

Jean M. Lorizio, Esq.
Chairman

Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
Telephone: 617-727-3040
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NOTICE OF SUSPENSION

December 14, 2017

**TAVERN IN THE SQUARE LOWELL LLC
D/B/A TAVERN IN THE SQUARE
900 CHELMSFORD STREET
LOWELL, MA 01852
LICENSE#: 0630-00313
VIOLATION DATE: 07/14/2017
HEARD: 12/12/2017**

After a hearing on December 12, 2017, the Commission finds Notch 8 Inc. d/b/a Union Station violated M.G.L. Ch. 138 § 69-Sale or delivery of an alcoholic beverage to an intoxicated person (1 count). The Commission suspends the license for a period of four (4) days of which two (2) days will be served and two (2) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.

The suspension shall commence on Wednesday, January 31, 2018 and terminate on Thursday, February 1, 2018. The license will be delivered to the Local Licensing Board or its designee on Wednesday, January 31, 2018 at 9:00 A.M. It will be returned to the Licensee on February 2, 2018.

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 which must be signed by the Licensee and 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

A handwritten signature in black ink that reads "Jean M. Lorizio".

Jean M. Lorizio
Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Joseph Di Cicco, Investigator
Dennis Keefe, Investigator
Administration, File



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DECISION

**TAVERN IN THE SQUARE LOWELL LLC
D/B/A TAVERN IN THE SQUARE
900 CHELMSFORD STREET
LOWELL, MA 01852
LICENSE#: 0630-00313
VIOLATION DATE: 07/14/2017
HEARD: 12/12/2017**

Tavern in the Square Lowell LLC d/b/a Tavern in the Square (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, December 12, 2017, regarding an alleged violation of M.G.L. Ch. 138 § 69-Sale or delivery of an alcoholic beverage to an intoxicated person (1 count). Prior to the start of the hearing, the Licensee stipulated to the violation in Investigator Di Cicco’s report.

The following documents are in evidence:

1. Investigator Di Cicco’s Investigative Report; 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.

FINDINGS OF FACT


1. On Friday, July 14, 2017, at approximately 11:50 p.m., Investigators Keefe and Di Cicco (“Investigators”) conducted an investigation of the business operation of Tavern in the Square Lowell LLC d/b/a Tavern in the Square to determine the manner in which its business was being conducted.
2. Investigators entered the licensed premises where they observed Dave, wearing a white shirt, jeans, and a backwards facing baseball cap, standing on the left side of the bar with a group of individuals. Dave was in possession of a dark colored beverage in a small glass, consistent with that of a shot glass.

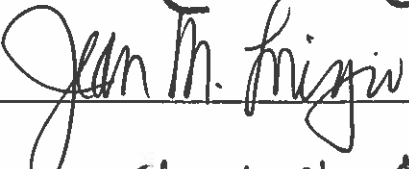
3. Investigators made observation about Dave, which indicated to them, based on their training and experience, that Dave was intoxicated.
4. Investigators observed that Dave was unsteady on his feet; he swayed as he stood at the bar; his eyes were glassy, and his speech was slurred. Investigators observed Dave for some time.
5. Investigators saw Dave walk away toward the restroom, swaying as he walked. Investigators observed that Dave continued to be unsteady on his feet when he exited the restroom, bumping into furniture as he returned to the bar.
6. Dave still spoke with slurred speech and, at some points, appeared to lean on the bar for support to remain upright.
7. Dave took a seat on the right side of the bar. In front of him were a cell phone, a dark colored mixed drink and a shot glass of dark colored liquid.
8. Dave got up and changed his seat from the right side of the bar to a stool located in front of the bar.
9. Investigators observed the bartender on duty, Ashley Long, take possession of the dark colored mixed drink and delivered the drink to Dave at his new location.
10. Investigators identified themselves to a server and asked to speak with the manager. Joe Gemmell informed Investigators that he was the manager on duty.
11. Investigators identified Dave to Mr. Gemmell. Gemmell stated that Dave's mixed drink was a Captain Morgan rum mixed with cola soda.
12. Gemmell stated that should would ensure that Dave had safe transport home.
13. Investigators advised Mr. Gemmell 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 M.G.L. Ch. 138 § 69-Sale or delivery of an alcoholic beverage to an intoxicated person (1 count). Therefore, the Commission **suspends the license for a period of four (4) days of which two (2) days will be served and two (2) 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 

Jean M. Lorizio, Chairman 

Elizabeth A. Lashway, Commissioner 

Dated: December 14, 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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