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Chairman

*Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
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DECISION

**SAM DIEGO'S EAST INC. D/B/A SAM DIEGO'S MEXICAN COOKERY & BAR
51 MAIN ST.
PLYMOUTH, MA 02360
LICENSE#: 0984-00086
VIOLATION DATE: 03/17/2017
HEARD: 09/19/2017**

Sam Diego's East Inc. d/b/a Sam Diego's Mexican Cookery & 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, September 19, 2017, regarding an alleged violation of M.G.L. c. 138, § 34 Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (1 count). Prior to the start of the hearing, the Licensee stipulated to the violation in Investigator Carey's report.

The following documents are in evidence:

1. Investigator Carey's Investigative Report;
2. Licensee's Stipulation of Facts; and
3. Fraudulent Massachusetts Driver's License and RMV Print out.

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, March 17, 2017, at approximately 11:00 p.m., Investigators Binienda and Carey ("Investigators") conducted an investigation of the business operation of Sam Diego's East Inc. d/b/a Sam Diego's Mexican Cookery & Bar to determine the manner in which its business was being conducted.
2. After Investigators made observations in the downstairs bar area, they made their way to the second floor bar area where they noticed two youthful looking females ordering alcoholic beverages. Investigators observed that each female patron ordered a glass of ice water and a Jello® shot, and neither were asked for identification by the bartender.

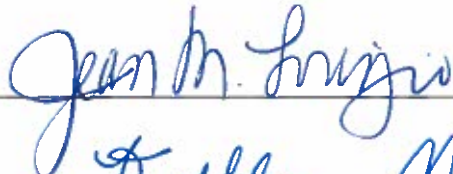
3. Investigators approached the female patrons, identified themselves, and asked to see identification.
4. Underage #1, actual date of birth 3/5/1998 (age 19), stated to Investigators that she presented a fraudulent Maine driver's license to gain entry to the establishment.
5. Underage #2, actual date of birth 8/8/1997 (age 19), stated to Investigators that she presented a fraudulent Massachusetts driver's license to gain entry to the establishment.
6. Both underage patrons informed Investigators that they had obtained the fraudulent licenses online.
7. Investigators spoke to the bartender on duty, Simon, and asked why he had not asked these patrons for identification. Simon stated that all the carding was done at the door, and everyone in his section was supposed to be 21 years of age.
8. Investigators asked to speak with the manager on duty, Laura Enzian.
9. Investigators informed Ms. Enzian of the violation and that a report would be filed with the Chief Investigator for further action.
10. At the hearing, Investigator Carey testified that the Licensee was charged with only one not two counts of violating M.G.L. c. 138, § 34, because the Massachusetts driver's license presented by Underage #2, although fraudulent, was an identification upon which the Licensee could have reasonably relied.

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated M.G.L. c. 138, § 34 Sale or delivery of an alcoholic beverage to a person under twenty-one (21) years of age (1 count). As the Licensee has been in business for more than 20 years with no prior violations, the Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



Kathleen McNally, Commissioner



Dated: September 20, 2017

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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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Jack Carey, Investigator
Jamie Binienda, Investigator
Louis A. Cassis, Esq. via facsimile 617-472-5028
Administration, File