

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

DECISION

99 WEST, INC. DBA 99 RESTAURANT-PUBS
50 SOUTHWEST CUTOFF
WORCESTER, MA 01604
LICENSE#: 150800384
VIOLATION DATE: 01/31/2013
HEARD: 06/11/2013

99 West, Inc. dba 99 Restaurant-Pubs (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, June 11, 2013, regarding an alleged violation of:

- 1) 204 CMR 4.03 (1) (c) No licensee or employee or agent of a licensee shall: (1c) Sell, offer to sell or deliver to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public (1 Count); and
- 2) 204 CMR 4.03 (1) (c) No licensee or employee or agent of a licensee shall: (1b) Deliver more than two drinks to one person at a time. (1 Count)

Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Velez's Report.

The following documents are in evidence:

1. Investigator Velez's Report dated January 31, 2013;
2. Licensee's Stipulation of Facts; and
3. Receipts dated January 31, 2013.

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

FACTS

1. On Thursday, January 31, 2013, at approximately 8:00 p.m., Investigators Kujawski, Keefe, and Velez investigated the licensed premises of 99 West, Inc. dba 99 Restaurant-Pubs to determine the manner in which their business was being conducted.
2. Investigator Kujawski went into the bar area and briefly sat at the bar. He ordered a 12 ounce bottle of Bud Light beer from the female bartender, later identified as Kelly Eastwood.
3. Ms. Eastwood delivered the 12 ounce bottle of Bud Light beer to Investigator Kujawski for which he paid \$3.79 before tax, and received a printed receipt.

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4. Investigators Keefe and Velez proceeded to the bar where Investigator Velez ordered a bucket of beer, which consisted of five 12 ounce bottles of Bud Light beer, from Ms. Eastwood.
5. Ms. Eastwood delivered the bucket of beer, which consisted of five 12 ounce bottles of Bud Light beer to investigators, and she placed the bucket on the bar.
6. Investigator Velez paid \$11.99 before tax (which computes to \$2.40 per bottle) and received a printed receipt.
7. Investigators proceeded to the front of the restaurant and asked to speak to the manager on duty.
8. Investigators spoke to a male individual, later identified as Joe Herman, who stated that he was the manager of the licensed premises.
9. Investigators showed Mr. Herman the printed receipts, and the bucket of beers that investigators received.
10. Investigators informed Mr. Herman of the violation and that a report would be filed with the Chief Investigator for further review.

CONCLUSION

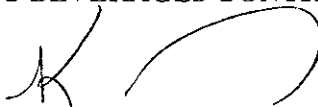
Based on the evidence, the Commission finds the licensee violated:

- 1) 204 CMR 4.03 (1) (c) No licensee or employee or agent of a licensee shall: (1c) Sell, offer to sell or deliver to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public (1 Count); and
- 2) 204 CMR 4.03 (1) (c) No licensee or employee or agent of a licensee shall: (1b) Deliver more than two drinks to one person at a time. (1 Count)

As the licensee has been in business and has not had a violation in ten (10) years, the Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro, Chairman



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

Susan Corcoran, Commissioner



DATE: June 11, 2013

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
 Nicholas Velez, Investigator
 Jan Kujawski, Investigator
 Thomas Vangel, Esq. via fax 617-210-7072
 Administration
 File