

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

Jean M. Lorizio, Esq.
Chairman

DECISION

**BETWEEN THE UPRIGHTS, LLC
D/B/A BETWEEN THE UPRIGHTS AT 2ND STREET
23 AVENUE A
MONTAGUE, MA 01376
LICENSE#: 0736-00005
VIOLATION DATE: 9/12/2019
HEARD: 10/29/2019**

Between the Uprights, LLC d/b/a Between the Uprights at 2nd Street (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("Commission" or "ABCC") held a hearing on Tuesday, October 29, 2019, regarding an alleged violation of 204 CMR 2.05 (2)- Permitting an illegality on the licensed premises, to wit: M.G.L. Ch.138 § 34- Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age. Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Binienda's Report.

The following documents are in evidence:

1. Investigator Binienda's Compliance Check Field Report;
2. Licensee Stipulation of Fact;
3. Copy of Application Approved 11/28/2008.

A. TIPS Certifications for Employees.

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

FACTS

1. On Thursday, September 12, 2019, at approximately 4:55 p.m., Investigators Velez and Binienda ("Investigators") investigated the business of Between the Uprights, LLC d/b/a Between the Uprights at 2nd Street.
2. An underage operative, working with Investigators, purchased from the Licensee an alcoholic beverage, a Bud Light beer for three dollars (\$3.00). The underage operative was not asked for identification.
3. The Licensee has held a license under M.G.L. c. 138, § 12 since 2008 with no prior violations.

4. Mr. Lewis, the sole member of the LLC and license manager, appeared at the Commission hearing. Lewis testified as to the extensive steps he has taken to ensure not only that minors are not allowed to obtain alcohol at the premises, but also that his business and employees remain in compliance so that no further violations of any sort occur.

CONCLUSION

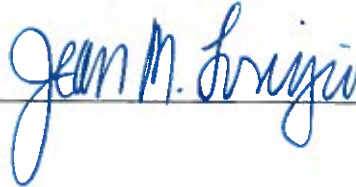
Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05 (2)- Permitting an illegality on the licensed premises, to wit: M.G.L. Ch.138 § 34- Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age. The Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



Jean M. Lorizio, Chairman



Dated: October 31, 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
Jamie Binienda, Investigator
Nicholas Velez, Investigator
Administration, File