

PETITION TO FINE, SUSPEND, OR	*	BEFORE THE ALCOHOLIC
REVOKE THE ALCOHOLIC BEVERAGE	*	BEVERAGE HEARING BOARD
LICENSE HELD BY KEVIN JUNHYUNG JO	*	FOR
AND UN SIK YUN ON BEHALF OF	*	HOWARD COUNTY,
108 PLACE, INC. T/A 108 LIQUORS	*	MARYLAND
	*	Case No. 17-29-V

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**DECISION AND ORDER**

The Board of License Commissioners for Howard County, Maryland (the “Liquor Board”), pursuant to Rule 1.02(A) of the Liquor Board Rules and Regulations, has delegated the authority to hear and decide cases to the Alcoholic Beverage Hearing Board for Howard County, Maryland (the “Hearing Board”). This Proposed Decision and Order shall take effect immediately in accord with Rule 7.05(C), and shall become Final, as provided in Rule 6.13.

On July 11, 2017, the Hearing Board heard the Petition of Howard County, Maryland and Detective Mark Baxter, Alcoholic Beverage Inspector (collectively “Petitioners”), to Fine, Suspend, or Revoke the Class A-1, Beer, Wine, and Liquor, 7-Day, Off-Sale License, held by Kevin Junhyung Jo and Un Sik Yun (“Licensees”), on behalf of 108 Place, Inc. t/a 108 Liquors, located at 12447-1D Clarksville Pike, Clarksville, Maryland 21029. The Petitioners were represented by David Moore, Senior Assistant County Solicitor. The Licensees were represented by Thomas Coale, Esquire.

All the documents on file were incorporated into the record by reference. These include a letter from the Liquor Board Administrator to the Licensees advising them of the hearing date and enclosing the Petition to Fine, Suspend, or Revoke the Alcoholic Beverage License for 108 Place, Inc., t/a 108 Liquors, and an e-mail dated June 26, 2017 from the Alcoholic Beverage Inspector stating that the property had been posted.

## SUMMARY OF PROCEEDINGS

Prior to the Hearing, counsel for the Parties agreed to a partial stipulation of the facts alleged in the Petition. This was followed by the presentation of evidence by the Petitioners and the Licensees.

### STIPULATIONS

The Licensees agreed to the following stipulations:

1. On or before May 1, 2016, the Licensees applied for and received a Class A-1, Beer, Wine, and Liquor, 7-Day, Off-Sale License for 108 Place, Inc. t/a 108 Liquors, 12447-1D Clarksville Pike, Clarksville, Maryland 21029. 108 Liquors is located in Howard County and is subject to the jurisdiction of the Board of License Commissioners for Howard County.

2. At all times relevant to these proceedings, the Licensees were responsible for the operation of 108 Liquors and were responsible for ensuring compliance with all local and State laws concerning the distribution, sale, and transfer of alcoholic beverages to members of the public.

3. On or about September 1, 2016, DFC Baxter was notified by Howard County Police DFC E. Upton of an August 30, 2016, incident involving the sale of alcohol to an underage subject by Kevin Junhyung Ho, one of the owners and Licensees of the establishment. At approximately 11:30 a.m. – 12:26 p.m. on August 30, 2016, Megan Clancy Midas, date of birth October 17, 1997, went into 108 Liquors by herself and purchased a 750ml bottle of Bacardi rum, an alcoholic beverage, from Kevin Junhyung Jo. This was recorded on the store video camera system and a receipt was subsequently located with Ms. Midas. Mr. Jo did not check the identification of Ms. Midas and he was on the telephone during the transaction.

4. On November 23, 2016, while awaiting the completion of the criminal investigation into the death of Megan Midas, DFC Baxter and another officer conducted a surveillance detail at 108 Liquors looking for customers purchasing alcoholic beverages from the store who appeared to be under the age of twenty-one.

5. At approximately 9:50 p.m. on November 23, 2016, DFC Baxter observed a white male subject, later identified as Donovan Thomas Nicastro, exit the driver's side of a light-colored sedan parked approximately 25 yards away from the front of 108 Liquors and go into the store. DFC Baxter observed that Mr. Nicastro appeared to be under twenty-one years of age.

