



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

Jean M. Lorizio, Esq.
Chairman

NOTICE OF SUSPENSION

February 28, 2020

**ECE GROUP LLC D/B/A PERA BISTRO
60 SPRING STREET
WILLIAMSTOWN, MA 01267
LICENSE#: 00079-RS-1478
VIOLATION DATE: 8/08/2019
HEARD: 2/04/2020**

After a hearing on February 11, 2020, the Commission finds ECE Group LLC d/b/a Pera Bistro violated:

- 1) 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: 26 USC §5301 (c) refilling of liquor bottles (1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provision of this chapter;
- 2) 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: M.G.L. C. 138 §23 Sale of alcoholic beverages other than those purchased from a Licensee under §18 or §19 or from a holder of a Special License under §22A;
- 3) 204 CMR 2.01 (10) Failure to post license in a conspicuous place where it can easily be read.

On the first violation, 204 CMR 2.05 (2), to wit: 26 USC §5301 (c), the Commission **SUSPENDS the license for a period of ten (10) days of which five (5) 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.**

On the second violation, 204 CMR 2.05 (2), to wit: M.G.L. C. 138 §23 Sale of alcoholic beverages other than those purchased from a Licensee under §18 or §19 or from a holder of a Special License under §22A), the Commission **SUSPENDS the license for a period of ten (10) days of which five (5) 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. This suspension shall run concurrently with the one above.**

On the third violation, 204 CMR 2.01 (10), the Commission issues a **WARNING.**

The suspension shall commence on **Monday, April 13, 2020 and terminate on Friday, April 17, 2020**. The license will be delivered to the Local Licensing Board or its designee on Monday, April 13, 2020 at 9:00 A.M. It will be returned to the licensee on April 18, 2020.

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



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Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Nicole Smith, Investigator
Brian Gould, Investigator
Jan Kujawski, Investigator
Administration, File



*Commonwealth of Massachusetts
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Jean M. Lorizio, Esq.
Chairman

DECISION

**ECE GROUP LLC D/B/A PERA BISTRO
60 SPRING STREET
WILLIAMSTOWN, MA 01267
LICENSE#: 00079-RS-1478
VIOLATION DATE: 8/08/2019
HEARD: 2/04/2020**

ECE Group LLC d/b/a Pera Bistro (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("Commission" or "ABCC") held a hearing on Tuesday, February 4, 2020, regarding alleged violations of:

- 1) 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: 26 USC §5301 (c) refilling of liquor bottles (1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provision of this chapter;
- 2) 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: M.G.L. C. 138 §23 Sale of alcoholic beverages other than those purchased from a Licensee under §18 or §19 or from a holder of a Special License under §22A;
- 3) 204 CMR 2.01 (10) Failure to post license in a conspicuous place where it can easily be read.

Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Smith's Report.

The following documents are in evidence:

1. Investigator Smith's Investigative Report;
 2. Licensee Stipulation of Facts;
 3. License Application Summary Review Approval, 10/02/2013.
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- A. Email from Debra Turnbull, Town of Williamstown, to Licensee, dated 12/8/19;
 - B. Copy of Licensee's 2020 All Alcohol Liquor License indicating Fahri Karahaya as Manager;
 - C. Copy of Licensee's Corrected 2020 All Alcohol Liquor License indicating Tabitha Johnson as Manager.

