



Jean M. Lorizio, Esq.
Chairman

*Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
Telephone: 617-727-3040
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NOTICE OF SUSPENSION

February 14, 2018

**RED FACE JACK'S INC. D/B/A RED FACE JACK'S
585 ROUTE 28
YARMOUTH, MA 02673
LICENSE#: 1518-00040
VIOLATION DATE: 06/23/2017
HEARD: 02/13/2018**

After a hearing on February 13, 2018, the Commission finds Red Face Jack's Inc. d/b/a Red Face Jack's violated 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: Ch. 138 § 69 Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person (1 count).

The Commission suspends the license for a period of four (4) days of which one (1) day will be served and three (3) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.

The suspension shall commence on Wednesday, April 4, 2018 and terminate on Wednesday, April 4, 2018. The license will be delivered to the Local Licensing Board or its designee on Wednesday, April 4, 2018 at 9:00 A.M. It will be returned to the licensee on Thursday, April 5, 2018.

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

A handwritten signature in cursive script, reading "Jean M. Lorizio".

Jean M. Lorizio
Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Jamie Binienda, Investigator
Nicholas Velez, Investigator
Stephen V. Miller, Esq.
Administration, File



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DECISION

**RED FACE JACK'S INC. D/B/A RED FACE JACK'S
585 ROUTE 28
YARMOUTH, MA 02673
LICENSE#: 1518-00040
VIOLATION DATE: 06/23/2017
HEARD: 02/13/2018**

Red Face Jack's Inc. d/b/a Red Face Jack's (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, February 13, 2018, regarding an alleged violation of 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: Ch. 138 § 69 Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person (1 count). Prior to the start of the hearing, the Licensee stipulated to the violation in Investigator Binienda's report.

The following documents are in evidence:

1. Investigator Binienda's Investigative Report; and
2. Licensee's Stipulation of Facts.

A. TIPS Training Summary.

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

The Commission took Administrative Notice of the Licensee's record.

FINDINGS OF FACT

1. On Friday, June 23, 2017, at approximately 11:35 p.m., Investigators Velez and Binienda ("Investigators") conducted an investigation of the business operation of Red Face Jack's Inc. d/b/a Red Face Jack's to determine the manner in which its business was being conducted.
2. Investigators entered the licensed premises and noticed an intoxicated male individual, Jonathan Strange, in possession of a vodka and Red Bull energy drink, who was seated at the center of the bar.

3. Investigators approached Strange and asked him if the Red Sox won. Jonathan had a blank stare and responded with a shrug of his shoulders.
4. A brief time later, Investigators observed that Jonathan was unsteady on his feet as he walked to the restroom, swaying as he walked from the bar. When Jonathan exited the restroom, Investigators observed him stumble as he approached the bar stool. Jonathan sat down and at times his eyes were half-closed.
5. After some time, Jonathan stood up from the bar and walked out of the establishment into the parking lot. Investigators followed Jonathan outside and observed him walk to the hotel next door. A few minutes later, Jonathan returned to Red Face Jack's, sat at the bar and finished his drink.
6. Jonathan then ordered another vodka and Red Bull from a female bartender on duty, Maggie Wood. Investigators observed that his speech was badly slurred and unintelligible, and Ms. Wood had difficulty understanding Jonathan.
7. Based on their training and experience, Investigators formulated the opinion that Jonathan was intoxicated.
8. Investigators observed the bartender deliver a vodka and Red Bull to Jonathan, who took possession of it and drank from it.
9. Investigators identified themselves to the owner, Chris Kounadis, and informed him that Jonathan was intoxicated.
10. Investigators spoke to the bartender, Maggie Wood, about Jonathan. Maggie stated she knew that he was not driving. When Investigators asked if Maggie had difficulty understanding Jonathan, she stated yes and repeated that "he's not driving." Investigators asked to see a copy of Jonathan's bar tab which stated he had ordered three (3) vodka and Red Bull while at the establishment.
11. Investigators then spoke with the doorman, Chris Marrou, and Mr. Kounadis, and informed them that Jonathan would need safe transport home. Investigators, with the doorman and owner, then spoke to Jonathan and asked if he were driving. With badly slurred speech, Jonathan stated that he was not driving.
12. Mr. Kounadis admitted that Jonathan was drunk. He assured Investigators that Jonathan would have safe transport home.
13. Investigators advised Kounadis 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: Ch. 138 § 69 Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person (1 count). Therefore, the Commission **suspends the license for a period of four (4) days of which one (1) day will be served and three (3) 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

Elizabeth A. Lashway, Commissioner Elizabeth A. Lashway

Jean M. Lorizio, Chairman Jean M. Lorizio

Kathleen McNally, Commissioner Kathleen McNally

Dated: February 14, 2018

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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