



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

**Jean M. Lorizio, Esq.**  
*Chairman*

**DECISION**

**CALIFORNIA NIGHT CLUB INC. D/B/A ATTIKA  
1 MILL STREET  
LAWRENCE, MA 01840  
LICENSE#: 0594-00237  
VIOLATION DATE: 12/02/2018  
HEARING DATE: 3/12/2019**

California Night Club Inc. d/b/a Attika (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission (the "Commission" or "ABCC") held a hearing on Tuesday, March 12, 2019, regarding alleged violations of:

- 1) 204 CMR 4.03 Certain Practices Prohibited (1) No licensee or employee or agent of a licensee shall (c) Sell, offer to sell or deliver to any person or group of persons any drink at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public; and
- 2) 204 CMR 2.05(2) Permitting an illegality on the licensed premises to wit M.G.L. c. 140, § 183D (1 count). No innholder, common victualer or person owning, managing or controlling a café, restaurant, or other eating or drinking establishment shall require any person to pay a minimum charge or cover charge unless a sign is conspicuously posted at every entrance to any dining room or rooms where such charge is required.

The above captioned occurred December 2, 2018, according to Investigator Di Cicco's report.

Prior to the commencement of the hearing, the Licensee stipulated to the violation alleged in Investigator Di Cicco's Report.

The following documents are in evidence:

1. Investigator Di Cicco's Investigative Report;
2. Licensee's Stipulation of Facts;
3. Licensee's Guest Receipt;
4. Conversion Chart for Bottle Size to Number of Drinks;
5. ABCC Decision, 12/13/2017;
6. ABCC Decision, 12/7/2017;
7. ABCC Decision, 9/1/2015; and
8. Licensee's Commission File.

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

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

### FINDINGS OF FACT

1. On Sunday, December 2, 2018, at approximately 12:15 a.m., Investigators Keefe and Di Cicco ("Investigators"), along with Lieutenant Jay Cerullo of the Lawrence Police Department – Alcohol Enforcement Unit, and members of the Lawrence Fire Department ("Officers"), conducted an investigation of the California Night Club Inc. d/b/a Attika to determine the manner in which its business was being conducted.
2. Investigators and Officers entered the licensed premises. Investigators made observations of the first floor, and then they made their way to the second floor. At the top of the stairway to the second floor, Investigators observed a podium with staff members.
3. Investigators were informed that there was a \$10 cover charge to gain entry to the second floor. Investigators did not observe any posted sign indicating a cover charge.
4. Investigators observed that one of the rooms on the second floor contained many large containers of alcoholic beverages. Each container had a receipt of payment with the name of the alcoholic beverage.
5. Investigators spoke to one of the servers who informed them that the containers of alcoholic beverages were part of the bottle service. The server stated to Investigators that when a patron ordered a bottle of alcoholic beverage, the contents of the bottle were poured into a container and kept in a separate room. The server would then serve the patron alcoholic beverages from the marked container.
6. Investigators asked the server about a container with a receipt marked Hennessey cognac. The server stated to Investigators that the container had a 750-ml bottle of Hennessey cognac, and it was for a table of three patrons. The purchase price on the receipt for the Hennessey cognac was \$140.00.
7. Investigators made contact with the assistant manager, Jose Vega, and owners, Yoel and Adonis.
8. Investigators asked the owners about the price of a mixed drink or straight drink of Hennessey cognac. Yoel informed Investigators that the price was \$16.00 for a serving size of 1 ½ ounces.
9. Investigators explained that based on the stated cost of \$16.00 per 1 ½ ounce serving, the cost for an entire 750-ml bottle should be \$256.00, not the \$140.00 charged.
10. Investigators informed the owners and staff members of the violation and that a report would be filed with the Chief Investigator for review.

### CONCLUSION

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

- 1) 204 CMR 4.03 Certain Practices Prohibited (1) No licensee or employee or agent of a licensee shall (c) Sell, offer to sell or deliver to any person or group of persons any drink at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public; and

- 2) 204 CMR 2.05(2) Permitting an illegality on the licensed premises to wit M.G.L. c. 140, § 183D (1 count). No innholder, common victualer or person owning, managing or controlling a café, restaurant, or other eating or drinking establishment shall require any person to pay a minimum charge or cover charge unless a sign is conspicuously posted at every entrance to any dining room or rooms where such charge is required.

Therefore, the Commission issues a **WARNING**.

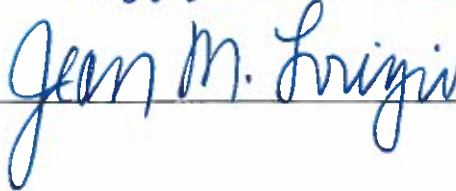
Pursuant to its discretion, the Commission reserves the right to carry forward the days previously held in abeyance in the December 7, 2017 and December 13, 2017 decisions should any additional violations occur within two years of those decisions.

**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Elizabeth A. Lashway, Commissioner



Jean M. Lorizio, Chairman



Dated: May 21, 2019

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  
Kyle E. Gill, Esq., Associate General Counsel  
Joseph Di Cicco, Investigator  
Dennis Keefe, Investigator  
Robert Kelley, Esq.  
Administration, File