



Jean M. Lorizio, Esq.
Chairman

*Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
Telephone: 617-727-3040
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NOTICE OF SUSPENSION

July 19, 2018

**BENWARE ENTERPRISES INC. D/B/A TURTLE POND TAVERN
349 WILBRAHAM ST., P.O. BOX789
PALMER, MA 01069
LICENSE#: 0948-00007
VIOLATION DATE: 3/31/2018
HEARD: 7/17/2018**

After a hearing on July 17, 2018, the Commission finds Benware Enterprises Inc. d/b/a Turtle Pond Tavern violated 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: Ch. 138 § 69 Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person (1 count).

The Commission suspends the license for a period of four (4) days of which one (1) day will be served and 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.

The suspension shall commence on Wednesday, September 5, 2018 and terminate on Wednesday, September 5, 2018. The license will be delivered to the Local Licensing Board or its designee on Wednesday, September 5, 2018 at 9:00 A.M. It will be returned to the licensee on Thursday, September 6, 2018.

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

A handwritten signature in cursive script, reading "Jean M. Lorizio".

Jean M. Lorizio
Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Nicholas Velez, Investigator
Jan Kujawski, Investigator
Administration, File



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DECISION

**BENWARE ENTERPRISES INC. D/B/A TURTLE POND TAVERN
349 WILBRAHAM ST., P.O. BOX 789
PALMER, MA 01069
LICENSE#: 0948-00007
VIOLATION DATE: 3/31/2018
HEARD: 7/17/2018**

Benware Enterprises Inc. d/b/a Turtle Pond Tavern (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 17, 2018, regarding an alleged violation of 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: Ch. 138 § 69 Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person (1 count). Prior to the start of the hearing, the Licensee stipulated to the violation in Investigator Kujawski's report.

The following documents are in evidence:

1. Investigator Kujawski's Investigative Report; and
2. Licensee's Stipulation of Facts.

A. TIPS Certification for Employee.

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

The Commission took Administrative Notice of the Licensee's record.

FINDINGS OF FACT

1. On Sunday, March 31, 2018, at approximately 12:14 a.m., Investigators Velez and Kujawski ("Investigators") conducted an investigation of the business operation of Benware Enterprises Inc. d/b/a Turtle Pond Tavern to determine the manner in which its business was being conducted.
2. Investigators entered the licensed premises and noticed a male individual, Matt, seated at the bar, who appeared to be intoxicated.

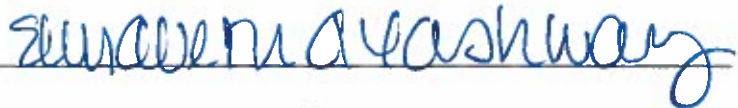
3. Investigators observed that Matt's glassy eyes were bloodshot and watery, with a dazed look in them. Matt's eyes were half closed and he appeared to be falling asleep at the bar.
4. When Investigators overheard Matt speaking to another male individual they observed that Matt's speech was thickly slurred. When Matt spoke to Investigators, he mumbled and was unintelligible.
5. Based on their training and experience, Investigators formulated the opinion that Jonathan was intoxicated.
6. Investigators observed the bartender on duty, Kristin Gravanis, tell Matt "You have to keep your eyes open."
7. Investigators observed the bartender deliver to Matt a Twisted Tea alcoholic beverage.
8. Investigators identified themselves to Ms. Gravanis and identified Matt to her. Gravanis stated to Investigators that Matt should not have been served another drink because of his level of intoxication.
9. Investigators then spoke with another male, William Bernat, who stated that he would provide Matt safe transport home.
10. Investigators advised Ms. Gravanis of the violation and that a report would be submitted to the Chief Investigator for further action.

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: Ch. 138 § 69 Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person (1 count). Therefore, the Commission **suspends the license for a period of four (4) days of which one (1) day will be served and 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

Elizabeth A. Lashway, Commissioner



Kathleen McNally, Commissioner



Dated: July 19, 2018

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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