6. DFC Baxter observed Mr. Nicastro exit the establishment carrying a 30-pack of Natural Light cans, an alcoholic beverage, and enter a vehicle. DFC Baxter notified PFC Bowers to watch the vehicle as it left the parking lot. PFC Bowers advised that the vehicle was traveling above the posted speed limit, so he followed and conducted a traffic stop during which he identified the driver as Donovan Thomas Nicastro, who was 18 years of age. The alcoholic beverages purchased at 108 Liquors were inside the vehicle and there were no other occupants in the car.

7. DFC Baxter arrived on the scene of the traffic stop and spoke to Mr. Nicastro, who reported that he purchased the alcohol at 108 Liquors using a fraudulent New Hampshire driver's license, which he turned over to DFC Baxter. DFC Baxter confirmed that the license was fraudulent and that it indicated Mr. Nicastro's date of birth was 8/26/1994, purporting him to be 22 years of age.

8. PFC Bowers issued Mr. Nicastro a warning for the traffic violation and he was released from the scene and is pending possible charges relating to the alcohol purchase. The

alcoholic beverages were seized by DFC Baxter.

9. At approximately 10:43 p.m. on November 23, 2016, DFC Baxter observed two white male subjects exit a vehicle, which had pulled into a parking space in front of 108 Liquors. Both subjects appeared to be under twenty-one years of age and proceeded inside 108 Liquors. DFC Baxter was able to observe both subjects carrying items to the registers where each completed a separate purchase. Upon exiting the store, the subjects were observed carrying two (2) 30-packs of Busch cans, an 18-pack of Coors Light cans, and a plain brown bag containing an unknown product which was later found to have contained a 6-pack of Goose India Pale Ale bottles. All of these items were alcoholic beverages.

10. DFC Baxter notified PFC Bowers to follow the white Jeep truck as it left the parking lot of 108 Liquors. PFC Bowers observed the driver violate one or more Maryland traffic laws. PFC Bowers conducted a traffic stop and identified the driver as Patrick Thomas O'Brien and the passenger as Devin Patrick Murray. The vehicle was registered to Mr. O'Brien. Both subjects were found to be only 19 years of age. All of the alcoholic beverages purchased at 108 Liquors were observed inside the vehicle. No other individuals entered or exited Mr. O'Brien's vehicle between the time they entered the vehicle after making the purchase and the time of the traffic stop by PFC Bowers.

11. DFC Baxter arrived on the scene of the stop and spoke to both subjects in separate conversations. Each subject advised that they made individual purchases of alcoholic beverages from a different store employee, but neither were asked for identification. Mr. O'Brien was issued a warning for the traffic violation by PFC Bowers and both subjects were released from the scene and are pending possible charges related to the alcohol purchase. The alcoholic beverages were seized by DFC Baxter.

12. DFC Baxter and PFC Bowers returned to the 108 Liquors, entered the location, and identified themselves to the employees, Shanker Adhikari and Basantee Jefferson. DFC Baxter requested to speak with the licensee, Mr. Jo, who was observed working there earlier. Ms. Jefferson advised that he had left for the evening and was returning home to Timonium. DFC Baxter asked that Ms. Jefferson call him so he could speak with him. She complied and handed her phone to DFC Baxter, once Mr. Jo was on the line. DFC Baxter advised Mr. Jo that he needed to view some recent footage on his surveillance system for a police matter and asked Mr. Jo if he was returning to the store. Mr. Jo advised that he would not be returning as he was nearly home. DFC Baxter then had Mr. Jo walk him through how to view the footage. DFC Baxter advised Mr. Jo that he would need to save this footage and that he would return in a few days to retrieve digital copies of the footage.

13. On the video, DFC Baxter observed Mr. Nicastro approach the checkout counter with an 18-pack of Natural Light and a bottle containing a clear liquid, which was later determined to be Smirnoff Sour Green Apple Vodka. Mr. Nicastro presented the fraudulent New Hampshire driver's license to the clerk, Mr. Adhikari, who briefly glanced at the license. Mr. Adhikari then completed the sale on ticket #320586. Mr. Nicastro then exited the store.

14. Upon viewing the footage containing Mr. Murray's transaction, DFC Baxter observed him approach the checkout counter with an 18-pack of Coors Light and a 6-pack of an unknown IPA bottled beverage later determined to be Goose India Pale Ale. The clerk, Ms. Jefferson, rang up the transaction without checking identification to verify Mr. Murray's age. The sale was concluded and paid by Mr. Murray on ticket #320605.

