

The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Deborah B. Goldberg
Treasurer and Receiver General

NOTICE OF SUSPENSION

Kim S. Gainsboro, Esq.
Chairman
March 19, 2015

THE SCRANTON RAW BAR LLC DBA FALMOUTH RAW BAR
56 SCRANTON AVENUE
FALMOUTH, MA 02540
LICENSE # 039000180
VIOLATION DATE: 08/16/2014
HEARD: 03/03/2015

After a hearing on March 3, 2015, the Commission finds The Scranton Raw Bar LLC dba Falmouth Raw Bar violated:

- 1) M.G.L. c. 138, §69 - Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person (1 count); and
- 2) 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, §34C - Possession of an alcoholic beverage by a person under 21 years of age (1 count).

The Commission suspends the licensee's license for a total of eight (8) days to be served. The suspension shall commence on Wednesday, May 6, 2015, and terminate on day, Wednesday, May 13, 2015. The license will be delivered to the Local Licensing Board or its designee on Wednesday, May 6, 2015 at 9:00 A.M. It will be returned to the licensee Thursday, May 14, 2015.

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. All checks must be certified and accompanied by the enclosed form, which must be signed by a Massachusetts Licensed Accountant.

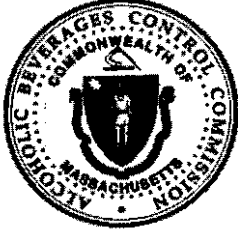
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Christopher Temple, Investigator
Jan Kujawski, Investigator
Nicholas Velez, Investigator
Administration
File

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The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Deborah B. Goldberg
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DECISION

THE SCRANTON RAW BAR LLC DBA FALMOUTH RAW BAR
56 SCRANTON AVENUE
FALMOUTH, MA 02540
LICENSE # 039000180
VIOLATION DATE: 08/16/2014
HEARD: 03/03/2015

The Scranton Raw Bar LLC dba Falmouth Raw Bar (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, March 3, 2015, regarding alleged violations of:

- 1) M.G.L. c. 138, §69 - Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person (1 count); and
- 2) 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, §34C - Possession of an alcoholic beverage by a person under 21 years of age (1 count).

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

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
2. Investigator Temple's Investigative Report dated August 16, 2014;

There is one (1) audio recording of this hearing, and one (1) witness testified.

FACTS

1. On Saturday, August 16, 2014, at approximately 9:50 p.m., Investigators Kujawski, Velez, and Temple investigated the business operation of The Scranton Raw Bar LLC dba Falmouth Raw Bar to determine the manner in which the business was being conducted.
2. Investigators entered the licensed premises where their attention was drawn to a male individual, Mathew Caldwell, who appeared to be intoxicated.
3. Investigators observed that Mr. Caldwell was unsteady on his feet and that he swayed as he walked to the bathroom.
4. Investigators proceeded into the bathroom and observed Mr. Caldwell with a blank stare on his face. Mr. Caldwell proceeded to the sink where investigators observed his bloodshot, glassy, watery eyes.
5. Investigator Velez observed that Mr. Caldwell also had the zipper to his pants down and he was having difficulty standing up.

6. Investigators exited the bathroom a short time later and observed that Mr. Caldwell was still unsteady on his feet.
7. Investigators observed Mr. Caldwell go outside and speak to the doorman, Phil. They observed that Mr. Caldwell spoke with thick, slurred speech.
8. Investigators observed Mr. Caldwell return to the bar and speak to the bartender on duty with thick, slurred speech. Mr. Caldwell had red, bloodshot, glassy, watery eyes.
9. Based on their training and experience, investigators formulated the opinion that this individual was intoxicated.
10. At approximately 10:10 p.m., investigators observed the bartender, Kelsey Haggett, deliver a can of Corona Light beer to Mr. Caldwell. Investigators then observed Mr. Caldwell consume the alcoholic beverage.
11. Investigators spoke to John Desangro, a friend of Mr. Caldwell. Mr. Desangro stated to that Mr. Caldwell drank a lot prior to their arrival at this bar.
12. Mr. Caldwell stated to investigators that he had consumed four beers at this bar.
13. Mr. Desangro said he would provide safe transportation home for Mr. Caldwell.
14. Investigators Kujawski and Velez spoke with the bartender, Ms. Haggett, and identified Mr. Caldwell to her.
15. Investigators also spoke to the doorman Phil, who stated that Mr. Caldwell was his friend. Phil admitted to investigators that Mr. Caldwell was intoxicated.
16. Investigators spoke to the owner of the licensed premises, Eddy Rolando. Investigators identified Mr. Caldwell to the owner. Mr. Rolando admitted that Mr. Caldwell was intoxicated.
17. Investigators informed Mr. Rolando of the violation and that a report will be submitted to the Chief Investigator for review.
18. Concurrently, investigators observed a group of youthful looking females standing at the bar.
19. Investigators observed one female order a yellow drink that appeared to be an alcoholic beverage.
20. Investigators identified themselves to the female, and asked to see proof of age.
21. Erin M. [REDACTED] actual date of birth [REDACTED] (age 19), stated that she ordered a vodka [and] pineapple juice.
22. Ms. M. [REDACTED] presented investigators with a fraudulent identification in the name of Charlotte M. [REDACTED], date of birth [REDACTED] (age 22), which she said that she presented as identification when she entered the licensed premises.
23. Investigators identified the underage female to the owner Mr. Rolando, informed him of this second violation, and advised him that a report will be submitted to the Chief Investigator for review.
24. Outside of the licensed premises, investigators confiscated five fraudulent identifications from the underage females who were in the bar with Ms. M. [REDACTED]. Investigators provided safe transportation home for the underage females via a taxi.

CONCLUSION

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

- 1) M.G.L. c. 138, §69 - Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person (1 count); and
- 2) 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, §34C - Possession of an alcoholic beverage by a person under 21 years of age (1 count).

On the first violation M.G.L. c. 138, §69, the Commission suspends the license for a period of four (4) days with two (2) days to be served, and two (2) days to 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, §34C (9 counts), the Commission suspends the license for a period of eight (8) days with six (6) days to be served and two (2) days to be held in abeyance for a period of two (2) years, provided no further violations of Chapter 138 or Commission Regulations occur.

In total the Commission will suspend the license for a period of eight (8) days to be served, and eight (8) days to be held in abeyance for a period of two (2) years, provided no further violations of Chapter 138 or Commission Regulations occur.

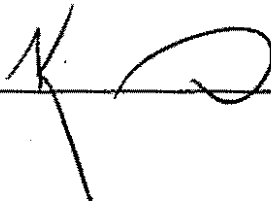
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner



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

Kim S. Gainsboro, Chairman



Dated: March 18, 2015

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
Christopher Temple, Investigator
Jan Kujawski, Investigator
Nicholas Velez, Investigator
Administration
File