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

FINDINGS OF FACT

1. On Thursday, August 8, 2019, at approximately 5:45 p.m., Investigators Gould, Kujawski, and Smith ("Investigators"), conducted an investigation of the business operation of ECE Group LLC d/b/a Pera Bistro to determine the manner in which its business was being conducted and to investigate a complaint filed with this Commission.
2. Investigators entered the licensed premises and asked to speak with the manager. Investigators met with Fahri Karakaya, the owner of the restaurant, and informed him of the complaint.
3. Investigators asked to see where the liquor was stored. Mr. Karakaya led Investigators to a locked door in the back of the restaurant. Mr. Karakaya stated that Tabitha, the manager of record, has a key but Tabitha was not working this evening. He further stated there is a second key, but that key is hidden because other employees go into the locked room and steal alcohol.
4. Mr. Karakaya called Tabitha in order to locate the second key. Tabitha stated that she did not know where the second key was kept.
5. Investigators questioned Mr. Karakaya regarding the whereabouts of the second key, since he is the owner of the restaurant, but Mr. Karakaya continued to state that he did not know where the key was.
6. Investigator Kujawski went to the bar in the establishment and was unable to locate the liquor license. Investigator Kujawski questioned Mr. Karakaya about the liquor license. Mr. Karakaya stated that the license was not posted but kept in a filing cabinet in the office. Mr. Karakaya was indicated as the manager on the license in the file cabinet. Mr. Karakaya began to raise his voice to the Investigators at which point they contacted the Williamstown Police Department to request assistance.
7. Sergeant David Lemeiux arrived at the licensed premises and instructed Mr. Karakaya to cooperate with Investigators and open the door to the liquor storage room. Mr. Karakaya stated that he would break down the door. Sgt. Lemeiux and Investigators instructed Mr. Karakaya not to do so. Sgt. Lemeiux tried to turn the handle of the door and was able to gain entry.
8. Investigators observed several wine bottles in the storage room and several bottles of Kirkland¹ brand alcohol. Mr. Karakaya admitted to purchasing the liquor from Costco. He also admitted that he refills the bottles of alcohol at the bar with a lesser brand, e.g., he fills the Beefeater Gin bottle with Kirkland brand gin and sells the alcohol to customers as Beefeater gin.
9. Investigator Smith viewed the bar and did not observe any bottles of Kirkland brand liquor. Investigator Smith spoke to a waitress, Shania Chapelle. Ms. Chapelle stated that they do not sell any Kirkland brand liquor and only sold the brands that were displayed at the bar.

¹ Kirkland is the store brand for Costco Atlantic Liquors Inc. d/b/a Costco Liquors.

10. Investigators confiscated 16 bottles of Kirkland brand alcohol from the storage room: 1 Canadian whiskey; 3 bottles of London Dry gin; 1 bottle of Irish whiskey; 5 bottles of Tequila Silver; 4 bottles of American vodka, and 2 bottles of Blended Scotch whiskey.
11. Investigators informed Mr. Karakaya of the violations, and that a report would be filed with the Chief Investigator for further review.
12. The Licensee has been licensed under M.G.L. c. 138, § 12 since 2013 with no prior violations.
13. At the Commission hearing, Mr. Karakaya clarified that the Williamstown Licensing Board made an error on his liquor license naming him as the manager rather than Tabitha Johnson who is the correct manager of record. He now has the correct license indicating Ms. Johnson as the manager. (Exhibits A, B & C).

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated:

- 1) 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: 26 USC §5301 (c) refilling of liquor bottles (1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provision of this chapter;
- 2) 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: M.G.L. C. 138 §23 Sale of alcoholic beverages other than those purchased from a Licensee under §18 or §19 or from a holder of a Special License under §22A; and
- 3) 204 CMR 2.01 (10) Failure to post license in a conspicuous place where it can easily be read.

On the first violation, 204 CMR 2.05 (2), to wit: 26 USC §5301 (c), the Commission **SUSPENDS the license for a period of ten (10) days of which five (5) 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.**

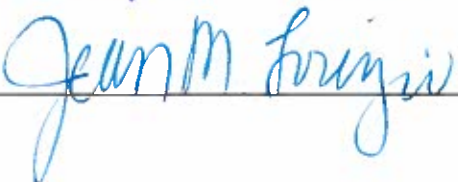
On the second violation, 204 CMR 2.05 (2), to wit: M.G.L. C. 138 §23 Sale of alcoholic beverages other than those purchased from a Licensee under §18 or §19 or from a holder of a Special License under §22A), the Commission **SUSPENDS the license for a period of ten (10) days of which five (5) days will 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. This suspension shall run concurrently with the one above.**

On the third violation, 204 CMR 2.01 (10), the Commission issues a **WARNING.**

Therefore, the Commission **suspends the license for a period of ten (10) days of which five (5) 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

Crystal Matthews, Commissioner 

Jean M. Lorizio, Chairman 

Dated: February 28, 2020

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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