

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

Jean M. Lorizio, Esq.
Chairman

NOTICE OF INDEFINITE SUSPENSION

February 9, 2021

**JOHNNY & KATELYN INC. D/B/A JIMMY'S DISCOUNT LIQUORS
873 WESTERN AVENUE
LYNN, MA 01905
LICENSE#: 00141-PK-0638
VIOLATION DATE: 12/04/2020
HEARD: 1/25/2021**

After a hearing on January 25, 2021, the Commission finds Johnny & Katelyn Inc. d/b/a Jimmy's Discount Liquors violated:

- 1) 204 CMR 2.05(2)- Permitting an illegality on the licensed premises, to wit: Massachusetts Executive COVID- 19 Order No. 53 (Nov. 2, 2020)- Failure to have patrons exit licensed premises before 10:00 PM;

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of Johnny & Katelyn Inc. d/b/a Jimmy's Discount Liquors **effective forthwith** until further written order of the Commission.

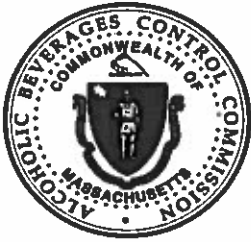
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio
Chairman

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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
Michael Flanagan, Dept. of Labor Standards
Thomas T. Truax, Esq.
Administration, File



***Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
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Jean M. Lorizio, Esq.
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DECISION

**JOHNNY & KATELYN INC. D/B/A JIMMY'S DISCOUNT LIQUORS
873 WESTERN AVENUE
LYNN, MA 01905
LICENSE#: 00141-PK-0638
VIOLATION DATE: 12/04/2020
HEARD: 1/25/2021**

Johnny & Katelyn Inc. d/b/a Jimmy's Discount Liquors (the "Licensee") holds an alcoholic beverages license issued pursuant to M.G.L. c. 138, § 15. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a remote hearing via Microsoft Teams on Monday, January 25, 2021, regarding alleged violations of:

- 1) 204 CMR 2.05(2)- Permitting an illegality on the licensed premises, to wit: Massachusetts Executive COVID- 19 Order No. 53 (Nov. 2, 2020)- Failure to have patrons exit licensed premises before 10:00 PM;
- 2) 204 CMR 2.05(2)- Permitting an illegality on the licensed premises, to wit: Massachusetts Executive COVID- 19 Order No. 55 (Nov. 2, 2020) – Patron or employee failing to wear a mask or cloth face covering over their mouth and nose when in a public location.

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

The following documents are in evidence:

1. Investigator Di Cicco's Report;
2. Form 43 License Approval, 3/2/2010;
3. Photographs of Receipts;
4. Massachusetts Executive COVID-19 Order No. 53, 11/2/2020;
5. Massachusetts Executive COVID-19 Order No. 55, 11/2/2020;
6. Licensee Stipulation of Facts.

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

FINDINGS OF FACT

1. On Friday, December 4, 2020, at approximately 9:45 p.m., Investigators Keefe and Di Cicco (“Investigators”) conducted an investigation of Johnny & Katelyn Inc. d/b/a Jimmy’s Discount Liquors to determine the manner in which its business was being conducted, and to ensure compliance with Massachusetts Governor Charles Baker’s Executive COVID-19 Orders.
2. While on the licensed premises, Investigators observed multiple sales of alcoholic beverages which occurred after 9:30 p.m. – the sale of: Johnny Walker Scotch whiskey and Hennessy cognac to a female individual; a case of Heineken beer to a male individual; and a bottle of wine to a female individual.
3. Investigators identified themselves to two female individuals behind the counter and informed them of multiple sales in violation of the COVID-19 Order.
4. In the course of the investigation, a female clerk (FI-1) was observed multiple times without a facial covering over her nose and mouth.
5. The other female individual, Leanne Tran, identified herself and informed Investigators she was the owner of the store with her husband. Mrs. Tran provided Investigators with the sales receipts which indicated the sale of alcoholic beverages took place at 9:44 p.m., 9:47 p.m., and 9:54 p.m.
6. Investigators reviewed the COVID-19 Guidelines with Leanne and FI-1.
7. Investigators advised Mrs. Tran of the violations and that a report would be filed with the Chief Investigator for review.
8. Mrs. Tran attended the Commission hearing and stipulated to the facts in the Investigator’s report other than to clarify that the woman observed without a facial covering was Leanne Tran and not FI-1 as indicated in the report. The Commission was informed Mrs. Tran has severe allergies and frequently pulls her mask down for brief periods. The Commission was also informed that the patrons observed purchasing alcohol at 9:44 p.m., 9:47 p.m. and 9:54 p.m. had all entered the establishment prior to 9:30 p.m.
9. The Licensee has held a license under M.G.L. c. 138, § 15 since 2010 with no prior violations.

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: Massachusetts Executive COVID- 19 Order No. 53 (Nov. 2, 2020)- Failure to have patrons exit licensed premises before 10:00 PM.

Based on the evidence, the Commission finds NO VIOLATION of 204 CMR 2.05(2)- Permitting an illegality on the licensed premises, to wit: Massachusetts Executive COVID- 19 Order No. 55 (Nov. 2, 2020) – Patron or employee failing to wear a mask or cloth face covering over their mouth and nose when in a public location, occurred.

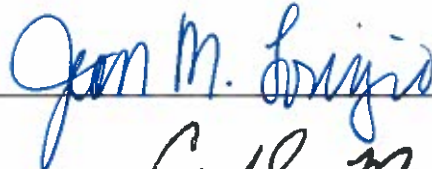
On the violation of 204 CMR 2.05(2), to wit: Mass. Exec. COVID- 19 Order No. 53, the Commission hereby **INDEFINITELY SUSPENDS** the license of Johnny & Katelyn Inc. d/b/a Jimmy's Discount Liquors **effective forthwith** until further written order of the Commission.

The Commission will not issue any further order without a written request from the licensee showing good cause to reconsider this indefinite suspension.

Good cause for the Commission to consider issuing a further written order revising the order of indefinite suspension will include, but not be limited to the Licensee receives approval from the Massachusetts Department of Labor Standards ("DLS") as to a reopening plan. The Licensee must submit to the DLS a COVID Control Plan to reopen (see link here: <https://www.mass.gov/doc/sector-specific-workplace-safety-standards-phase-iii-step-1-for-restaurants-to-address-covid-1/download>) and operate in compliance with COVID 19 Orders Nos. 33, 37, 40 and 43, and the Restaurant Sector Specific Standards. Said plan must be submitted to both Michael Flanagan (michael.flanagan@mass.gov) and Mary Dozois (mary.dozois@mass.gov) requesting review and approval.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



Dated: February 9, 2021

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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