

Jean M. Lorizio, Esq.
Chairman

*Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
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Boston, MA 02114
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DECISION

**EL MARCADO RESTAURANT INC. D/B/A MEXICALI FRESH MEX GRILL
700 MAIN STREET
HOLDEN, MA 01520
LICENSE#: 053400028
VIOLATION DATE: 05/23/2016
HEARING DATE: 02/21/2017**

El Mercado Restaurant Inc. d/b/a Mexicali Fresh Mex Grill (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, February 21, 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, §34 – Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age. Prior to the commencement of the hearing, the Licensee stipulated to the violation alleged in Investigator Velez's Report.

The following documents are in evidence:

1. Investigator Velez's Compliance Check Field Report dated May 23, 2016; and
2. Licensee's Stipulation of Facts.

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

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

FACTS

1. On Monday, May 23, 2016, at approximately 4:30 p.m., Investigators Binienda and Velez ("Investigators") investigated the business operation of El Mercado Restaurant Inc. d/b/a Mexicali Fresh Mex Grill.
2. An underage operative, working with Investigators, was in possession of an alcoholic beverage, a bottle of Budweiser Light beer. The underage operative was not asked for identification.

CONCLUSION

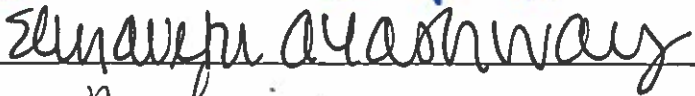
Based on the evidence the Commission finds the Licensee violated 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, §34 – Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age. Therefore, the Commission **suspends the license for three (3) days of which three (3) 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

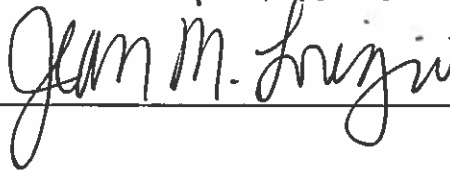
Kathleen McNally, Commissioner



Elizabeth A. Lashway, Commissioner



Jean M. Lorizio, Chairman



Dated: February 22, 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
Nicholas Velez, Investigator
Jamie Binienda, Investigator
Administration, File