

*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150-2358*

Jean M. Lorizio, Esq.
Chairman

NOTICE OF SUSPENSION

July 10, 2023

**OSCARS PINATAS INC.
346 MAIN STREET
TEWKSBURY, MA 01876
LICENSE#: 00006-RS-1270
VIOLATION DATE: 12/22/2022
HEARD: 4/25/2023**

After a hearing on April 25, 2023, the Commission finds Oscars Pinatas Inc. violated M.G.L. c. 138, § 69 – Sale or delivery of an alcoholic beverage to an intoxicated person (1 Count). The Commission **suspends the license for a period of one (1) day to be served.**

The suspension shall be served on Monday, September 11, 2023. The license will be delivered to the Local Licensing Board or its designee on Monday, September 11, 2023, at 9:00 A.M. It will be returned to the licensee on Tuesday, September 12, 2023.

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

Jean M. Lorizio
Chairman

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Dokiman sa a enpòtan epi li ta dwe tradwi touswit
‘Đây là tài liệu quan trọng và cần được dịch ngay’
ឯកសារនេះសំខាន់ណាស់ ហើយត្រូវបកប្រែជាបន្ទាន់។

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Katelyn Quinn, Investigator
Sean Fleming, Investigator
Brian Gould, Investigator
Christopher Temple, Investigator
Administration, File



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DECISION

**OSCARS PINATAS INC.
346 MAIN STREET
TEWKSBURY, MA 01876
LICENSE#: 00006-RS-1270
VIOLATION DATE: 12/22/2022
HEARD: 4/25/2023**

Oscars Pinatas Inc. (the “Licensee”) holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission (“ABCC” or “Commission”) held a remote hearing via Microsoft Teams on Tuesday, April 25, 2023, 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 facts alleged in Investigator Quinn’s report.

The following documents are in evidence:

1. Investigator Quinn’s Report;
 2. ABCC Form 43, Transfer of License Approval, 2/12/1996;
 3. ABCC Decision, 9/4/2002;
 4. Licensee’s Stipulation of Facts;
- A. Receipt, 12/22/2022.

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

FINDINGS OF FACT

1. On Thursday, December 22, 2022, at approximately 10:20 p.m., Investigators Gould, Fleming, Temple, and Quinn (“Investigators”) inspected the licensed premises of Oscars Pinatas Inc. (“Licensee”) to determine the way its business was being conducted.
2. The Investigators entered the licensed premises and observed a male individual (“UM”) in possession of a Bud Light beer, who appeared to be intoxicated. Investigators observed UM leaning on the bar and closing his eyes for extended periods of time. They observed UM talking with slowed and slurred speech when requesting his check from the bartender.

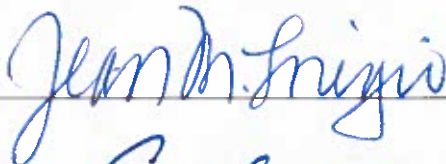
3. Investigators observed the UM's eyes were glassy and bloodshot with a dazed look, and he swayed as he stood in place. The UM then yelled at an older patron and shoved him. Security staff de-escalated the situation. When the UM was questioned by security staff he seemed unsure and gave them a delayed reply.
4. Investigators observed UM moved in an uncoordinated way and had glassy, red eyes, and his speech was slurred.
5. UM appeared to have difficulty reading his check and Investigators observed another patron come over to help him understand the check and fill out the receipt. It was at this time Investigators formed the opinion that UM was intoxicated.
6. At approximately 10:28 p.m., Investigator Quinn observed UM as he yelled out loud, "I am an old man that is drunk..." Investigators observed UM dancing with impaired motor function. He was shouting and whistling at other patrons.
7. At approximately 10:30 p.m., UM ordered an alcoholic beverage. The bartender was heard stating that UM had had too many but UM replied that he'd have another. The bartender told UM he could have another beer if he said please. UM was then served a bottle of Bud Light beer.
8. UM was further observed by Investigators to be winking and dancing, and stated, "I love you" to Investigator Quinn.
9. Investigators identified themselves to the bartender, advised her of the violation, and that a report would be filed with the Chief Investigator for further review.
10. Oscar Torres, Licensee, appeared at the Commission hearing along with Taylor MacKinnon and Lynn McCarthy who are bartenders at the licensed premises.
11. The Licensee has held a license under M.G.L. c. 138, § 12 since 1996 with one previous violation.

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 a period of 2 days of which 1 day will be served and 1 day will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission regulations are found by this Commission.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah Baglio, Commissioner



Dated: July 10, 2023

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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2023-000023-ad-enf

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