

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

KELLY W., INC. DBA CLUB KAS BAR
234 SOUTHWEST CUTOFF
WORCESTER, MA 01608
LICENSE#: 150800188
HEARD: 3/6/2012

Kelly W., Inc. dba Club Kas Bar (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, March 6, 2012, regarding an alleged violations of M.G.L. c.138, §69 (1 count) and 527 CMR 10.13d. Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator John Carey's Investigative Report.

The following documents are in evidence:

1. Investigator Carey's Report dated September 16, 2011; and
2. Licensee's Stipulation of Facts.

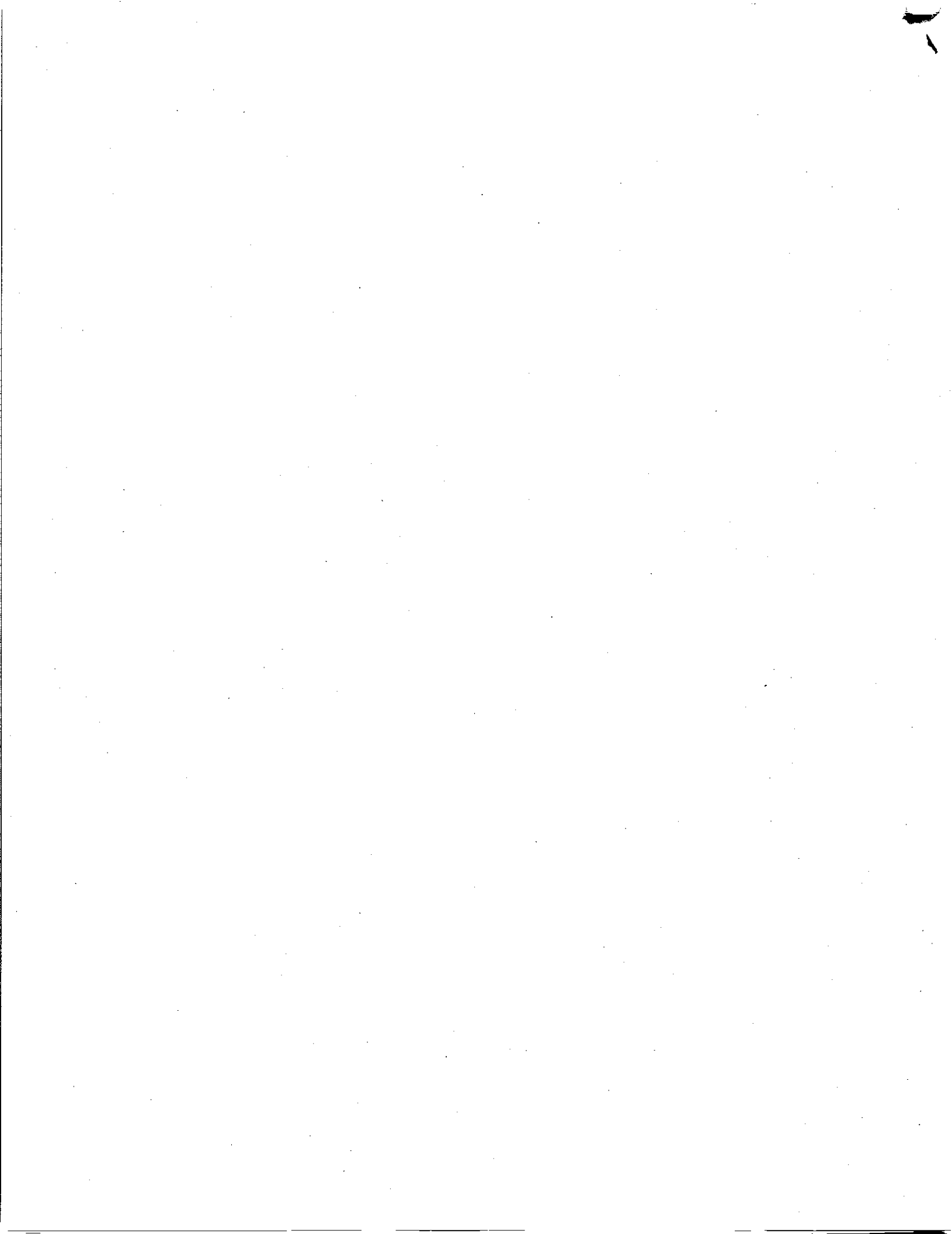
There is one (1) audio recording of this hearing.

FACTS

1. On Friday, September 16, 2011, at approximately 11:30 p. m., Investigators Caroline Wilichoski and John Carey, investigated the business operation Kelly W., Inc. dba Club Kas Bar to determine the manner in which their business was conducted.
2. Investigators observed a male patron, later identified as Mr. Daniel P. Canny, of 247 Water Street, Quincy, date of birth May 8, 1978, age thirty-three (33), who was showing signs of intoxication.
3. Investigators observed that Mr. Canny was extremely unsteady on his feet and that his head hung down looking at the floor.
4. Investigators observed that when Mr. Canny attempted to speak, his speech was very slow, and he stammered.
5. Investigators observed Mr. Canny make two (2) failed attempts to enter the men's room. Once he tried to enter the ladies' room, and once he entered a phone booth, before he finally entered the correct doorway to the men's room.
6. Investigators observed that Mr. Canny was very unsteady on his feet while walking to and from the men's room.
7. At approximately fifteen (15) minutes later, investigators observed Mr. Canny attempt to return to the men's room.
8. On Mr. Canny's second visit to the men's room, investigators observed that he first entered the phone booth, and then entered the correct doorway to the men's room.

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9. Investigators noted that Mr. Canny's actions were in plain view of the bartender on duty and the doorman.
10. At approximately 12:15 a. m., investigators observed Mr. Canny approach the bar and order a sixteen ounce (16 oz.) draft Budweiser beer.
11. Investigators observed that the bartender on duty, later identified as Mr. Luke Perek, of 34 Suffield St., Worcester, date of birth December 20, 1982, age twenty-nine (29), served the draft Budweiser beer to Mr. Canny
12. Investigators were joined by Commission Investigator Binienda and Worcester Police Officers, Ed Sancier and Bill Stout.
13. Investigators identified themselves to the bartender on duty, Mr. Perek, and informed him of the violation.
14. Investigators noted that the licensed premises had an occupant load of two hundred and fifty-five persons (255).
15. Investigators questioned Mr. Perek if either he or the doorman were crowd managers certified by the Massachusetts Office of Fire Safety.
16. Mr. Perek and the doorman stated no, they were not, nor had either any knowledge of this requirement.
17. Investigators instructed Mr. Perek to call a taxicab for the safe transport of Mr. Canny and another patron who was with him.
18. Investigators waited until the taxicab arrived, and the two (2) patrons were safely put into the vehicle.
19. Investigators informed Mr. Perek that a report would be submitted to the Chief Investigator for review.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated Massachusetts General Laws c. 138, §34. The Commission **suspends the license for six (6) days of which six (6) 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

Kim S. Gainsboro, Chairman _____

Susan Corcoran, Commissioner _____

Kathleen McNally, Commissioner _____

Dated: March 7, 2012

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
 John Carey, Investigator
 ✓ Administration
 File

