



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

EKB CORPORATION, INC. DBA SULLY C'S BAR AND GRILL
168 BROADWAY
SAUGUS, MA 01906
LICENSE#: 107800006
VIOLATION DATE: 12/07/2013
HEARD: 05/13/2014

After a hearing on May 13, 2014, the Commission finds EKB Corporation, Inc. dba Sully C's Bar and Grill in violation of M.G.L. c. 138 §69-Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person (1 Count).

The Commission **suspends the licensee's license for a total of two (2) days to be served. The suspension shall commence on Wednesday, July 9, 2014, and terminate on Thursday, July 10, 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 Friday, July 11, 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
Dennis Keefe, Investigator
Mark Kenny, Investigator
Nick Velez, Investigator
Administration
File

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DECISION

EKB CORPORATION, INC. DBA SULLY C'S BAR AND GRILL
168 BROADWAY
SAUGUS, MA 01906
LICENSE#: 107800006
VIOLATION DATE: 12/07/2013
HEARD: 05/13/2014

EKB Corporation, Inc. dba Sully C's Bar and Grill (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 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 violation alleged in Investigator Keefe's Report.

The following documents are in evidence:

1. Investigator Keefe's Violation Report dated December 20, 2013; and
2. Licensee's Stipulation of Facts.

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

FACTS


1. On Saturday, December 7, 2013, at approximately 10:30 p. m., Investigators Kenny and Keefe, along with Chief Investigator Mahony, conducted an investigation of the business operation of EKB Corporation, Inc. dba Sully C's Bar and Grill to determine the manner in which its business was being conducted.
2. Upon approaching the licensed premises, investigators observed a male individual, later identified as Gino, smoking a cigarette outside the establishment. Investigators observed that Gino was unsteady on his feet and swayed from side to side.
3. Investigators entered the licensed premises and observed two bar areas. While they sat at a table in front of one of the bars, investigators observed what appeared to be a mixed drink on the bar, which was filled to the brim of the glass, and unattended.
4. Investigator Keefe observed Gino enter the premises and stumble as he walked over to the bar adjacent to where the investigators were seated. Gino continued to sway from side to side while he approached the bar.
5. At the bar, Gino took out cash to pay the female bartender on duty, Rachel Rhodeniveo. In clear view of Ms. Rhodeniveo, Gino took possession of the aforementioned unattended mixed drink and drank from it.

6. Investigators continued to observe Gino sway from side to side while seated, and he appeared to fall asleep at times. Based on their training and experience, investigators formulated the opinion that Gino was intoxicated.
7. At approximately 11:14 p. m., investigators observed that a female employee, later identified as the manager, Melissa Bucci, bring a cup of coffee to Gino but he continued to drink his alcoholic beverage.
8. Investigators notified Chief Investigator Mahony of the situation. Chief Mahony entered the licensed premises.
9. At that point, Gino exited the premises and proceeded towards a white van in the parking lot, followed by investigators.
10. Investigators observed Gino take out his car keys and attempt to enter the driver's side of the van.
11. Chief Mahony approached Gino, identified himself, and advised him that he should not be driving.
12. Ms. Bucci also exited the premises and assisted investigators in speaking with Gino. She also advised him not to drive.
13. Ms. Bucci stated to investigators that she had called Gino's daughter to come and pick him up.
14. Investigators spoke to Gino's daughter who advised them that she would ensure his safe transport home.
15. Investigators went back inside the premises and spoke with Ms. Rhodeniveo who had served Gino.
16. Ms. Rhodeniveo stated that she knew Gino had had too much to drink so she watered down his drink with ginger ale each time he left his drink unattended.
17. Investigators explained to Ms. Rhodeniveo that it is illegal to serve any patron who is intoxicated.
18. Chief Mahony advised Ms. Bucci of the violation and that a report would be submitted to the Commission.
19. Ms. Bucci agreed that Gino had had too much to drink; he was intoxicated and should not have been served. She stated that she had tried to watch him and get him a ride home. When she went to make a call, Gino left, which is when investigators observed him getting into his van.
20. A male individual approached investigators and identified himself as the owner. He stated that Gino was a regular patron who does drink a lot but he usually walks home, or comes with another individual who usually drives him home.

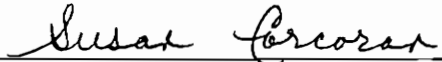
CONCLUSION

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). Therefore, the Commission **suspends the license for four (4) days of which two (2) days will be served and two (2) 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 

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
Dennis Keefe, Investigator
Mark Kenny, Investigator
Nick Velez, Investigator
Administration
File