

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

Steven Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

DECISION

RIO BAR AND GRILL, LLC
9 APPLETON STREET
LAWRENCE, MA 01840
LICENSE#: 0594000225
HEARD 11/15/2011

Rio Bar and Grill, LLC (the "Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, November 15, 2011, regarding the alleged violations of 527 CMR 10.13 (2) (d), 204 CMR 4.03 (b), 204 CMR 4.03 (e), and M.G.L. c. 120 §183D. Prior to the commencement of the hearing, the licensee stipulated to the violations alleged in Investigator Caroline Guarino's Report.

The following documents and physical items are in evidence:

1. Investigator Guarino's Report dated August 26, 2011; and
2. Licensee's Stipulation of Facts.

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

FACTS

1. On Saturday, August 27, 2011, at approximately 12:45 a. m., Chief Investigator Mahony with Investigators Kenny, Doyle, and Guarino investigated the business operation of Rio Bar and Grill, LLC. to determine how their business was being conducted.
2. Investigators observed a male patron, sitting on a couch, pouring alcoholic beverages into a glass from a one (1) liter bottle of Circo [sic] Red Berry [vodka].
3. Investigators did not observe any wait staff or bartender in the area.
4. Investigators identified themselves to the manager on duty, Mr. Angel Villalona, and informed him they were conducting an inspection of the licensed premises.
5. Investigators asked Mr. Villalona if he sold full bottles [of alcoholic beverages] to patrons.
6. Mr. Villalona admitted he does sell full bottles to patrons.
7. Investigators asked how much was charged for a one (1) liter bottle of Red Berry Circo [sic].
8. Mr. Villalona stated the charge was one hundred twenty (\$120) dollars [per bottle.]
9. Investigators asked how much a bartender pours in each drink.
10. Mr. Villalona stated one and one-half (1 ½) ounces.
11. Investigators asked how much is typically charged for one drink of Red Berry Circo [sic].

12. Mr. Villalona stated the cheapest price was eight (\$8) dollars.
13. Investigators asked how many drinks could be made from one bottle.
14. Mr. Villalona stated "about eighteen (18)".
15. Using the information (eighteen (18) multiplied by eight (\$8) dollars) supplied by Mr. Villalona, investigators extrapolated that a one (1) liter bottle of Red Berry Circo [sic] would cost a total of one hundred forty-four (\$144) dollars. The licensed premises would not be able to charge less than one hundred forty-four (\$144) dollars per bottle.
16. Investigators observed that a one (1) liter bottle of Red Berry Circo [sic] would serve at least nine (9) persons.
17. Investigators observed that a one (1) liter bottle of Red Berry Circo [sic] was sold to a single patron.
18. Investigators informed Mr. Villalona of the violation.
19. Investigators identified the manager on duty, Mr. Villalona, as the only crowd manager on the licensed premises.
20. Investigators observed the occupancy permit indicated an allowable occupant load of one thousand and one hundred and three (1,103) people.
21. Investigators observed the occupant load allowed would require over three (3) crowd managers.
22. Investigators questioned Mr. Villalona for the whereabouts of the other crowd managers.
23. Mr. Villalona stated there are four (4) persons certified as crowd managers but the other three (3) certified crowd managers had called, and were out sick.
24. Investigators inquired what the occupant load was currently.
25. Mr. Villalona stated he did not know the current occupant load.
26. Investigators observed that the licensed premises is three (3) stories, and estimated that over two hundred fifty (250) persons were on the licensed premises between the first (1st) and second (2nd) floors.
27. Investigators observed two (2) female staff members collecting a cover charge from at least ten (10) patrons, without issuing any printed receipts.
28. Investigators observed that no cover charge sign was visible on the outside of the licensed premises.
29. Investigators informed Mr. Villalona of the violation.
30. Investigators informed Mr. Villalona that a violation report would be filed with the Commission for review.
31. Administrative review of the files indicates licensee has held the license since 2009, and has no previous violations.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated 527 CMR 10.13 (2) (d), 204 CMR 4.03 (b), 204 CMR 4.03 (e), and M.G.L. c. 120 §183D. Therefore, the Commission **suspends the license for eight (8) days of which one (1) day will be served and seven (7) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occurs.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner

Kathleen McNally

I, the undersigned, hereby certify that I have reviewed the hearing record and concur with the above decision.

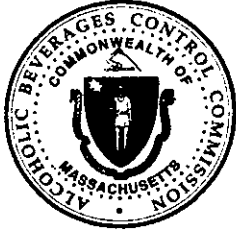
Susan Corcoran, Commissioner

Susan Corcoran

Dated: January 5, 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
Caroline Guarino, Investigator
Administration
File



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

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NOTICE OF SUSPENSION

January 5, 2012

RIO BAR AND GRILL, LLC
9 APPLETON STREET
LAWRENCE, MA 01840
LICENSE#: 0594000225
HEARD 11/15/2011

After a hearing on November 15, 2011, the Commission finds Rio Bar and Grill, LLC. in violation of 527 CMR 10.13 (2) (d), 204 CMR 4.03 (b), 204 CMR 4.03 (e), and M.G.L. c. 120 §183D.

The Commission **suspends the licensee's license for a total of one (1) day to be served.** The suspension shall commence on **Wednesday, February 15, 2012 and terminate on Wednesday, February 15, 2012.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, February 15, 2012 at 9:00 A.M. It will be returned to the licensee Thursday, February 16, 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
Caroline Guarino, Investigator
Administration
File