*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*

## DECISION

**CONNELLY AND JEWETT LLC DBA THE THIRSTY WHALE**
**24 MARKET SQUARE**
**NEWBURYPORT, MA 01950**
**LICENSE#: 079600009**
**VIOLATION DATE: 07/18/2013**
**HEARD: 11/19/2013**

Connelly and Jewett LLC dba 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, November 19, 2013, regarding an alleged violation of 204 CMR 2.05 (2)- Permitting an Illegality on the licensed premises, to wit: c.138, §34C Person under the age of twenty-one (21) in possession of an alcoholic beverage. Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Kelleher's Report.

The following documents are in evidence:

1. Investigator Kelleher's Compliance Check Field Report dated July 18, 2013;
2. Licensee's Stipulation of Facts;
3. Massachusetts Driver's License for Lindsay Smith;
4. RMV Printout for Victoria Morris; and
5. Photograph of Victoria Morris inside the Licensed Premises.

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

## FACTS

1. On Thursday, July 18, 2013, Investigators Guarino and Kelleher conducted an investigation of the business operation of Connelly and Jewett LLC dba The Thirsty Whale.
2. While on premises, investigators' attention was drawn to a youthful looking female seated at the end of the bar.
3. Investigators observed the youthful looking female drinking a Corona beer.
4. Investigators approached this individual, identified themselves, and asked to see proof of legal drinking age.
5. The female individual provided investigators with a Massachusetts Driver's license in the name of Lindsay Smith, actual date of birth ▮▮▮▮▮ (age 25).
6. Upon viewing the identification presented, investigators observed that the photo on the driver's license and the individual presenting it were not the same person.

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7. Investigators questioned the female individual who provided them with her true name, Victoria Morris, actual date of birth ███████ (age 20).
8. Ms. Morris confirmed that the identification presented belonged to a friend of hers, and that she had paid her friend $80.00.
9. Investigators questioned the bartender on duty, Daniel Kenny, if he had requested to see the underage's identification.
10. Mr. Kenny stated that he did not request identification from Ms. Morris because the "bouncer was checking i.d.s at the door."
11. Mr. Kenny and Ms. Morris both stated that she had purchased one Corona beer for four dollars.
12. Investigators advised Mr. Kenny 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 204 CMR 2.05 (2) - Permitting an Illegality on the licensed premises, to wit:  c.138, §34C Person under the age of twenty-one (21) in possession of an alcoholic beverage.  Therefore, the Commission **suspends the license for three (3) days of which three (3) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**
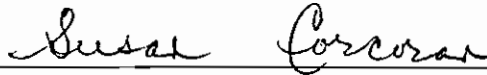
## ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner _____*Kathleen A McMally*_____

I, the undersigned, hereby certify that I have reviewed the hearing record and concur with the above decision

Susan Corcoran, Commissioner _____*Susan Corcoran*_____

Dated: November 20, 2013

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
        Tara Kelleher, Investigator
        Caroline Guarino, Investigator
        Patricia Farnsworth, Esq. via facsimile 617-439-3987
        Administration
        File