

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

*Deborah B. Goldberg*  
*Treasurer and Receiver General*

*Kim J. Gainsboro, Esq.*  
*Chairman*

NOTICE OF SUSPENSION

April 13, 2016

**CONNELLY AND JEWETT LLC D/B/A THE THIRSTY WHALE**  
**24 MARKET SQUARE**  
**NEWBURYPORT, MA 01950**  
**LICENSE#: 079600009**  
**VIOLATION DATE: 12/18/2015**  
**HEARD: 04/12/2016**

After a hearing on April 12, 2016, the Commission finds Connelly and Jewett LLC d/b/a The Thirsty Whale violated M.G.L. c. 138, §69- Sale or delivery of an alcoholic beverage to an intoxicated person (2 Counts).

Therefore the Commission **suspends the license for a period of eight (8) days of which four (4) days will be served, and four (4) 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 April 4, 2014, the Commission had previously ordered a five (5) day license suspension with three (3) days to be served and two (2) days to be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur. Based on the violation found above, the Licensee violated the conditions of that two (2) day suspension being held in abeyance. The Commission hereby orders that suspension to be served on and after the four (4) day suspension. The Licensee will serve a total six (6) days.

The suspension shall commence on Wednesday, June 8, 2016 and terminate on Monday, June 13, 2016. The license will be delivered to the Local Licensing Board or its designee on Wednesday, June 8, 2016 at 9:00 A.M. It will be returned to the licensee Tuesday, June 14, 2016.

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.

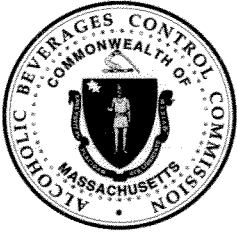
**ALCOHOLIC BEVERAGES CONTROL COMMISSION**



Kim S. Gainsboro  
Chairman

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这份文件是重要的，应立即进行翻译。

cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Joseph Di Ciccio, Investigator  
Dennis Keefe, Investigator  
Jeffrey Karp, Esq.  
Administration, File



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*Department of the State Treasurer*  
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*Boston, Massachusetts 02114*

*Deborah B. Goldberg*  
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**DECISION**

**CONNELLY AND JEWETT LLC D/B/A THE THIRSTY WHALE**  
**24 MARKET SQUARE**  
**NEWBURYPORT, MA 01950**  
**LICENSE#: 079600009**  
**VIOLATION DATE: 12/18/2015**  
**HEARD: 04/12/2016**

Connelly and Jewett LLC d/b/a The Thirsty Whale (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, April 12, 2016, regarding an alleged violation of M.G.L. c. 138, §69- Sale or delivery of an alcoholic beverage to an intoxicated person (2 Counts). 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 Investigative Report dated December 21, 2015; 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, December 18, 2015, at approximately 10:50 p.m., Investigators Keefe and Di Cicco ("Investigators"), acting in an undercover capacity, investigated the business operation of Connelly and Jewett LLC d/b/a The Thirsty Whale to determine the manner in which their business was being conducted.
2. Investigators entered the licensed premises and observed the premises to be well lit.
3. Investigators observed that many patrons seemed to be drinking at a fast pace; some patrons were unsteady on their feet, especially a tall youthful appearing blond female who was at the end of the bar.
4. Investigators observed a man, Jeff, who entered the licensed premises was unsteady on his feet. Jeff walked through the front door, past the Investigators, and in clear view of the bartender on duty. The bar was located approximately 3 feet to Jeff's left as he walked in.

5. Investigators observed Jeff make his way to the lottery vending machine located across from the bar, next to where Investigators were standing.
6. Investigators made the following observations, which based on their training and experience, indicated that Jeff was intoxicated.
7. Investigators observed Jeff was unsteady on his feet, and his knees buckled as he attempted to walk. Jeff's eyes were glassy, blinking long and slowly.
8. Investigators observed that Jeff had a difficult time extracting his wallet from his pocket and placing money in the lottery vending machine. Investigators observed Jeff made at least four attempts to use the lottery machine.
9. Investigators observed that all Jeff's behavioral characteristics of intoxication were in clear view of the bartenders on duty.
10. Investigators observed Jeff and another man ("Jeff's friend") went to the bar and placed an order for alcoholic beverages. The man was at the bar and Jeff was behind him; both men were in clear view of the bartenders on duty. The other man passed a draft beer to Jeff, in full view of the bartender. Jeff then made his way into the next room and sat at a table with other individuals.
11. Investigator Keefe followed Jeff into the next room and observed a young male wearing a plaid shirt, standing by a dart board. Investigator Keefe observed the young male was unsteady on his feet, and had slow and uncoordinated movements. The young male in the plaid shirt made his way over to the table where Jeff was seated. The male in the plaid shirt displayed loud behavior while seated at the table.
12. Based on his training and experience, Investigator Keefe determined that the male in the plaid shirt was intoxicated. Investigator Keefe identified the male in the plaid shirt to Investigator Di Cicco and determined to contact Chief Investigator Mahony.
13. While waiting for Chief Mahony, Investigator Keefe observed Jeff and his friend prepare to leave the establishment.
14. Investigator Keefe contacted Jeff and his friend outside the premises. Investigator Keefe observed Jeff step off the sidewalk and stumble approximately 8 feet into the road before he regained his balance.
15. Chief Mahony arrived on scene. Both men refused to provide their full names and addresses. Jeff said that he lived down the street and was leaving. Both men stated that they were not driving.
16. Chief Mahony and Investigator Keefe identified themselves to Stephanie Romano, the bartender in charge, and informed her about the service to an intoxicated individual.
17. Investigator Di Cicco had remained inside the premises and continued observations, staying in touch via his mobile phone with Investigator Keefe and Chief Mahony outside.
18. At approximately 11:55 p.m., Investigator Di Cicco observed the male in the plaid shirt go to the bar and order an alcoholic beverage. Investigator Di Cicco observed the man fumble through his wallet, dropping it on the floor as he attempted to pay for his order. The bartender delivered the alcoholic beverage to the man in the plaid shirt.
19. Chief Mahony and Investigator Keefe identified themselves and informed the female bartender and the doorman about the service to an intoxicated man in the plaid shirt.
20. The doorman stated that he would make sure the man in the plaid shirt had safe transport home.

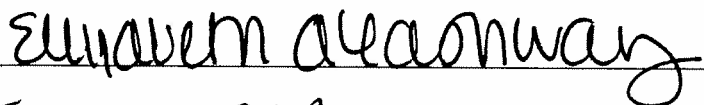
### CONCLUSION

Based on the evidence, the Commission finds the Licensee violated M.G.L. c. 138, §69- Sale or delivery of an alcoholic beverage to an intoxicated person (2 Counts). Therefore, the Commission **suspends the license for a period of eight (8) days of which four (4) days will be served, and four (4) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

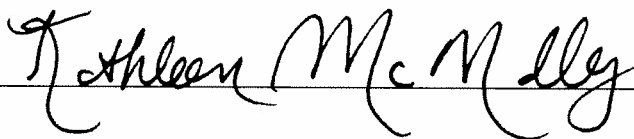
**By decision dated April 4, 2014, the Commission had previously ordered a five (5) day license suspension with three (3) days to be served and two (2) days to be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur. Based on the violation found above, the Licensee violated the conditions of that two (2) day suspension being held in abeyance. The Commission hereby orders that suspension to be served on and after the four (4) day suspension. The Licensee will serve a total six (6) days.**

### **ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Elizabeth A. Lashway, Commissioner



Kathleen McNally, Commissioner



Dated: April 13, 2016

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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