



*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

**NEWBURY FINE DINING LIMITED PARTNERSHIP D/B/A SONSIE
327 NEWBURY ST.
BOSTON, MA 02110
LICENSE#: 011600574
VIOLATION DATE: 11/30/2017
HEARD: 4/10/2018**

After a hearing on April 10, 2018, the Commission finds Newbury Fine Dining Limited Partnership d/b/a Sonsie 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 fifteen (15) days of which three (3) days will be served, and twelve (12) 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, July 11, 2018 and terminate on Friday, June 13, 2018. The license will be delivered to the Local Licensing Board or its designee on Wednesday, July 11, 2018 at 9:00 A.M. It will be returned to the Licensee on July 14, 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.

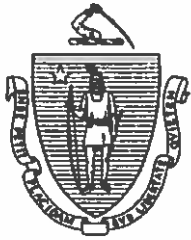
ALCOHOLIC BEVERAGES CONTROL COMMISSION

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

Jean M. Lorizio
Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Michael Teehan, Investigator
Joseph Di Cicco, Investigator
Dennis Keefe, Investigator
Mark Kenny, Investigator
Dennis A. Quilty, Esq.
Administration, File



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DECISION

**NEWBURY FINE DINING LIMITED PARTNERSHIP D/B/A SONSIE
327 NEWBURY ST.
BOSTON, MA 02110
LICENSE#: 011600574
VIOLATION DATE: 11/30/2017
HEARD: 4/10/2018**

Newbury Fine Dining Limited Partnership d/b/a Sonsie (the "Licensee" or "Sonsie") 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, April 10, 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 Only to the Violation of 204 CMR 2.05 (2) to wit: M.G.L. c. 138, § 34C (5 counts); 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.

FINDINGS OF FACT

1. On Thursday, November 30, 2017, at approximately 11:50 p.m., Investigators Keefe, Di Cicco, Kenny, and Teehan, with Chief Investigator Mahony, ("Investigators"), conducted an investigation of the business operation of Newbury Fine Dining Limited Partnership d/b/a Sonsie to determine the manner in which its business was being conducted. (Exhibit 1)
2. While on the premises, Investigators observed five youthful appearing individuals in possession of alcoholic beverages. Investigators identified themselves and asked to see proof of legal age. (Exhibit 1)
3. Underage #1, actual date of birth 7/29/1997 (age 20) was in possession of a vodka mixed drink, a Moscow Mule. She stated to Investigators that she was not asked for any identification to enter the licensed premises. (Exhibit 1)
4. Underage #2, actual date of birth 8/30/1997 (age 20) was in possession of a vodka and soda water. She presented Investigators with a false Connecticut driver's license which she had used to gain entry to the premises. (Exhibit 1)
5. Underage #3, actual date of birth 7/7/1997 (age 20) was in possession of a mixed drink, a Long Island Iced Tea. She stated to Investigators that she had used a false Rhode Island driver's license to enter the premises. (Exhibit 1)
6. Underage #4, actual date of birth 8/11/1997 (age 20) was in possession of a glass of champagne. He stated to Investigators that he was not asked for identification when he entered the premises. (Exhibit 1)
7. Underage #5, actual date of birth 5/19/1997 (age 20) was in possession of a glass of champagne. She stated to Investigators that she was not asked for identification when she entered the premises. (Exhibit 1)
8. Investigators Keefe and Di Cicco together observed an additional five youthful individuals in possession of alcoholic beverages. These individuals provided Investigators with false Massachusetts driver's licenses. Investigators determined that the Licensee reasonably relied on these identifications; therefore, they did not charge the Licensee for these five minors in possession of alcoholic beverages. (Exhibit 1)
9. Chief Mahony spoke to both general manager Leeya Beetan, and director of operations, Matthew Soutra. Both Beetan and Soutra indicated that promoters, later identified as Darryl Pierre and Michael Colby, were paid a flat fee of \$250.00 for the promotion of the event and were to receive 10% of the Licensee's alcohol sales over \$3,000.00. Pierre and Colby confirmed the fee and percentage of sales payment agreement with Investigators. (Exhibit 1)
10. The Promoters did not receive any money derived from the sale of alcohol. (Testimony)
11. Chief Investigator Mahony informed Beetan and Soutra of the violations and that a report would be filed with the Commission for further action. (Exhibit 1)
12. Administrative review of the Licensee's Commission file indicates that Sonsie has been in business for 25 years and has not had a violation in 20 years. (Commission Records, 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.

Chapter 138 gives the Commission the authority to grant, revoke and suspend licenses. Chapter 138 was “enacted ... 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, 334 Mass. at 617.

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).

The Commission is persuaded by the evidence and the Licensee’s testimony that Newbury Fine Dining Limited Partnership d/b/a Sonsie 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 fifteen (15) days of which three (3) days will be served, and twelve (12) 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

Jean M. Lorizio, Chairman

Jean M. Lorizio

Kathleen McNally, Commissioner

Kathleen McNally

Elizabeth A. Lashway, Commissioner

Elizabeth A. Lashway

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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