

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

**Jean M. Lorizio, Esq.**  
*Chairman*

**NOTICE OF SUSPENSION**

August 18, 2022

**CAFÉ NEO INC.  
97 MILLBURY STREET  
WORCESTER, MA 01610  
LICENSE#: 00418-RS-1508  
VIOLATION DATE: 11/12/2021  
HEARD: 1/18/2022**

After a hearing on January 18, 2022, the Commission finds Café Neo Inc. violated 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. Ch. 138 § 34C – Possession of an alcoholic beverage by a person under twenty-one (21) years of age (15 Counts). The Commission **suspends the license for a period of 20 days of which 10 days will be served and 10 days 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.**

**The suspension shall commence on Monday, October 17, 2022, and terminate on Wednesday, October 26, 2022.** The license will be delivered to the Local Licensing Board or its designee on Monday, October 17, 2022, at 9:00 A.M. It will be returned to the licensee on Thursday, October 27, 2022.

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.

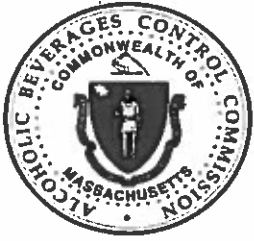
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Jean M. Lorizio  
Chairman

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Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφραστούν αμέσως.  
这份文件是重要的，应立即进行翻译。

cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Kyle E. Gill, Esq., Associate General Counsel  
Nicholas Velez, Investigator  
Brian Gould, Investigator  
Officer Patrick Harrington, Worcester Police Department  
Administration, File



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*Chairman*

**DECISION**

**CAFÉ NEO INC.**  
**97 MILLBURY STREET**  
**WORCESTER, MA 01610**  
**LICENSE#: 00418-RS-1508**  
**VIOLATION DATE: 11/12/2021**  
**HEARD: 1/18/2022**

Café Neo Inc. ("Licensee") holds an alcoholic beverages 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, January 18, 2022, regarding an alleged violation of 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. Ch. 138 § 34C – Possession of an alcoholic beverage by a person under twenty-one (21) years of age (15 Counts). The above captioned occurred on November 12, 2021, according to Investigator Velez's Report.

The following documents are in evidence:

1. Investigator Velez's Investigative Report;
2. Licensee's Accela Summary Page;
3. Photograph of Fraudulent Identifications Licenses;
4. City of Worcester Decision, 9/18/2017.

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

**FINDINGS OF FACT**

1. On Friday, November 12, 2021, at approximately 12:03 a.m., Investigators Gould and Velez ("Investigators") along with Worcester Police Officer Harrington, inspected Café Neo Inc. to determine the manner in which its business was being conducted. (Testimony, Exhibit 1)
2. Investigators entered the licensed premises and observed numerous youthful appearing individuals standing in front of the bar and in possession of what appeared to be alcoholic beverages. Id.
3. Investigators identified themselves and asked to see proof of legal age. Id.

4. Underage #1, actual date of birth 4/30/2001 (age 20), informed Investigators she was in possession of a vodka mixed drink. She provided to Investigators a fraudulent Connecticut driver's license bearing her name and address but with a different birth date. (Testimony, Exhibits 1, 3)
5. Underage #2, actual date of birth 8/05/2001 (age 20), informed Investigators she was in possession of a gin and tonic mixed drink. She provided to Investigators a fraudulent Connecticut driver's license bearing her name and address but with a different birth date. Id.
6. Underage #3, actual date of birth 6/30/2001 (age 20), informed Investigators he was in possession of a Bud Light beer which he had purchased. He stated to Investigators that he did not have any identification with him. (Testimony, Exhibit 1)
7. Underage #4, actual date of birth 3/13/2001 (age 20), informed Investigators she was in possession of a vodka and cranberry mixed drink which she had purchased. She stated to Investigators that she did not have any identification with her. Id.
8. Underage #5, actual date of birth 12/04/2000 (age 20), informed Investigators he was in possession of a Bud Light beer which he had purchased. He provided to Investigators an imposter Delaware driver's license, in another's name with a different birth date. (Testimony, Exhibits 1, 3)
9. Underage #6, actual date of birth 4/26/2001 (age 20), informed Investigators he was in possession of a Bud Light beer. He provided to Investigators a fraudulent Rhode Island driver's license bearing his name and address but with a different birth date. Id.
10. Underage #7, actual date of birth 9/20/2002 (age 19), informed Investigators she was in possession of a vodka and cranberry mixed drink which she had purchased. She provided to Investigators a fraudulent New York driver's license bearing her name and address but with a different birth date. Id.
11. Investigators contacted additional ABCC Investigators, Anderson, Cutter, Fleming, Gardner, and Temple to come and assist them in identifying the underage patrons in the licensed premises. (Testimony, Exhibit 1)
12. Underage #8, actual date of birth 8/07/2001 (age 20), informed Investigators she was in possession of a vodka and soda mixed drink which she had purchased. She provided to Investigators a fraudulent Connecticut driver's license bearing her name and address but with a different birth date. (Testimony, Exhibits 1, 3)
13. Underage #9, actual date of birth 1/26/2001 (age 20), informed Investigators she was in possession of a White Claw Hard Seltzer drink. She provided to Investigators a fraudulent Maine driver's license bearing her name and address but with a different birth date. Id.
14. Underage #10, actual date of birth 12/06/2000 (age 20), informed Investigators she was in possession of a gin and tonic mixed drink. She provided to Investigators a fraudulent Connecticut driver's license bearing her name and address but with a different birth date. Id.

