



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

Steven Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

Memorandum and Order on Licensee's
Request for Reconsideration of
Indefinite Suspension

DUDLEY L. BROWN POST 2846 VFW OF US, INC.
4 GIBBS ST.
WAREHAM, MA 02558
LICENSE#: 132800020
VIOLATION DATE: 08/17/2012
HEARD: 05/10/2013

Dudley L. Brown Post 2846 VFW of US (the "Licensee") holds an all-alcohol veteran's club license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on December 11, 2012, regarding an alleged violation of:

- 1) M.G.L. c. 138, §23- Failure to maintain compliance with the requirements of this chapter, to wit: M.G.L. c. 138, §26 Operating without an approved manager;
- 2) M.G.L. c. 138, §15A- Failure to disclose all persons who have a direct or indirect beneficial or financial interest in said license, to wit: Failure to notify licensing authorities of a change of officers and directors; and
- 3) 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: c. 138, §12 Alcoholic beverages off the license premises.

By decision dated January 25, 2013, the Commission found the licensee in violation of all charges and indefinitely suspended **its license forthwith**, until further written order of the Commission.

In its decision, the Commission held that it would not issue any further order without a written request for a hearing from the licensee to show good cause exists to reconsider this indefinite suspension. The licensee filed a written request to reconsider the indefinite suspension, and the Commission held a hearing on this request on May 10, 2013.

The licensee attended the hearing before the Commission and argued that good cause exists to reconsider the indefinite suspension. In support thereof, the licensee stated that it had submitted an application to change its officers, and directors, and an application to change its manager, with supporting documentation demonstrating that the aforementioned violations no longer exist, and that all officers and directors of the corporation are current and registered with the Secretary of State's office. On April 17, 2013, the Commission approved these applications.

The Commission's Decision dated January 25, 2013, ordered that the Licensee must become current on any filing(s) with the Office of the Secretary of the Commonwealth required to comply with the corporation laws of the Commonwealth. The Commission is persuaded that the Licensee completed and made the appropriate filing with the Office of the Secretary of the Commonwealth.

The Commission also admonished the Licensee in the aforementioned January 25, 2013 decision to become current on its filings for the annual report required by M.G.L. c. 138, section 1. Yet, the Commission did not expressly condition the reconsideration of the indefinite suspension on this action being taken. The Commission now orders the Licensee to file this required annual report for the last ten (10) years, from 2003 to 2013. The Commission orders these reports be filed within thirty (30) days, by Monday, June 10, 2013 at 5:00 p.m., or the Licensee will be subject to the sanctions below.

Based on the evidence, the Commission reconsiders and reverses its prior order of INDEFINITE SUSPENSION of the license of Dudley L. Brown Post 2846 VFW of US **effective forthwith**. The sanction of indefinite suspension is revised as follows.

The penalty for the violations of:

- 1) M.G.L. c. 138, M.G.L. c. 138, §23- Failure to maintain compliance with the requirements of this chapter, to wit: M.G.L. c. 138, §26 - Operating without an approved manager: **an indefinite suspension effective Tuesday, June 11, 2013, if the annual reports for the ten (10) years of 2003 to 2013, as required by M.G.L. c. 138, section 1, are not filed with the Commission; if these reports are timely filed, then this indefinite suspension effective Tuesday, June 11, 2013 will be further reconsidered and further revised to time served for the indefinite suspension from January 25, 2013 to May 10, 2013 (the Commission calculates this to be one hundred and six (106) days);**
- 2) M.G.L. c. 138, §15A- Failure to disclose all persons who have a direct or indirect beneficial or financial interest in said license, to wit: Failure to notify licensing authorities of a change of officers and directors: **Time served for the indefinite suspension from January 25, 2013 to May 10, 2013 (the Commission calculates this to be one hundred and six (106) days);**
- 3) 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: c. 138, §12 Alcoholic beverages off the license premises: **Time served for the indefinite suspension from January 25, 2013 to May 10, 2013, to run concurrent with the aforementioned violation of M.G.L. c. 138, section 15A (the Commission calculates this to be one hundred and six (106) days).**

The Commission admonishes the Licensee to comply with the laws of the Commonwealth, including, but not limited to, M.G.L. chapter 138, and Commission Regulations.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner *Kathleen McMalley*

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

Susan Corcoran, Commissioner *Susan Corcoran*

Dated: May 10, 2013

- cc: Attorney Susan Collins
- Local Licensing Board, via Facsimile 508-291-3124
- Frederick Mahoney, Chief Investigator
- Jamie Binienda, Investigator
- Tara Kelleher, Investigator
- Administration
- File