

*Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
Telephone: 617-727-3040
Facsimile: 617-727-1510*

Jean M. Lorizio, Esq.
Chairman

NOTICE OF SUSPENSION

October 11, 2017

**THOMAND INC. D/B/A MURPHY'S
300 DERBY STREET
SALEM, MA 01970
LICENSE#: 1064-00027
VIOLATION DATE: 05/19/2017
HEARD: 10/10/2017**

After a hearing on October 10, 2017, the Commission finds Thomand Inc. dba Murphy's violated M.G.L. 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 six (6) days of which two (2) days will be served and four (4) 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, November 29, 2017 and terminate on Thursday, November 30, 2017. The license will be delivered to the Local Licensing Board or its designee on Wednesday, November 29, 2017 at 9:00 A.M. It will be returned to the licensee on Friday, December 1, 2017.

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.

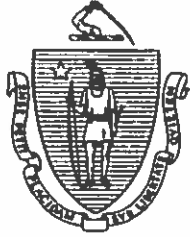
ALCOHOLIC BEVERAGES CONTROL COMMISSION

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
Christopher Temple, Investigator
Joseph Di Cicco, Investigator
Dennis Keefe, Investigator
Administration, File



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DECISION

**THOMAND INC. D/B/A MURPHY'S
300 DERBY STREET
SALEM, MA 01970
LICENSE#: 1064-00027
VIOLATION DATE: 05/19/2017
HEARD: 10/10/2017**

Thomand Inc. dba Murphy's (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, October 10, 2017, regarding an alleged violation of M.G.L. 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 Temple's report.

The following documents are in evidence:

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

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

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

FINDINGS OF FACT

1. On Friday, May 19, 2017, at approximately 12:00 a.m., Investigators Di Cicco, Keefe and Temple ("Investigators") conducted an investigation of the business operation of Thomand Inc. dba Murphy's to determine the manner in which its business was being conducted.
2. Investigators entered the licensed premises where their attention was drawn to an intoxicated male individual, Kevin Lally, in front of the bar.
3. Investigators observed Lally was unsteady on his feet and he swayed back and forth as he stood within 5-feet of the bar.
4. At approximately 12:05 a.m., Lally walked to the restroom. Investigators observed Lally appeared to lose his balance and fall into the wall.

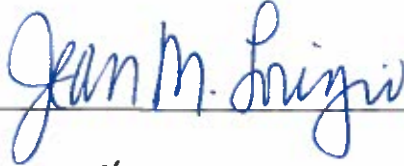
5. At approximately 12:07 a.m., Lally returned from the restroom and attempted to grab hold of a chair at the bar. Investigators observed that Lally's hand first missed the chair and then he grabbed it with his other hand. He continued to sway as he stood near the bar.
6. At approximately 12:09 a.m., Lally walked towards the back of the bar, where he consumed a Bud Light beer at a rapid pace. At approximately 12:14 a.m., Lally again consumed a Bud Light beer at a rapid pace while at the bar.
7. Investigators then observed Lally looking at his mobile phone. Lally moved the phone away from his body and then back towards his body. It appeared that Mr. Lally had difficulty seeing his phone. He continued to sway back and forth as he looked at his phone.
8. At approximately 12:16 a.m., Investigators observed Lally talking to a group of people. When Investigators approached the group, they heard that Lally's speech was slurred.
9. At approximately 12:30 a.m., Lally ordered a beer from a female bartender on duty, Rachel Martin. As Lally pulled his wallet out of his pocket, Investigators observed him fumbling with the money in it. Investigators observed that Lally separated the bills about three times, and it appeared that Lally had difficulty counting the money.
10. After purchasing the beer, Investigators observed Lally go over to the disc jockey ("DJ") booth. When the DJ left the booth, Lally attempted to play the equipment. Upon the return of the DJ, Lally appeared to have an altercation with him. Lally then exited from the DJ area.
11. Investigators then observed Lally reach out for a chair but miss it. He lost his balance and fell forward but Lally grabbed the chair on his second attempt.
12. At approximately 12:45 a.m., Lally rapidly consumed his beer by pointing the bottom of the container towards the ceiling for an extended period.
13. Investigators then approached Lally, identified themselves, and asked to see his identification. Lally pulled his wallet out of his pocket but then dropped it as he attempted to open it.
14. Investigators identified themselves to the manager on duty, Corey Dylengoski. Investigators informed Dylengoski that besides Mr. Lally, there were three (3) other individuals who showed signs of intoxication.
15. Amanda McQueen assured Investigators that she would ensure Lally got home safely. Safe transport home was provided by Uber.
16. Mr. Dylengoski admitted that Lally was drunk. He assured Investigators that safe transport home for the other three intoxicated individuals would be provided via Uber.
17. Investigators advised Dylengoski about the importance of watching for over service 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 M.G.L. 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 six (6) days of which two (2) days will be served and four (4) 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

Jean M. Lorizio, Chairman



Elizabeth A. Lashway, Commissioner



Dated: October 11, 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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