15. Underage #11, actual date of birth 6/09/2001 (age 20), was in possession of two Bud Light beers. He stated that he was not asked for any identification when he entered the premises. (Testimony, Exhibit 1)
16. Underage #12, actual date of birth 1/20/2002 (age 19), informed Investigators she was in possession of a vodka and soda mixed drink. She provided to Investigators a fraudulent Connecticut driver's license bearing her name and address but with a different birth date. (Testimony, Exhibits 1, 3)
17. Underage #13, actual date of birth 3/04/2002 (age 19), informed Investigators she was in possession of a tequila Sunrise mixed drink. She provided to Investigators a fraudulent Connecticut driver's license bearing her name and address but with a different birth date. Id.
18. Underage #14, actual date of birth 11/08/2001 (age 20), informed Investigators he was in possession of a White Claw Hard Seltzer drink. He provided to Investigators a fraudulent Connecticut driver's license bearing his name and address but with a different birth date. Id.
19. Underage #15, actual date of birth 2/05/2001 (age 20), informed Investigators he was in possession of a White Claw Hard Seltzer drink. He provided to Investigators a fraudulent Connecticut driver's license bearing his name and address but with a different birth date. Id.
20. Investigators informed Panagiotis Tsigas, of the violations and that a report would be submitted to the Chief Investigator for further action. (Testimony, Exhibit 1)
21. Katherine Tsigas, Licensee, appeared at the Commission hearing with her husband Panagiotis Tsigas, bartender at Café Neo, and Marc LaPan, their door man. (Testimony)
22. Mr. Tsigas does not request identification at the bar because Mr. LaPan examines identification at the door as people enter the licensed premises. (Testimony)
23. Mr. LaPan testified he requests identification from every person entering the establishment. He stated he goes so far as to request identification from people he knows. (Testimony)
24. Mrs. Tsigas testified that she and Mr. Tsigas, as well as Mr. LaPan are TIPS certified. She stated she since called the Worcester Police Department to inquire about any trainings offered re: examining identifications. (Testimony)

### DISCUSSION

Licenses to sell alcoholic beverages are a special privilege subject to public regulation and control, Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 619 (1956), for which States have especially wide latitude pursuant to the Twenty-First Amendment to the United States Constitution. Opinion of the Justices, 368 Mass. 857, 861 (1975). The procedure for the issuance of licenses and required conduct of licensees who sell alcoholic beverages is set out in Massachusetts General Laws, Chapter 138.

Chapter 138 gives the Commission the authority to grant, revoke and suspend licenses. Chapter 138 was “enacted ... to serve the public need and ... to protect the common good.” M.G.L. c. 138, §23. “[T]he purpose of discipline is not retribution, but the protection of the public.” Arthurs v. Bd. of Registration in Medicine, 383 Mass. 299, 317 (1981). The Commission is given “comprehensive powers of supervision over licensees.” Connolly, 334 Mass. at 617.

The Licensee is charged with a violation of 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: chapter 138, §34C – Possession of an alcoholic beverage by a person under twenty-one (21) years of age. A Commission regulation promulgated at 204 CMR 2.05(2) provides in pertinent part, that “[n]o licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to the place in or on the licensed premises. The licensee shall be responsible therefore, whether present or not.” The law is well-settled that ‘under the regulation, [204 C.M.R. 2.05(2)] the responsibility of the licensee is to exercise sufficiently close supervision so that there is compliance with the law on the premises. A vendor who sells alcohol is “bound at his own peril to keep within the condition of his license.” Burlington Package Liquors, Inc. v. Alcoholic Beverages Control Comm’n, 11 Mass. App. Ct. 785, 788 (1981); Commonwealth v. Gould, 158 Mass. 499, 507 (1893). It is, thus, quite possible for a licensee to offend the regulatory scheme without scienter. The licensee is responsible for illegalities that occur on the licensed premises. Rico’s of the Berkshires, Inc. v. Alcoholic Beverages Control Comm’n, 19 Mass. App. Ct. 1026, 1027 (1985).

Massachusetts General Laws, Chapter 138, §34C states, in pertinent part, that: “Whoever, being under twenty-one years of age and not accompanied by a parent or legal guardian, knowingly possesses any alcohol or alcoholic beverages, shall be punished.” M.G.L. c. 138, §34C.

Evidence was provided through the testimony of Investigator Velez that patrons younger than twenty-one years of age were in possession of alcoholic beverages in the licensed premises of Café Neo, Inc. The Licensee did not dispute the underage patrons were in possession of alcoholic beverages but rather argued that they had been asked for and produced identification.

While Massachusetts General Laws, Chapter 138, §34B offers protection from license suspension or revocation or criminal penalties to license holders who reasonably rely on one of four (4) pieces of identification specified in the statute, including a valid Massachusetts driver’s license, Section 34B refers only to the activities of delivery and sale, and it omits any reference to the act of possession. See M.G.L. c. 138, §34B. Consequently, Section 34B does not offer relief when out of state licenses are relied upon, and offers no relief from liability for allowing possession of alcoholic beverages in violation of Section 34C.

The Commission is persuaded and finds that the Licensee committed a violation of 204 CMR 2.05 (2) - Permitting an illegality on the licensed premise, to wit: M.G.L. c. 138, §34C- Possession of an alcoholic beverage by a person under twenty-one years of age (15 counts).

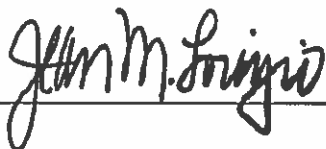
### CONCLUSION

Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. Ch. 138 § 34 – Sale or Delivery of an alcoholic beverage to a person under twenty-one (21) years of age (15 Counts).

Therefore, the Commission **suspends the license for a period of 20 days of which 10 days will be served and 10 days 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



Deborah A. Baglio, Commissioner



Crystal Matthews, Commissioner



Dated: August 18, 2022

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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