



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

AMENDED NOTICE OF SUSPENSION

April 8, 2014

CONNELLY AND JEWETT LLC DBA THE THIRSTY WHALE
24 MARKET SQUARE
NEWBURYPORT, MA 01950
LICENSE#: 079600009
VIOLATION DATE: 12/12/2013
HEARD: 04/01/2014

After a hearing on April 1, 2014, the Commission find Connelly and Jewett LLC dba The Thirsty Whale in violation of c. 138 §69-Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count). The Commission **suspends the licensee's license for a total of six (6) days to be served.**

A request by the Licensee to reschedule the suspension has been allowed by this Commission.

The suspension shall commence on **Wednesday, April 16, 2014 and terminate on Monday, April 21, 2014.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, April 16, 2014 at 9:00 A.M. It will be returned to the licensee Tuesday, April 22, 2014.

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
Mark Kenny, Investigator
Dennis Keefe, Investigator
Patricia Farnsworth, Esq. via facsimile 617-439-3987
Administration
File

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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.
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NOTICE OF SUSPENSION

April 4, 2014

CONNELLY AND JEWETT LLC DBA THE THIRSTY WHALE
24 MARKET SQUARE
NEWBURYPORT, MA 01950
LICENSE#: 079600009
VIOLATION DATE: 12/12/2013
HEARD: 04/01/2014

After a hearing on April 1, 2014, the Commission find Connelly and Jewett LLC dba The Thirsty Whale in violation of c. 138 §69-Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count).

The Commission **suspends the licensee's license for a total of six (6) days to be served. The suspension shall commence on Wednesday, May 21, 2014, and terminate on Monday, May 26, 2014.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, May 21, 2014 at 9:00 A.M. It will be returned to the licensee Tuesday, May 27, 2014.

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
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Administration
File

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Steven Grossman
Treasurer and Receiver General

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

Kim J. Gainsboro, Esq.
Chairman

DECISION

CONNELLY AND JEWETT LLC DBA THE THIRSTY WHALE
24 MARKET SQUARE
NEWBURYPORT, MA 01950
LICENSE#: 079600009
VIOLATION DATE: 12/12/2013
HEARD: 04/01/2014

Connelly and Jewett LLC dba The Thirsty Whale (the "Licensee" or "Concepts") 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, April 1, 2014, regarding an alleged violation of M.G.L. c. 138 §69-Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Kenny's Report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
2. Investigator Kenny's Violation Report dated December 13, 2013.

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

FACTS

1. On Thursday, December 12, 2013, at approximately 11:40 p. m., Investigators Keefe and Kenny conducted an investigation of the business operation of Connelly and Jewett LLC dba The Thirsty Whale to determine the manner in which its business was being conducted.
2. At approximately 9:30 p.m., investigators observed a male individual later identified as Steve Hill, who appeared to be intoxicated. Investigators observed that Mr. Hill was unsteady on his feet as he walked from the men's room to the bar.
3. Investigators observed that Mr. Hill ordered a Jack Daniels [whiskey] and ginger ale and remained standing near the bar.
4. Investigators observed that Mr. Hill stayed in the bar area for the next couple of hours and he continued to order alcoholic beverages. They observed that Mr. Hill's eyes appeared half-closed at times, and he became loud and boisterous.
5. Based on their training and experience, investigators formed the opinion that Mr. Hill was intoxicated.

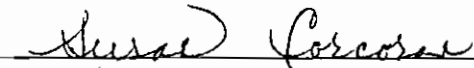
6. At approximately 11:40 p.m., investigators observed that Mr. Hill was served another Jack Daniels [whiskey] and ginger ale from the bartender.
7. Investigators identified themselves to the doorman on duty, James O'Brien, and informed him of the violation and that a report would be filed with the Chief Investigator for review.
8. Mr. O'Brien stated to investigators that he would provide Mr. Hill with safe transportation home.

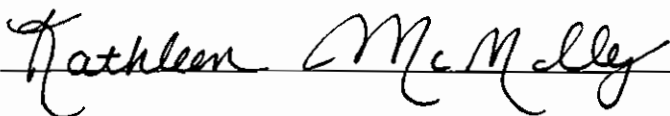
CONCLUSION

Based on the evidence, the Commission finds the licensee violated c. 138 §69-Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count). Therefore, the Commission **suspends the license for five (5) days of which three (3) 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.**

By decision dated November 20, 2013, the Commission had previously ordered a three (3) day license suspension but had held the suspension in abeyance for a period of two (2) years provided no further violations occurred. Based on the violation found above, the licensee violated the conditions of that three (3) day suspension being held in abeyance. The Commission hereby orders that suspension to be served on and after the three (3) day suspension. The licensee will serve a total six (6) days.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner 

Kathleen McNally, Commissioner 

Dated: April 4, 2014

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
Mark Kenny, Investigator
Dennis Keefe, Investigator
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