



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

*Steven Grossman*  
*Treasurer and Receiver General*

*Kim S. Gainsboro, Esq.*  
*Chairman*

NOTICE OF SUSPENSION

July 9, 2014

**TOPSIDE INC DBA THE RITZ CAFE**  
**4 CIRCUIT AVE.**  
**OAK BLUFFS, MA 02557**  
**LICENSE#: 091800009**  
**VIOLATION DATE: 06/13/2014**  
**HEARD: 07/08/2014**

After a hearing on July 8, 2014, the Commission finds Topside Inc. dba The Ritz Cafe in violation of M.G.L. c. 138 §69 – Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person (1 count).

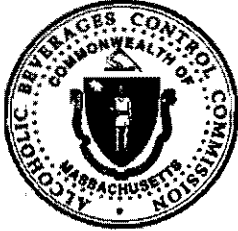
The Commission **suspends the licensee's license for a total of thirty (30) days to be served. The suspension shall commence on Wednesday, August 27, 2014, and terminate on Friday, September 26, 2014.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, August 27, 2014 at 9:00 A.M. It will be returned to the licensee Saturday, September 27, 2014. **No offer in compromise will be considered for this penalty.**

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  
Nicholas Velez, Investigator  
Jamie Binienda, Investigator  
Administration  
File



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**DECISION**

**TOPSIDE INC, DBA THE RITZ CAFE**  
**4 CIRCUIT AVE.**  
**OAK BLUFFS, MA 02557**  
**LICENSE#: 091800009**  
**VIOLATION DATE: 06/13/2014**  
**HEARD: 07/08/2014**

Topside Inc. dba The Ritz Cafe (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, July 8, 2014, regarding an alleged violation of M.G.L. c. 138 §69-Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person (1 count). Prior to the commencement of the hearing, the Licensee stipulated to the violation alleged in Investigator Velez's Report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
2. Investigator Velez's Violation Report dated June 13, 2014.

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

**FACTS**

1. On Friday, June 13, 2014, at approximately 8:00 p. m., Investigators Binienda, Kenny, Keefe, and Velez conducted an investigation of the business operation of Topside Inc. dba The Ritz Cafe, to determine the manner in which its business was being conducted.
2. Investigator Velez entered the licensed premises at approximately 8:03 p.m., and observed an individual, Bobby King, who appeared to be intoxicated.
3. At approximately 8:09 p.m., Investigator Velez observed Mr. King speaking to a woman sitting at the bar.
4. Investigator Velez observed Mr. King spoke in an incoherent manner, and that he had red, bloodshot, glassy, and watery eyes.
5. At approximately 8:38 p.m., Investigator Velez observed that Mr. King was unsteady on his feet as he walked to the bathroom.
6. Investigator Velez also observed that Mr. King spoke to the bartender on duty in a thick and slurred speech.
7. Based on his training and experience, Investigator Velez formed the opinion that Mr. King was intoxicated.

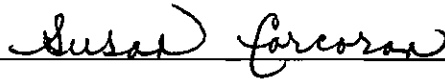
8. At approximately 8:41 p.m., Investigator Velez observed Mr. King order a bottle of Miller Lite beer, and he observed the bartender on duty deliver the beer to Mr. King. Mr. King then grabbed the beer from the bar and consumed it.
9. Investigator Velez exited the premises, and Investigators Binienda, Kenny, and Keefe entered the premises and spoke to the owner, Janette King.
10. Ms. King stated to investigators that she instructed the bartender on duty to shut "Bobby" off.
11. The bartender on duty stated to Ms. King that Bobby had nagged her, and said it was his last drink, so she served him.
12. Ms. King stated that she would call a taxicab for Mr. King.
13. Investigators informed Ms. King of the violation and that a report would be filed with the Chief Investigator for further action.

#### CONCLUSION

Based on the evidence, the Commission finds the licensee violated M.G.L. c. 138 §69-Sale or Delivery of an Alcoholic Beverage to an Intoxicated Person (1 count). Therefore, the Commission **suspends the license for thirty (30) days to be served. No offer in compromise will be considered for this penalty.**

#### ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner



Kathleen McNally, Commissioner



Dated: July 9, 2014

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  
Nicholas Velez, Investigator  
Jamie Binienda, Investigator  
Dennis Keefe, Investigator  
Mark Kenny, Investigator  
Administration  
File