

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

JMRS RESTAURANT INC. DBA TAVERN IN THE SQUARE
189 WASHINGTON STREET
SALEM, MA 01970
LICENSE#: 106400124
VIOLATION DATE: 10/19/2012
HEARD: 12/11/2012

JMRS Restaurant Inc. dba Tavern in the Square (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 11, 2012, 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 Guarino-Wilichoski's Report.

The following documents are in evidence:

1. Investigator Guarino-Wilichoski's Investigative Report dated October 19, 2012; and
2. Licensee's Stipulation of Facts.

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

FACTS

1. On Friday, October 19, 2012, at approximately 11:15 p.m., Investigators Doyle and Guarino-Wilichoski conducted an investigation of JMRS Restaurant Inc. dba Tavern in the Square to determine the manner in which their business was being conducted.
2. Investigators observed several youthful looking patrons inside this establishment.
3. Investigators approached a table of approximately five (5) patrons in actual possession of alcoholic beverages, and asked to see proof of age.
4. One female patron presented investigators with a Massachusetts Driver's License in the name of Jessica Lavino, date of birth January 6, 1987, age twenty-five (25) years.
5. Investigators observed that the person on the license did not resemble the person in front them.
6. The female admitted it was not her true identification, and that she had "found" the driver's license. She stated that she did not have any other identification with her.
7. Investigators contacted the Salem Police Department for assistance. The officer had a mobile terminal to process the female patron's Massachusetts Driver's Record.
8. The female's true information was Hilary Whelan, date of birth March 24, 1992, age twenty (20) years.

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9. Investigators observed Ms. Whelan drinking from a glass containing Captain Morgan [rum] and cola, and asked her who had served her this beverage.
10. Ms. Whelan stated she got the beverage from the bartender, and he did not check her identification at the time of service.
11. Investigators informed the general manger, Rick Naples, 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 of 204 CMR 2.05 (2), to wit: c. 138, §34C- Possession of an alcoholic beverage by a person under 21 years of age. 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.**

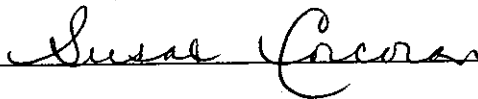
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



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

Susan Corcoran, Commissioner



DATE: December 12, 2012

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
Caroline Guarino-Wilichoski, Investigator
Administration
File