

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

Steven Grossman
Treasurer and Receiver General

Kim S. Gainsboro, Esq.
Chairman

NOTICE OF SUSPENSION

March 13, 2012

EL JARRO CAFE, INC. DBA EXODUS LOUNGE
24 NEWBURY ST.
LAWRENCE, MA 01840
LICENSE#: 059400065
HEARD 3/13/2012

After a hearing on March 13, 2012, the Commission finds El Jarro Cafe, Inc. dba Exodus Lounge in violation of 204 CMR 4.03(b) and M. G. L. c.138 §34 (1 count).

The Commission suspends the licensee's license for a total of twenty-two (22) days. The suspension shall commence on Wednesday, May 2, 2012 and terminate on Wednesday, May 23, 2012. The license will be delivered to the Local Licensing Board or its designee on Wednesday, May 2, 2012 at 9:00 A.M. It will be returned to the licensee Thursday, May 24, 2012.

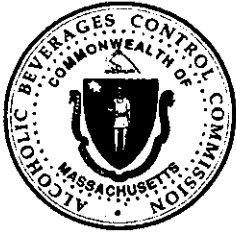
You are advised that pursuant to the provisions of M.G.L. c.138 §23, you may petition the Commission to accept an offer in compromise in lieu of suspension within twenty (20) calendar days following such notice of such suspension. If accepted, you may pay a fine using the enclosed form. All checks must 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
Brad Doyle, Investigator
Salim R. Tabit, Esq. via facsimile
Administration
File



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DECISION

EL JARRO CAFE, INC. DBA EXODUS LOUNGE
24 NEWBURY ST.
LAWRENCE, MA 01840
LICENSE#: 059400065
HEARD 3/13/2012

El Jarro Cafe, Inc. dba Exodus Lounge (the "Licensee") holds an all alcoholic beverages license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, March 13, 2012, regarding an alleged violations of 204 CMR 4.03(b) and M. G. L. c.138 §34 (1 count). Prior to the commencement of the hearing, the licensee stipulated to the violations alleged in Investigator Brad Doyle's Investigative Report.

The following documents are in evidence:

1. Investigator Doyle's Investigative Report dated December 3, 2011;
2. Licensee's Stipulation of Facts; and
3. Alcohol Receipt dated December 3, 2011.

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

FACTS

1. On Saturday, December 3, 2011, at approximately 10:30 p. m., Investigators Paul Capurso, Caroline Wilichoski, and Brad Doyle, along with Officer Jay Cerullo from Lawrence Police Department, investigated the business operation El Jarro Cafe, Inc. dba Exodus Lounge to determine the manner in which their business was conducted.
2. Investigators observed two (2) bottles of alcoholic beverages on a table, identified as one (1) 750 ml bottle of Patron Silver Tequila, and one (1) 750 ml bottle of Ciroc Coconut Vodka.
3. Investigators observed four (4) youthful looking individuals sitting at the table in possession of alcoholic beverages.
4. Investigators asked the manager on duty, Mr. Julio Gomez, about the amount of alcohol in a standard drink.
5. Mr. Gomez stated a standard drink, containing Ciroc Vodka or Patron Silver Tequila, would contain one and a half ounces (1.5 oz.) of alcoholic beverage.
6. Investigators extrapolated that the two (2) bottles of alcoholic beverages would contain sixteen (16) drinks at one and a half ounces (1.5 oz.) per drink.

7. Investigators informed Mr. Gomez that the two (2) bottles of alcohol could only be delivered to sixteen (16) or more people, not the four (4) individuals at the table.
8. Investigators requested a receipt for the two (2) bottles of alcoholic beverages.
9. Investigators identified themselves to the individuals at the table and asked them for identification.
10. One individual identified as Miss Kelly Espinal, of 1428 Webster Avenue, New York, NY, date of birth December 27, 1992, eighteen (18) years of age.
11. Miss Espinal provided investigators with her student identification from Bronx International High School.
12. Miss Espinal stated the drink in her possession was vodka and juice.
13. Miss Espinal could not identify the person who allowed her to enter the licensed premises.
14. Investigators informed Mr. Gomez, of the violation, and that a report would be submitted to the Chief Investigator for review.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated 204 CMR 4.03(b) and M. G. L. c. 138 §34 (1 count).

On the first violation therefore, the Commission **suspends the license for a period of eighteen (18) days with eight (8) days to be served, and ten (10) days to 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, the Commission **suspends the license for a period of five (5) days, of which all five (5) days will be held in abeyance for a period of two (2) years, provided no further violations of Chapter 138 or Commission Regulations occur.**

In total the Commission will **suspend the license for a period of eight (8) days to be served, and fifteen (15) days to be held in abeyance for a period of two (2) years, provided no further violations of Chapter 138 or Commission Regulations occur.**

By decision dated December 5, 2011, the Commission had previously ordered a twenty-four (24) day license suspension, with ten (10) days to be served and fourteen (14) days to be held in abeyance for a period of two (2) years provided no further violations occurred. Based on the violations found above, the licensee violated the conditions of that fourteen (14) day suspension being held in abeyance. The Commission hereby orders that suspension to be served on and after the eight (8) day suspension. The licensee will serve a total twenty-two (22) days.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro, Chairman _____

Kathleen McNally, Commissioner _____

Dated: March 13, 2012

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
Brad Doyle, Investigator
Salim R. Tabit, Esq. via facsimile
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