



*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150-2358*

Jean M. Lorizio, Esq.
Chairman

DECISION

**D AND B CORP. D/B/A GOLDEN BANANA
151 NEWBURY STREET
PEABODY, MA 01960
LICENSE#: 00113-GP-0956
VIOLATION DATE: 12/16/2023
HEARD: 3/26/2024**

D and B Corp. d/b/a Golden Banana ("Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a remote hearing via Microsoft Teams on Tuesday, March 26, 2024, 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 facts alleged in Investigator Anderson's report.

The following documents are in evidence:

1. Investigative Report of M. Anderson;
2. ABCC Form 43, New License Approval, 2/26/1975;
3. Licensee's Stipulation of Facts.

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

FINDINGS OF FACT

1. On Friday, December 15, 2023, at approximately 10:10 p.m., Investigators Keefe and Anderson ("Investigators"), in an undercover capacity, inspected D and B Corp. d/b/a Golden Banana ("Licensee") to determine the way its business was being conducted.
2. At approximately 11:35 p.m., an unknown male individual ("UM"), approached Investigator Anderson, grabbed her hand and asked to join her at her table. Investigators were sitting at a table approximately ten feet from the bar area. Investigator Anderson observed UM's speech was slow and thickly slurred.
3. Investigators observed UM drop his money on the floor, have trouble picking it up, and then difficulty standing upright from a bent over position. UM was observed stumbling. Once standing, UM swayed heavily and stepped backwards to avoid falling over.
4. Investigator Keefe observed UM attempt to open a door marked 'employees-only' in what appeared to be an attempt to find the men's restroom. Investigator Keefe observed a male employee watching UM attempt to open the door.

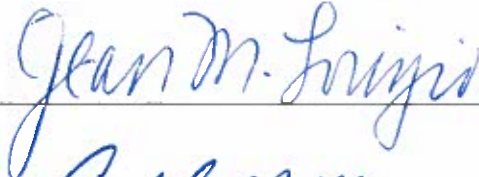
5. Investigator Keefe observed UM was swaying heavily as he leaned on the wall for support while waiting for the bathroom.
6. At approximately 11:45 p.m., Investigator Keefe observed UM was unsteady on his feet while speaking with a dancer. UM swayed as he followed the dancer to the entrance of a private room where he was stopped by the bouncer. UM placed his alcoholic beverage on the bouncer's table while he fumbled with his money. UM was slow and methodical as he attempted to organize his money. The bouncer removed UM's alcoholic beverage from his table and placed it on a table in front of UM.
7. Investigator Keefe observed UM was swaying and unsteady on his feet as he walked towards the ATM. UM had difficulty using the keypad and repeatedly checked the money dispenser for his cash.
8. At approximately 11:58 p.m., Investigators observed UM walk in an unsteady manner from the private room to his table. UM walked past the bar, in the direct line of sight and within 10 feet of the bartenders.
9. At approximately 12:02 a.m., Investigators observed the waitress hand UM one bottle of Bud Light beer and one bottle of Harpoon IPA beer. UM had difficulty organizing his money and was swaying back and forth. At this time, Investigators exited the establishment.
10. At approximately 12:10 a.m., Investigators re-entered the licensed premises, identified themselves to staff and asked to speak with a manager. The General Manager ("GM") greeted Investigators and they informed him of their observations.
11. As the GM and Investigators spoke, UM was standing by the entryway. The GM indicated "this gentleman had been shut off about thirty minutes ago." Investigators informed him that they had observed a waitress serve two beers to UM approximately eight minutes ago.
12. At this point, another employee joined the conversation and confirmed that UM had been shut off thirty minutes prior but acknowledged he had seen UM with an alcoholic beverage within the past 20 minutes.
13. The GM agreed that UM was intoxicated and stated they would ensure that UM did not operate a motor vehicle.
14. Investigators informed the GM of the violation and that a report would be filed with the Chief Investigator for further review.
15. Peter DePesa, Licensee, appeared at the Commission hearing and apologized. He testified that this incident was discussed with all staff members, and all bartenders and security staff were recertified via TIPS. Mr. DePesa further stated that all employees have been trained to be more mindful when serving patrons, to ensure similar incidents do not occur.
16. The Licensee has held a license under M.G.L. c. 138, § 12 for nearly 50 years without a violation.

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). As a result, the Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

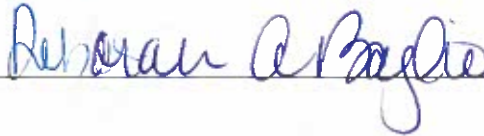
Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah Baglio, Commissioner



Dated: September 9, 2024

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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2024-000003-ad-enf

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Melissa Anderson, Investigator
Dennis Keefe, Investigator
Administration, File