15. Upon viewing the footage containing Mr. O'Brien's transaction, DFC Baxter observed Mr. O'Brien approach the counter with two 30-packs of Busch cans. Mr. Jo rang up

the transaction without checking identification to verify Mr. O'Brien's age. The sale was concluded and paid by Mr. O'Brien on ticket #320606.

16. On November 28, 2016, DFC Baxter visited 108 Liquors and met with Mr. Jo, who provided DFC Baxter with copies of the video recordings of the three transactions that occurred on November 23, 2016, and which are set forth in the above paragraphs. These were copies of the same footage that DFC Baxter viewed on the night of November 23, 2016. This property, as well as all related property from November 23, 2016, was entered into the property room by DFC Baxter.

17. The Respondents have committed the following violations:

- a. Liquor Board Rule 4.04 - Compliance with Laws and Regulations;
- b. Liquor Board Rule 4.08 - Licensee's Responsibility;
- c. Liquor Board Rule 5.01 - Sales to Minors; and
- d. Liquor Board Rule 5.07 - Acts Contrary to Law.

18. The Respondents and their agents have allowed 108 Liquors to be used for acts which are contrary to local ordinances and against the public peace, safety, health, or welfare.

The Licensees did not stipulate to paragraphs 6, 7, 8, or 9 of the Petition.

#### **SUMMARY OF TESTIMONY**

Ms. Susan Midas was sworn and testified that she is the mother of Megan Midas, the minor who purchased alcohol at 108 Liquors on August 30, 2016, and was found deceased in her car later that day and whose death was attributed to "alcohol intoxication complicated by hyperthermia." Ms. Midas recounted that evening and her attempts to locate her daughter, and how she finally located her daughter's car and body in a parking lot in River Hill.

Detective Ed Upton, Howard County Police Department, was sworn and testified that

he was called to the parking lot at River Hill to investigate the death of Megan Midas. Through the course of his investigation, Detective Upton subsequently obtained from 108 Liquors a video showing the sale of alcohol from Kevin Junhyung Jo to Megan Midas, which video was shown to the Alcoholic Beverage Hearing Board during the hearing.

Hea Park was sworn in as a Korean interpreter to assist Kevin Junhyung Jo, owner and licensee of 108 Liquors, who was also sworn in to testify. Mr. Jo testified that he has owned 108 Liquors since 2013 and has worked at this establishment since 2010 and is alcohol awareness certified. Prior to this violation, he was never cited for a violation of liquor laws. He stated that previously, when an underage cadet tried to purchase alcohol under the supervision of Detective Baxter, 108 Liquors did not serve the cadet. Mr. Jo testified that any customer that looked less than 35 years of age was carded and his establishment caught minors attempting to purchase alcohol 2-3 times a week during the summer. After he was notified of the violations, he purchased a new license scanner to check licenses and he no longer accepts any out-of-state IDs. He also downloaded an application onto his phone to help check IDs.

Mr. Jo stated that he was really sorry, especially for his family and customers.

The following Licensee Exhibit was entered into the record as Exhibit #1: a photograph of a machine to check IDs. Mr. Jo testified that he has now trained his staff to use the ID checking machine, and has advised them of a new policy to check ID's for any customers who look less than 40 years of age.

Mr. Jo testified that on November 23, 2016, a minor was served at 108 Liquors with an out-of-state fraudulent license. There were two other violations of selling to minors at this location on November 23, 2016 – one sale by Mr. Jo and one sale by an employee that no longer works at 108 Liquors. Under new practices, the ID would have been checked with a

scanner.

Un Sik Yun, resident agent and 10% owner of 108 Liquors, testified that he is TAM certified and visits the store 2-3 times per month. He testified that anyone under the age of 40 has their ID checked.

