



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

Steven Grossman
Treasurer and Receiver General

AMENDED
NOTICE OF SUSPENSION

Kim S. Gainsboro, Esq.
Chairman

August 6, 2014

TOPSIDE INC DBA THE RITZ CAFE
4 CIRCUIT AVE.
OAK BLUFFS, MA 02557
LICENSE#: 091800009
VIOLATION DATE: 06/13/2014
HEARD: 07/08/2014

After a hearing on July 8, 2014, the Commission finds Topside Inc. dba The Ritz Cafe in violation of M.G.L. 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 thirty (30) days to be served. The suspension shall commence on Monday, November 3, 2014, and terminate on Tuesday, December 2, 2014. The license will be delivered to the Local Licensing Board or its designee on Monday, November 3, 2014 at 9:00 A.M. It will be returned to the licensee Wednesday, December 3, 2014. No offer in compromise will be considered for fifteen (15) of the thirty (30) days suspension for this penalty

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
Frederick G. Mahony, Chief Investigator
Nicholas Velez, Investigator
Jamie Binienda, Investigator
Howard M. Miller, Esq. via facsimile 508-627-3781
Administration
File



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

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MEMORANDUM AND ORDER ON LICENSEE'S
REQUEST FOR RECONSIDERATION

TOPSIDE INC DBA THE RITZ CAFE
4 CIRCUIT AVE.
OAK BLUFFS, MA 02557
LICENSE#: 091800009
VIOLATION DATE: 06/13/2014
HEARD: 08/06/2014

Topside Inc. dba The Ritz Cafe (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, July 8, 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).

By decision dated July 19, 2014, the Commission found the licensee in violation of the charge and suspended the license for thirty (30) days to be served. No offer in compromise will be considered for this penalty.

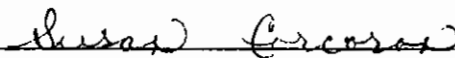
By letter dated July 21, 2014, the counsel for the Licensee requested a hearing to reconsider the thirty day suspension. On Wednesday, August 6, 2014, a hearing for the motion for reconsideration was held.

The licensee attended the hearing before the Commission and argued that good cause exists to reconsider the suspension. The Licensee's request to reschedule the suspension for a later date has been allowed by this Commission.


Based on the evidence, the Commission reconsiders its prior order. Therefore, the Commission **suspends the license for thirty (30) days to be served. No offer in compromise will be considered for fifteen (15) of the thirty (30) days suspension for this penalty.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner



Kathleen McNally, Commissioner



DATE: August 6, 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
Nicholas Velez, Investigator
Jamie Binienda, Investigator
Howard M. Miller, Esq. via facsimile 508-627-3781
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Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

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Treasurer and Receiver General

Kim S. Gainsboro, Esq.
Chairman

NOTICE OF SUSPENSION

July 9, 2014

TOPSIDE INC DBA THE RITZ CAFE
4 CIRCUIT AVE.
OAK BLUFFS, MA 02557
LICENSE#: 091800009
VIOLATION DATE: 06/13/2014
HEARD: 07/08/2014

After a hearing on July 8, 2014, the Commission finds Topside Inc. dba The Ritz Cafe in violation of M.G.L. 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 thirty (30) days to be served. The suspension shall commence on Wednesday, August 27, 2014, and terminate on Friday, September 26, 2014.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, August 27, 2014 at 9:00 A.M. It will be returned to the licensee Saturday, September 27, 2014. **No offer in compromise will be considered for this penalty.**

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
Nicholas Velez, Investigator
Jamie Binienda, Investigator
Administration
File



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

Steven Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

DECISION

TOPSIDE INC, DBA THE RITZ CAFE
4 CIRCUIT AVE.
OAK BLUFFS, MA 02557
LICENSE#: 091800009
VIOLATION DATE: 06/13/2014
HEARD: 07/08/2014

Topside Inc. dba The Ritz Cafe (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, July 8, 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 Velez's Report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
2. Investigator Velez's Violation Report dated June 13, 2014.

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

FACTS

1. On Friday, June 13, 2014, at approximately 8:00 p. m., Investigators Binienda, Kenny, Keefe, and Velez conducted an investigation of the business operation of Topside Inc. dba The Ritz Cafe, to determine the manner in which its business was being conducted.
2. Investigator Velez entered the licensed premises at approximately 8:03 p.m., and observed an individual, Bobby King, who appeared to be intoxicated.
3. At approximately 8:09 p.m., Investigator Velez observed Mr. King speaking to a woman sitting at the bar.
4. Investigator Velez observed Mr. King spoke in an incoherent manner, and that he had red, bloodshot, glassy, and watery eyes.
5. At approximately 8:38 p.m., Investigator Velez observed that Mr. King was unsteady on his feet as he walked to the bathroom.
6. Investigator Velez also observed that Mr. King spoke to the bartender on duty in a thick and slurred speech.
7. Based on his training and experience, Investigator Velez formed the opinion that Mr. King was intoxicated.

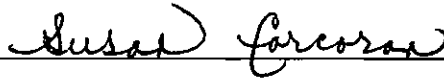
8. At approximately 8:41 p.m., Investigator Velez observed Mr. King order a bottle of Miller Lite beer, and he observed the bartender on duty deliver the beer to Mr. King. Mr. King then grabbed the beer from the bar and consumed it.
9. Investigator Velez exited the premises, and Investigators Binienda, Kenny, and Keefe entered the premises and spoke to the owner, Janette King.
10. Ms. King stated to investigators that she instructed the bartender on duty to shut "Bobby" off.
11. The bartender on duty stated to Ms. King that Bobby had nagged her, and said it was his last drink, so she served him.
12. Ms. King stated that she would call a taxicab for Mr. King.
13. Investigators informed Ms. King of the violation and that a report would be filed with the Chief Investigator for further action.

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 (1 count). Therefore, the Commission **suspends the license for thirty (30) days to be served. No offer in compromise will be considered for this penalty.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner



Kathleen McNally, Commissioner



Dated: July 9, 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
Nicholas Velez, Investigator
Jamie Binienda, Investigator
Dennis Keefe, Investigator
Mark Kenny, Investigator
Administration
File



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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

August 29, 2014

TOPSIDE INC DBA THE RITZ CAFE
4 CIRCUIT AVE.
OAK BLUFFS, MA 02557
LICENSE#: 091800009
VIOLATION DATE: 06/13/2014
HEARD: 07/08/2014

After a hearing on July 8, 2014, the Commission finds Topside Inc. dba The Ritz Cafe in violation of M.G.L. 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 fifteen (15) days to be served. No offer in compromise will be considered for this penalty.**

A request by the licensee to reschedule the suspensions for a later date has been allowed by this Commission.

The suspension shall commence on Monday, November 3, 2014, and terminate on Monday, November 17, 2014. The license will be delivered to the Local Licensing Board or its designee on Monday, November 3, 2014 at 9:00 A.M. It will be returned to the licensee Tuesday, November 18, 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
Nicholas Velez, Investigator
Jamie Binienda, Investigator
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