

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

Deborah B. Goldberg
Treasurer and Receiver General

Kim S. Gainsboro, Esq.
Chairman

NOTICE OF SUSPENSION

September 8, 2015

MAKARENA LLC DBA MAKARENA RESTAURANT
150 COMMON STREET
LAWRENCE, MA 01840
LICENSE#: 059400242
VIOLATION DATE: 05/02/2015
HEARD: 09/08/2015

After a hearing on September 8, 2015, the Commission finds Makarena LLC dba Makarena Restaurant violated 204 CMR 4.03 (1)(b) – Delivery of more than two (2) drinks to one (1) person at a time.

The Commission **suspends the Licensee's license for a total of one (1) day to be served with the balance of two (2) days suspended. The suspension shall commence on Wednesday, October 21, 2015, and terminate on Wednesday, October 21, 2015.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, October 21, 2015 at 9:00 A.M. It will be returned to the Licensee Thursday, October 22, 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, which must be signed by a Massachusetts Licensed Accountant.

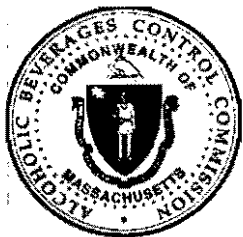
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro
Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Brad Doyle, Investigator
Michael Teehan, Investigator
Caroline Guarino-Wilichoski, Investigator
Administration, File



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DECISION

MAKARENA LLC DBA MAKARENA RESTAURANT
150 COMMON STREET
LAWRENCE, MA 01840
LICENSE#: 059400242
VIOLATION DATE: 05/02/2015
HEARD: 09/08/2015

Makarena LLC dba Makarena Restaurant (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, September 8, 2015, regarding an alleged violation of:

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

The above captioned occurred on May 2, 2015 according to Investigator Doyle's Report.

The following documents are in evidence:

1. Investigator Doyle's Report dated May 2, 2015.

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

FACTS

1. On Saturday, May 2, 2015, at approximately 11:45 p.m., Chief Investigator Mahony, along with Investigators Teehan, Guarino, and Doyle ("Investigators") conducted an investigation of the business operation of Makarena LLC dba Makarena Restaurant.
2. Investigators observed a 750 ml bottle of Buchanan's whiskey on a table. Two people were seated at this table. Each person was in possession of or, had a drink on the table.

3. Investigators spoke with the manager on duty, Johanny Gomez, and asked her the cost and content of a standard drink containing this brand of whiskey.
4. Ms. Gomez stated that a standard drink was 2 ounces, and cost \$13.00.
5. Investigators extrapolated that the 750 ml bottle of Buchanan's whiskey would contain approximately 12 drinks; and 12 drinks at \$13.00 per drink would cost a total of \$156.00.
6. Ms. Gomez stated the usual price of a 750 ml bottle of Buchanan's whiskey was \$150.00; however the price tonight was \$200.00 due to the cost incurred for ordering a Pay-per-View event (professional boxing match) for the evening.
7. Investigators informed Ms. Gomez that a 750 ml bottle containing 12 drinks could be delivered only to six or more persons.
8. Investigators informed Ms. Gomez, of the violation and that a report would be submitted to the Chief Investigator for further action.


CONCLUSION

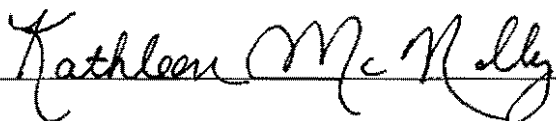
Based on the evidence, the Commission finds the Licensee violated 204 CMR 4.03 (1)(b) - Delivery of more than two (2) drinks to one (1) person at a time.

Based on the evidence, the Commission finds no violation of 204 CMR 4.03 (1) (c) Certain Practices Prohibited - No licensee or employee or agent of a licensee shall (c) Sell, offer to sell or deliver to any person or group of persons any drinks at a price less than the prices regularly charged for such drinks during the same calendar week, except at private functions not open to the public.

Therefore, the Commission suspends the license for three (3) days of which one (1) day will be served and two (2) 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 

Kathleen McNally, Commissioner 

Dated: September 8, 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.

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