



*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150-2358*

Jean M. Lorizio, Esq.
Chairman

DECISION

**KJACK INC. D/B/A UPSIDE FOOD N' DRINK
59 SCHOFIELD AVENUE, SUITE 2
DUDLEY, MA 01571
LICENSE#: 06143-RS-0296
VIOLATION DATE: 12/15/2023
HEARD: 4/2/2024**

Kjack Inc. d/b/a Upside Food N' Drink ("Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a remote hearing via Microsoft Teams on Tuesday, April 2, 2024, regarding an alleged violation of M.G.L. c. 138, § 69 – Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count). Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator David's report.

The following documents are in evidence:

1. Investigator David's Report;
 2. ABCC License Authority Certification re: New License;
 3. Licensee's Stipulation of Facts.
- A. Statement from Licensee.

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

FINDINGS OF FACT

1. On Friday, December 15, 2023, at approximately 8:30 p.m., Investigators Cutter and David ("Investigators") inspected Kjack Inc. d/b/a Upside Food N' Drink ("Licensee") in an undercover capacity to determine the way its business was being conducted.
2. At approximately 8:45 p.m., Investigators observed an unidentified male individual (UM) wearing black hooded sweatshirt who appeared to be intoxicated.
3. Investigators observed UM's eyes were glassy and watery, and he had a blank stare. UM appeared to have difficulty maintaining his balance and leaned on other patrons for support. Investigators observed that UM was overly touchy and appeared to be invasive of other's personal space.

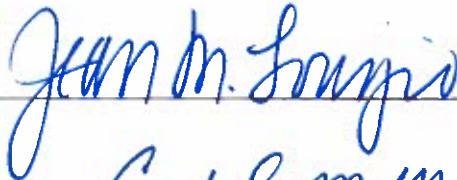
4. Investigators observed UM conversing with an unidentified female (UF) wearing a white jacket. Investigators observed UM had slurred speech. UM was dancing around on the left side of the bar, bumping into several patrons as he did so. UF spoke to Investigators in an incoherent manner.
5. Based on their training and experience, Investigators determined that UM was intoxicated.
6. At approximately 9:07 p.m., UM leaned over the bar and spoke with a female bartender. They appeared to have a conversation after which Investigators observed the bartender serve UM a bottle of Bud Light beer.
7. Investigators Gould and Teehan entered the licensed premises and spoke to Chris Rivers, Licensee, informed him of the violation and that a report would be filed with the Chief Investigator for further review.
8. Mr. Rivers appeared at the Commission hearing.
9. The Licensee has held a license under M.G.L. c. 138, § 12 since late in 2021 with no prior violations.

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated M.G.L. c. 138, § 69 – Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count). As a result, the Commission **suspends the license for a period of one (1) day which will be held in abeyance for a period of two (2) years provided that no further violations of Chapter 138 or Commission Regulations are found by this Commission.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

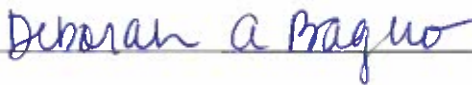
Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah Baglio, Commissioner



Dated: September 17, 2024

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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2024-000019-ad-enf

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
John David, Investigator
Alicia Cutter, Investigator
Administration, File