

**Jean M. Lorizio, Esq.**  
*Chairman*

*Commonwealth of Massachusetts  
Department of the State Treasurer  
Alcoholic Beverages Control Commission  
239 Causeway Street  
Boston, MA 02114  
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## **DECISION**

**328 COMMERCIAL ST. INC. D/B/A PATIO  
328 COMMERCIAL ST.  
PROVINCETOWN, MA 02657  
LICENSE#: 1004-00036  
VIOLATION DATE: 07/12/2017  
HEARING DATE: 12/12/2017**

328 Commercial St. Inc. d/b/a Patio (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, December 12, 2017, regarding an alleged violation of 204 CMR 2.05 (2) – Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, § 34 – Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age. Prior to the commencement of the hearing, the Licensee stipulated to the violation alleged in Investigator Binienda's Report.

The following documents are in evidence:

1. Investigator Binienda's Compliance Check Field Report; and
2. Licensee's Stipulation of Facts.
  - A. TIPS Certificate;
  - B. Written Notice Given to Employee;
  - C. Licensee's Crew Manual; and
  - D. Manager's Log.

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

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

## **FACTS**

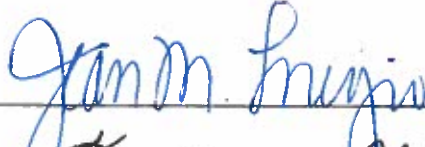
1. On Tuesday, August 1, 2017, at approximately 6:12 p.m., Investigators Kenny and Binienda ("Investigators") investigated the business 328 Commercial St. Inc. d/b/a Patio.
2. An underage operative, working with Investigators, was served by the Licensee an alcoholic beverage, a Bud Light beer. The underage operative was not asked for identification.

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: M.G.L. c. 138, § 34 – Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age. As the Licensee has been in business for more than 10 years with no prior violations, the Commission issues a **WARNING**.

**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

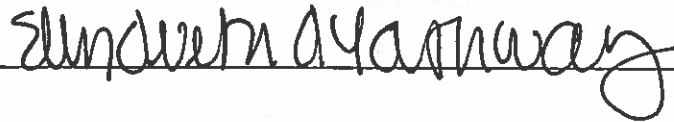
Jean M. Lorizio, Chairman



Kathleen McNally, Commissioner



Elizabeth A. Lashway, Commissioner



Dated: December 13, 2017

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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cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Jamie Binienda, Investigator  
Mark Kenny, Investigator  
Thomas Orlandi, Esq. via facsimile 617-376-0256  
Administration, File