

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

Steven Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

NOTICE OF SUSPENSION

May 7, 2014

MANLO ENTERPRISES INC. DBA MARIO'S SHOWPLACE II
147 THOMPSON ROAD
WEBSTER, MA 01570
LICENSE#: 134200028
VIOLATION DATE: 12/20/2013
HEARD: 04/22/2014

After a hearing on April 22, 2014, the Commission finds Manlo Enterprises Inc. dba Mario's Showplace II in violation of 204 CMR 2.05 (2) Permitting an Illegality on the licensed premises, to wit: 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 ten (10) days to be served. The suspension shall commence on Wednesday, June 25, 2014, and terminate on Friday, July 4, 2014.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, June 25, 2014 at 9:00 A.M. It will be returned to the licensee Saturday, July 5, 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
Jamie Binienda, Investigator
Mark Kenny, Investigator
Administration
File



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DECISION

MANLO ENTERPRISES INC. DBA MARIO'S SHOWPLACE II
147 THOMPSON ROAD
WEBSTER, MA 01570
LICENSE#: 134200028
VIOLATION DATE: 12/20/2013
HEARD: 04/22/2014

Manlo Enterprises Inc. dba Mario's Showplace II (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, April 22, 2014, regarding an alleged violation of 204 CMR 2.05 (2) Permitting an Illegality on the licensed premises, to wit: 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 Binienda's Report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
2. Investigator Binienda's Investigative Report dated December 21, 2013.

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

The Commission took administrative notice of the Licensee's records.

FACTS

1. On Friday, December 20, 2013, at approximately 10:20 p. m., Investigators Kenny and Binienda conducted an investigation of the business operation of Manlo Enterprises Inc. dba Mario's Showplace II to determine the manner in which its business was being conducted.
2. Investigators entered the licensed premises and observed a male patron, William Hubert, in possession of a bottle of Bud Light beer. Mr. Hubert appeared to be intoxicated.
3. Investigators observed Mr. Hubert leaning against the bar with his eyes half-closed, and holding onto the bar and a barstool for balance. They observed that Mr. Hubert was acting in an obnoxious fashion and that his speech was loud.
4. Investigators observed Mr. Hubert speaking to a female patron, at one point yelling at her "come on baby", and then he draped himself onto the female patron.
5. Mr. Hubert then finished his beer and stood at the bar to order another beer. While standing at the bar, he banged the empty bottle onto it several times.

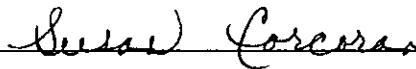
6. Based on their training and experience, investigators formulated the opinion that Mr. Hubert was intoxicated.
7. Investigators observed the bartender on duty, Melissa, deliver a bottle of Bud Light beer to Mr. Hubert.
8. Investigators then observed Mr. Hubert take possession of the bottle of Bud Light beer and drink from it.
9. Investigators identified themselves to the doorman on duty, Donald, and to the manager, Frank Chiello III.
10. Investigators informed Mr. Chiello of the violation and identified Mr. Hubert to him. Mr. Chiello asked Mr. Hubert to speak with him in the lobby area.
11. Investigator Binienda identified himself to Mr. Hubert and asked to see his identification.
12. Mr. Hubert stated that he had three beers times two.
13. Investigator Binienda asked Mr. Hubert if he was driving to which Mr. Hubert replied, "no way."
14. Mr. Hubert stated that the female patron (Martha) he was with, would drive him home.
15. Investigators then spoke with the bartender on duty, Melissa, and asked if she felt that Mr. Hubert was intoxicated.
16. Melissa replied, "I knew he was getting close and I was only going to serve him one more. I can see that he's had enough now."
17. Investigators advised Mr. Chiello of the violation 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 204 CMR 2.05 (2) Permitting an Illegality on the licensed premises, to wit: c. 138 §69-Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person (1 Count). Therefore, the Commission **suspends the license for fifteen (15) days of which ten (10) days will be served and five (5) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

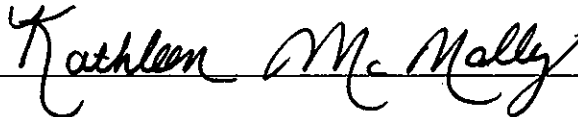
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner



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

Kathleen McNally, Commissioner



Dated: May 7, 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
Jamie Binienda, Investigator
Mark Kenny, Investigator
Administration
File