



The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Deborah B. Goldberg
Treasurer and Receiver General

Kim J. Gainsboro, Esq
Chairman

AMENDED DECISION

SKELLIGS CALLING LLC D/B/A O'SHEA'S OLDE INNE ON CAPE COD
348 MAIN STREET
DENNIS, MA 02670
LICENSE#: 027800086
VIOLATION DATE: 03/17/2016
HEARD: 09/13/2016

Skelligs Calling LLC d/b/a O'Shea's Olde Inn on Cape Cod (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, September 13, 2016, regarding alleged violations of:

- 1) M.G.L. C. 138, § 69 Sale or delivery of an alcoholic beverage to an intoxicated person (1 count);
- 2) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, 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 violations alleged in Investigator Carey's Report.

The following documents are in evidence:

1. Investigator Carey's Investigative Report dated February 4, 2016; and
2. Licensee's Stipulation of Facts.
 - A. Cape Cod Times Article 8/21/2016;
 - B. Letter 7/9/2016 from Dr. Lawrence McAuliffe to Internal Revenue Service on behalf of owner Joseph Shea.

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

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

FINDING OF FACTS

1. On Thursday, March 17, 2016, at approximately 10:50 p.m., Investigators Carey and Binienda ("Investigators") investigated the business operation of Skelligs Calling LLC d/b/a O'Shea's Olde Inne on Cape Cod to determine the manner in which their business was being conducted.
2. Investigators entered the licensed premises, and observed that the establishment was well over its capacity. Investigators each did a count of the crowd and came up with numbers close to 200 persons.
3. Investigators observed several individuals who appeared to be intoxicated. One individual, James, had slurred speech, bloodshot eyes, and at time his eyes were half-closed. Investigators observed James swayed from side to side. Based on their training and experience, Investigators formed the opinion that James was intoxicated.
4. Investigators observed James go up to the bar and order three Smithwick Draft Beers. James gave two of these beers to two individuals, and kept one beer for himself.
5. Investigators identified themselves to the owner, Joe Shea, and the bartender, Seamus Hanrahan, and pointed out James to them.
6. Mr. Shea acknowledged that there may have been people drinking too much but it was St. Patrick's Day and there was a lot of activity.
7. Investigators asked Mr. Shea what was the capacity of the licensed premises. Mr. Shea stated the capacity was 100 persons. Investigators informed Mr. Shea that he was well over that number.
8. Mr. Shea stated that he didn't think the capacity was that high. It was St. Patrick's Day and they were having a big night.
9. Investigators advised Mr. Shea that he ensure James would take a cab home, to which Mr. Shea agreed.
10. Investigators informed Mr. Shea of the violation and that a report would be submitted to the Chief Investigator for review.
11. As they exited the premises, Investigators noticed that the doorman had stopped allowing people to enter the premises and a line was forming.

CONCLUSION

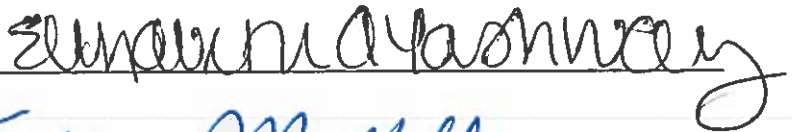
Based on the evidence, the Commission finds the Licensee violated:

- 1) M.G.L. C. 138, § 69-Sale or delivery of an alcoholic beverage to an intoxicated person (1 count);
- 2) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, 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.

On the first violation, M.G.L. C. 138, § 69, the Commission **suspends the license for four (4) days of which two (2) days will be served and two (2) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

On the second violation, 204 CMR 2.05 (2), to wit: 527 CMR 1.05, § 10.5.2.1, the Commission **suspends the license for eight (8) days of which two (2) 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 suspension to run concurrently with the one above. The Licensee will serve a total of two (2) days.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Elizabeth A. Lashway, Commissioner 

Kathleen McNally, Commissioner 

Dated: September 23, 2016

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
Jack Carey, Investigator
Jamie Binienda, Investigator
Walter J. Sullivan, Esq. via facsimile 617-226-8100
Administration, File