave cash to person behind the bar and received an additional bottle of Corona beer.
11. At approximately 2:07 a.m., an unidentified male (UM-3) standing at the bar handed cash to Scott Pumphet. Pumphet took the cash and walked away. UM-3 received two bottles of beer from a person behind the bar, and moments later received another bottle of Corona beer. UM-3 handed the final Corona beer to an unidentified male (UM-4).
12. At approximately 2:08 a.m., an unidentified white female (UF-2) had cash in her hand. Less than a minute later, UF-2 walked away from the bar holding a bottle of beer.
13. At approximately 2:10 a.m., Dillon Cohen stood in front of the bar and took delivery of 5 cans of beer. Cohen brought the beer back to the table at which he was sitting with Craig Lawlor and Stephen Day.
14. At approximately 2:10 a.m., an unidentified male (UM-5) approached the bar and interacted with a person behind the bar. UM-5 retrieved his wallet to extract cash. UM-5 took a seat at the bar. A few minutes later, UM-5 quickly drank a beverage from a small glass (consistent with a shot glass). Minutes later, UM-5 drank a dark colored liquid from a tall clear glass.
15. At approximately 2:17 a.m., an unidentified female (UF-3) took delivery of an unknown beverage from a person behind the bar.

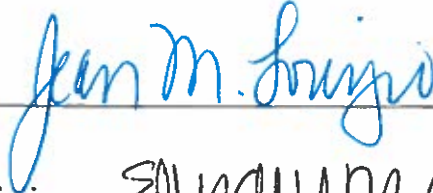
16. At approximately 2:19 a.m., UF-1 and UM-3 interacted with each other and Scott Pumphnet at the bar. Shortly thereafter, UF-1 walked away without any beverages, and UM-3 walked away holding two bottles of beer.
17. At approximately 2:24 a.m., UF-1 held a clear glass full of an unknown beverage, and UM-3 held two bottles.
18. At approximately 2:26 a.m., CAM-2 captures UM-3 exiting the premises holding a bottle of beer. At approximately 2:27 a.m., on CAM-1, UM-3 is seen re-entering the premises holding a bottle of beer and interacting with Lee Pumphnet. At approximately 2:28 a.m., UM-3 exited the licensed premises again while holding a bottle of beer in his hand.
19. Investigator Di Cicco made a list of persons still in the licensed premises as of approximately 2:32 a.m.:
 - a. Lee Pumphnet;
 - b. Scott Pumphnet;
 - c. Unidentified male (UM-6);
 - d. Unidentified male (UM-7);
 - e. Unidentified female (UF-4); and
 - f. Unidentified female (UF-5).
20. At approximately 2:33 a.m., Lee Pumphnet delivered two bottles of beer to UF-4 and UF-5 in the front of the bar.
21. At approximately 2:46 a.m., an unidentified male (UM-8) made contact with UM-6. UM-8 interacted with a person behind the bar and approximately 5 minutes later, UM-8 is in possession of and consuming a bottle of beer.
22. At approximately 3:23 a.m., UF-4 and UF-5 drank bottles of beer. At approximately 3:30 a.m., UF-4 and UF-5 departed the premises.
23. At approximately 3:59 a.m., UM-8 drank a bottle of beer. At approximately 4:29 a.m., UM-8 exited the premises.
24. CAM-1 video cuts off at approximately 4:35 a.m. At that time, UM-6 was seated at the bar and Scott Pumphnet was cleaning.
25. After his review of the surveillance videos, Investigator Di Cicco concluded that after the 2:00 a.m. closing time, the Licensee made sales and/or deliveries of 13 bottles of beer and 5 cans of beer in eight separate transactions with patrons; and the Licensee delivered at least 5 unknown beverages to four patrons after 2:00 a.m.

CONCLUSION

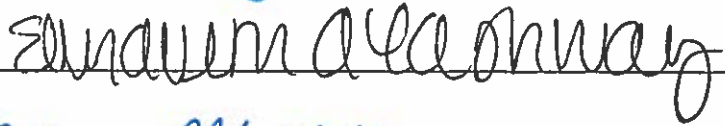
Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, § 12 The hours during which sales of such alcoholic beverages may be made by any licensee as aforesaid shall be fixed by the local licensing authorities either generally or specially for each licensee; provided, however, that no such sale shall be made on any secular day between the hours of 2:00 a.m. and 8:00 a.m. (8 Counts). As the Licensee has been in business for 20 years with no prior violations, the Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



Elizabeth A. Lashway, Commissioner



Kathleen McNally, Commissioner



Dated: May 24, 2017

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
Joseph Di Cicco, Investigator
Christopher Temple, Investigator
Michael Ford, Esq.
Administration, File