Based on the evidence presented at the hearing, the Alcoholic Beverage Hearing Board makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. The Hearing Board finds that Kevin Junhyung Jo and Un Sik Yun are Licensees on behalf of 108 Place, Inc., t/a 108 Liquors, a Class A-1, Beer, Wine, and Liquor, 7-Day, Off-Sale License located at 12447-1D Clarksville Pike, Clarksville, Maryland 21029.
2. The Hearing Board finds that the Licensees have admitted to a total of at least seven violations of the following provisions of the Rules and Regulations of the Liquor Board.
  - a. Liquor Board Rule 4.04 - Compliance with Laws and Regulations;
  - b. Liquor Board Rule 4.08 - Licensee's Responsibility;
  - c. Liquor Board Rule 5.01 - Sales to Minors; and
  - d. Liquor Board Rule 5.07 - Acts Contrary to Law.
3. The Hearing Board finds that the Licensees admitted to conducting four sales of alcoholic beverages to persons who were underage, including three sales where more than one alcoholic beverage item was sold.
4. The Hearing Board finds that the Licensees conducted at least four sales of alcoholic beverages to persons who were underage.
5. The Hearing Board finds that the Licensees have violated the following

provisions of the Rules and Regulations of the Liquor Board.

- a. Liquor Board Rule 4.04 - Compliance with Laws and Regulations;
- b. Liquor Board Rule 4.08 - Licensee's Responsibility;
- c. Liquor Board Rule 5.01 - Sales to Minors; and
- d. Liquor Board Rule 5.07 - Acts Contrary to Law.

6. In order to ensure compliance with the law and Rules and Regulations and to protect the public health and welfare, and due to the repeated sales to underage persons, the Hearing Board finds that it is necessary to impose a serious sanction on the Licenses.

### CONCLUSIONS OF LAW

1. The Hearing Board concludes that Kevin Junhyung Jo and Un Sik Yun are Licensees on behalf of 108 Place, Inc., t/a 108 Liquors, a Class A-1, Beer, Wine, and Liquor, 7-Day, Off-Sale License located at 12447-1D Clarksville Pike, Clarksville, Maryland 21029.

2. The Hearing Board concludes that the Licensees have violated the following provisions of the Rules and Regulations of the Liquor Board, including at least four sales of alcoholic beverages to underage persons.

- a. Liquor Board Rule 4.04 - Compliance with Laws and Regulations;
- b. Liquor Board Rule 4.08 - Licensee's Responsibility;
- c. Liquor Board Rule 5.01 - Sales to Minors; and
- d. Liquor Board Rule 5.07 - Acts Contrary to Law.

3. The Hearing Board concludes that because of the serious and repeat nature of these offenses, and in order to ensure compliance with the law and Rules and Regulations, and to promote the peace and safety of the community, it is necessary to impose a fine in the amount of Eight Thousand Dollars (\$8,000.00) for the total of seven violations and to suspend the alcoholic beverage license of 108 Liquors for a total of 32

days, as specified in the Order that follows.

**ORDER**

For the foregoing reasons, it is this 8<sup>th</sup> day of August, 2017, by the Alcoholic Beverage Hearing Board of Howard County, **ORDERED**:

- 1) That a **FINE in the amount of Eight Thousand Dollars (\$8,000.00)**, for seven total violations of Liquor Board Rules 4.04, 4.08, 5.02 and 5.08, is **HEREBY IMPOSED** upon Kevin Junhyung Jo and Un Sik Yun, Licensees on behalf of 108 Place, Inc., t/a 108 Liquors, a Class A-1, Beer, Wine, and Liquor, 7-Day, Off-Sale License located at 12447-1D Clarksville Pike, Clarksville, Maryland and **SHALL BE PAID NO LATER THAN August 30, 2017**; and
- 2) That the Class A-1 License held by Kevin Junhyung Jo and Un Sik Yun on behalf of 108 Place, Inc., t/a 108 Liquors, be and hereby is **SUSPENDED for 30 days beginning August 30, 2017 through September 28, 2017**; and
- 3) That the Class A-1 License held by Kevin Junhyung Jo and Un Sik Yun on behalf of 108 Place, Inc., t/a 108 Liquors, be and hereby is **SUSPENDED on August 30, 2018 and August 30, 2019**, with the provision that if the License has not been renewed or has been transferred in an arms-length transaction to all new licensees, these two single day suspensions are null and void.

ATTEST:

ALCOHOLIC BEVERAGE HEARING  
BOARD OF HOWARD COUNTY,  
MARYLAND



Robin Regner  
Acting Administrator



Heather Gaetano, Chairperson

ABSENT

Mary Bird, Vice-Chairperson

REVIEWED BY HOWARD COUNTY  
OFFICE OF LAW  
GARY W. KUC  
COUNTY SOLICITOR



Charles C. Feaga, Member



Gene Ryan, Member



Lewis Taylor, Esquire  
Assistant County Solicitor



Charley C. Sung, Member