

The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Steven Grossman
Treasurer and Receiver General

NOTICE OF SUSPENSION

Kim J. Gainsboro, Esq.
Chairman

August 16, 2011

M.V.U.S., LLC DBA ODYSSEY
300 WORTHINGTON STREET
SPRINGFIELD, MA 01103
LICENSE#: 1226000256
HEARD: 04/19/2011

After a hearing on April 19, 2011, the Commission finds M.V.U.S., LLC dba Odyssey in violation of 204 CMR 2.05 (2)(1 count), 204 CMR 2.16 (1) and 204 CMR 2.16 (1).

The Commission **suspends the licensee's license for a total of three (3) days to be served.** The suspension shall commence on **Wednesday, October 12, 2011 and terminate on Friday, October 14, 2011.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, October 12, 2011 at 9:00 A.M. It will be returned to the licensee Saturday, October 15, 2011.

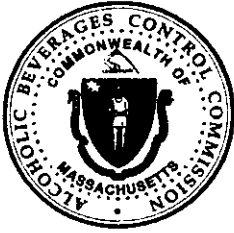
You are advised that pursuant to the provisions of M.G.L. c.138 §23, you may petition the Commission to accept an offer in compromise in lieu of suspension within twenty (20) calendar days following such notice of such suspension. If accepted, you may pay a fine using the enclosed form. All checks must 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
Rose Bailey, Investigator
Administration
File



The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Steven Grossman
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DECISION

M.V.U.S., LLC DBA ODYSSEY
300 WORTHINGTON STREET
SPRINGFIELD, MA 01103
LICENSE#: 1226000256
HEARD: 04/19/2011

M.V.U.S., LLC dba Odyssey (the "Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, April 19, 2011, regarding an alleged violation of 204 CMR 2.05 (2)(1 count), 204 CMR 2.16 (1) and 204 CMR 2.16 (1). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Rose Bailey's report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
2. Investigator Rose Bailey's Report.

There is one (1) tape of this hearing.

FACTS


1. On Friday, December 3, 2010, Commission Investigators in conjunction with the Springfield Massachusetts State Police conducted city-wide Enhanced Enforcement Operations.
2. At approximately 11:40 p.m., Investigators acting in an undercover capacity entered the above referenced premises in order to ascertain the manner in which the business operated.
3. Upon entry, a male doorman asked for identification and stated there was a cover charge for admission into the licensed premises.
4. The doorman informed investigators the fee was three dollars (3) for women and five dollars (5) for men. (Ex. 2)
5. The investigators were instructed to pay a female standing at the entrance doorway, later identified as Joanne Gagliarducci, the manager of record.
6. Investigators were not provided with a numbered printed receipt.
7. Investigators observed a male patron seated at a bar with his head resting on the bar top.
8. Upon close observation, the male patron's eyes were closed.
9. He held one (1) dollar of U.S. currency in his hand.
10. His arms were folded on the bar top surrounding an empty plastic shot cup, later identified as an alcoholic beverage containing gin, as well as an eight (8) ounce plastic cup containing an alcoholic beverage later identified as draft Rolling Rock beer.

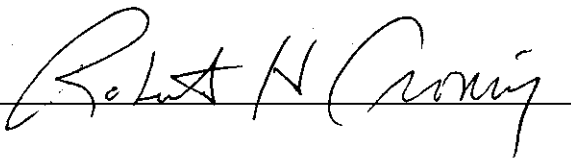
11. The male patron eventually sat up and moved to an adjacent barstool.
12. He observed his movements to be slow and labored as he leaned against the bar to move to the barstool.
13. Investigators then sat next to the patron and attempted to converse.
14. The male patron smiled and said hello, asked investigators asked him if he was enjoying the music.
15. They observed his eyes to be drowsy, unable to focus or make eye contact. He had drool coming from the side of his mouth.
16. He eventually smiled but did not respond to investigator questions.
17. He continued to sit at the bar with his head slumped forward in a "nod," not speaking to anyone.
18. The male patron continued to sit slumped at the bar and without requesting another alcoholic beverage a female bartender, later identified as Ms. Ellis-Golemba, served the patron another alcoholic beverage, which investigators observed to be a draft Rolling Rock beer.
19. Investigators observed the bartender to take the one (1) dollar U.S. currency out of the patron's hand.
20. At approximately 12:25 a.m., the investigator spoke with Trooper Matt Simpson and informed him of the observations and requested back up.
21. Investigators identified themselves to the manager of record, Joanne Gagliarducci.
22. The investigator pointed out the intoxicated male, later identified as John. J. Kennedy, age thirty-nine (39).
23. The manager stated he is a regular customer and is known to her.
24. She stated the patron's father was with him earlier in the evening.
25. She stated she works with his mother during the day at Belmont Laundry.
26. She stated Mr. Kennedy has problems and that his mother picks him up after work, feeds him dinner, and then drops him off at the bar on a regular basis.
27. Investigators informed the manager that a violation report would be filed with the Chief Investigator for review relative to the following violations:
 - Price discrimination
 - Failure to provide printed receipts
 - Sale of an alcoholic beverage to an intoxicated person
28. Investigators then exited the premises without incident.
29. Simultaneously, Trooper Simpson and Chief Investigator Mahony spoke with the intoxicated Mr. Kennedy.
30. When asked if he was currently taking any medication Mr. Kennedy stated hydrocodon (narcotic analgesic pain reliever).
31. Based on Trooper Simpson's opinion as a Drug Recognition Expert (DRE), the effects of this type of medication would be synonymous with being intoxicated.
32. On Friday, December 10, 2010, at approximately 11:55 p.m., Investigators Kujawski and Doyle while conducting enforcement operations observed U.S. currency being exchanged between patrons entering the above referenced licensed premises and an employee.
33. Upon closer inspection, Investigators did not observe any signage indicating a cover charge for admission or the issuance of any printed receipts.
34. Investigators entered the premises, identified themselves and spoke with Joanne Gagliarducci, the manager of record.
35. Ms. Gagliarducci was informed of the violations and that a report would be filed with the Chief Investigator.
36. Investigators exited the premises without incident.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05 (2)(1 count), 204 CMR 2.16 (1) and 204 CMR 2.16 (1). The Commission **suspends the license for three (3) days.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner 

Robert H. Cronin, Commissioner 

Dated: August 16, 2011

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
 Rose Bailey, Investigator
 Thomas Rooke, Esq. via Facsimile
 Trooper Simpson, Springfield State Police
 Administration
 File