

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

NOTICE OF SUSPENSION

May 20, 2014

ULSTER, INC. DBA O'NEILL'S
124-26 WASHINGTON STREET
SALEM, MA 01970
LICENSE#: 106400035
VIOLATION DATE: 11/27/2013
HEARD: 05/13/2014

After a hearing on May 13, 2014, the Commission finds Ulster, Inc. dba O'Neill's violated 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 (2 Counts).

The Commission **suspends the licensee's license for a total of ten (10) days to be served. The suspension shall commence on Wednesday, July 9, 2014, and terminate on Friday, July 18, 2014.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, July 9, 2014 at 9:00 A.M. It will be returned to the licensee Saturday, July 19, 2014.

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. All checks must be certified and accompanied by the enclosed form, which must be signed by 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.

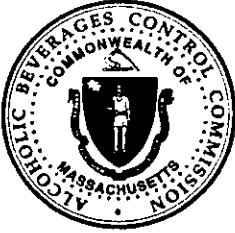
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Caroline Guarino-Wilichoski, Investigator
Christopher Temple, Investigator
Administration
File

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The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
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DECISION

ULSTER, INC. DBA O'NEILL'S
124-26 WASHINGTON STREET
SALEM, MA 01970
LICENSE#: 106400035
VIOLATION DATE: 11/27/2013
HEARD: 05/13/2014

Ulster, Inc. dba O'Neill'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, May 13, 2014, 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 (2 Counts). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Temple's Report.

The following documents are in evidence:

1. Investigator Temple's Violation Report dated January 17, 2014;
2. Licensee's Stipulation of Facts;
3. MA Driver's License for Amanda Gallagher;
4. CT Driver's License for Anthony Ott;
5. RMV Printout for Melynda Gallagher;
6. Photo of Male Patron Kyle Hardy; and
7. Photo of Female Patron Melynda Gallagher.

There is one (1) audio recording of this hearing, and one (1) witness testified.

FACTS

1. On Wednesday, November 27, 2013, at approximately 11:15 p. m., Investigators Guarino-Wilichoski, Kelleher, and Temple conducted an investigation of the business operation of Ulster, Inc. dba O'Neill's to determine the manner in which its business was being conducted.
2. Investigators entered the licensed premises and observed two youthful looking individuals in possession of alcoholic beverages.
3. Investigators identified themselves and asked to see proof of legal drinking age.
4. Kyle Hardy, actual date of birth [REDACTED] (age 20) presented investigators with a CT Driver's License in the name of Anthony Ott, date of birth [REDACTED] (age 23). He stated that he presented the CT Driver's License when he entered the licensed premises.
5. Investigators observed Mr. Hardy was in possession of a Budweiser Light beer.

6. Melynda Gallagher, actual date of birth [REDACTED] (age 20) presented investigators with a MA Driver's License in the name of Amanda Gallagher, date of birth [REDACTED] (age 23). She stated that she presented the MA Driver's License when she entered the licensed premises.
7. Investigators observed that the photograph on the license of Amanda Gallagher did not reasonably resemble Melynda, as Amanda has a more pronounced chin and nose compared to that of Melynda. Further, Amanda's height was listed as 5 feet 7 inches and investigators observed that Melynda appeared to be less than five feet.
8. Investigators observed Ms. Gallagher was in possession of a Budweiser Light beer.
9. Investigators identified the underage patrons to the manager on duty, Mary Levasseur.
10. Investigators advised Ms. Levasseur of the violation and that a report would be submitted to the Chief Investigator for review.

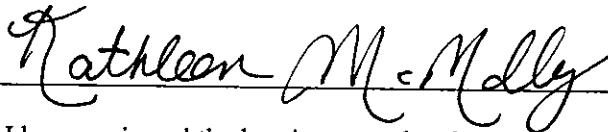
CONCLUSION

Based on the evidence, the Commission finds the licensee violated 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 (2 Counts). Therefore, the Commission **suspends the license for six (6) days to be served.**

By decision dated January 9, 2013, the Commission had previously ordered a four (4) day license suspension to be held in abeyance for a period of one (1) year provided no further violations occurred. Based on the violation found above, the licensee violated the conditions of that four (4) day suspension being held in abeyance. The Commission hereby orders that suspension to be served on and after the six (6) day suspension. The licensee will serve a total of ten (10) days.

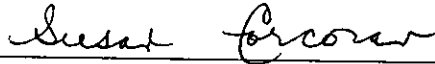
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



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

Susan Corcoran, Commissioner



Dated: May 20, 2014

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
Christopher Temple, Investigator
Caroline Guarino-Wilichoski, Investigator
Administration
File