

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

Deborah B. Goldberg
Treasurer and Receiver General

NOTICE OF SUSPENSION

Kim S. Gainsboro, Esq.
Chairman
April 24, 2015

ASH-GEN INC. DBA DON PEDRO'S RESTAURANT
118 SOUTH UNION STREET
LAWRENCE, MA 01843
LICENSE#: 059400254
VIOLATION DATE: 06/26/14
HEARD: 04/14/15

After a hearing on April 14, 2014, the Commission finds Ash-Gen, Inc. dba Don Pedro's Restaurant 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 21 years of age (1 count).

The Commission suspends the licensee's license for a total of two (2) days to be served. The suspension shall commence on Wednesday, June 17, 2015, and terminate on Thursday, June 18, 2015. The license will be delivered to the Local Licensing Board or its designee on Wednesday, June 17, 2015 at 9:00 A.M. It will be returned to the licensee Friday, June 19, 2015.

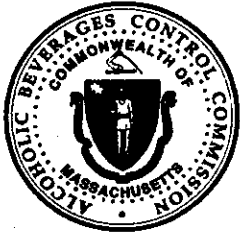
You are advised that pursuant to the provisions of M.G.L. c.138 §23, you may petition the Commission to accept an offer in compromise in lieu of suspension within twenty (20) calendar days following such notice of such suspension. If accepted, you may pay a fine using the enclosed form. All checks must be certified and accompanied by the enclosed form, which must be signed by 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

Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Dennis Keefe, Investigator
Jan Kujawski, Investigator
Ramsey Bahrawy, Esq. via email
Administration
File



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

ASH-GEN INC. DBA DON PEDRO'S RESTAURANT
118 SOUTH UNION STREET
LAWRENCE, MA 01843
LICENSE#: 059400254
VIOLATION DATE: 06/26/14
HEARD: 04/14/15

Ash-Gen, Inc. dba Don Pedro's Restaurant (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, April 14, 2015, regarding alleged violations of 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 21 years of age (1 count). The above captioned occurred on June 26, 2014, according to Investigator Keefe's Report.

The following documents are in evidence:

1. Investigator Keefe's Investigative Report dated June 26, 2014; and
2. Massachusetts Driver's License print-out of Seyler Moreta.

A. Watch Guard Patrol Agency License.

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

FACTS

1. On Thursday, June 26, 2014, at approximately 11:30 p. m, Investigators Kujawski, Doyle, Bailey and Keefe (the "Investigators") along with Lt. Jay Cerullo of the Lawrence Police Department investigated Ash-Gen Inc. dba Don Pedro's Restaurant to determine the manner in which the business was being conducted.
2. Investigators entered the licensed premises and observed a male bartender on duty, Jose Diaz, place a bottle of Presidente Light beer directly in front of a youthful looking male patron at the bar.
3. Investigators observed the youthful looking male patron, Seyler M. [REDACTED] take possession of the beer and walk away from the bar.
4. Investigators approached Mr. M. [REDACTED] and asked him for identification. Mr. M. [REDACTED] placed the beer bottle down and tried to exit the licensed premises.
5. With the assistance of Lt. Cerullo, Investigators obtained Mr. M. [REDACTED]'s identification: Seyler M. [REDACTED], actual date of birth [REDACTED] (age 20).
6. Investigators informed Mr. Diaz of the violation. Mr. Diaz stated that he did not ask Mr. M. [REDACTED] for identification.

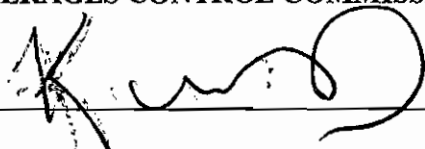
7. Investigators also spoke with the owner, Pedro Beato, who was on the licensed premises.
8. Investigators informed Mr. Beato that a report would be filed with the Chief Investigator for review.
9. At the hearing, the Licensee did not dispute the above-stated facts—which are contained in what was marked as Exhibit 1, the Investigative Report of Investigator Keefe-- but testified to additional facts, as set forth in the paragraphs below.
10. At the hearing Mr. Beato, testified as follows: that on June 26, 2014, an event which included music played by a disc jockey took place; the disc jockey informed Mr. Beato that Seyler M. [REDACTED] would be assisting during the evening, and this assistance would include Mr. Moreta getting drinks for him.
11. At the hearing, Jose Diaz testified that he also heard the disc jockey make the above statement.
12. Mr. Beato admitted at the hearing that Mr. M. [REDACTED] was served an alcoholic beverage, that Mr. M. [REDACTED] was under 21 years of age, and that no one asked Mr. M. [REDACTED] for any identification.

CONCLUSION

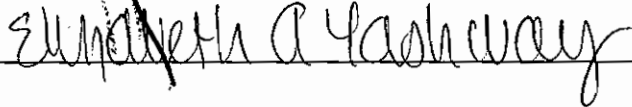
Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, §34C – Possession of an alcoholic beverage by a person under 21 years of age (1 count). Therefore the Commission **suspends the license for a period of five (5) days with two (2) days to be served, and three (3) days to 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

Kim S. Gainsboro, Chairman



Elizabeth A. Lashway, Commissioner



Dated: April 24, 2015

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.

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Dennis Keefe, Investigator
Jan Kujawski, Investigator
Ramsey Bahrawy, Esq. via email
Administration
File