

*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**

**ARLINGTON CHAPTER #49 DISABLED AMERICAN VET, INC.**  
**1207 MASSACHUSETTS AVE**  
**ARLINGTON, MA 02476**  
**LICENSE#: 003000004**  
**HEARD 4/10/2012**

April 13, 2012

After a hearing on April 10, 2012, the Commission finds Arlington Chapter #49 Disabled American Vet, Inc. in violation of:

- 1) 204 CMR 2.05 (2) to wit: M.G.L. c. 138 §15;
- 2) M.G.L. c. 138 §1;
- 3) M.G.L. c. 156D §16.22;
- 4) 950 CMR 113.57;
- 5) M.G.L. c. 138, §12;
- 6) M.G.L. c. 138, §23 (3 Counts);
- 7) 204 CMR 2.05 (1) (2 Counts); and
- 8) M.G.L. c. 64 §38A (19 Counts).

The Commission suspends the licensee's license for a total of twelve (12) days. The suspension shall commence on Wednesday, May 30, 2012 and terminate on Sunday, June 10, 2012. The license will be delivered to the Local Licensing Board or its designee on Wednesday, May 30, 2012 at 9:00 A.M. It will be returned to the licensee Monday, June 11, 2012.

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. All checks must be certified and accompanied by 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.

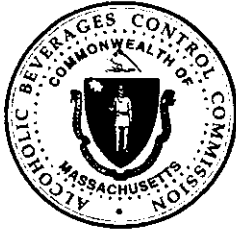
**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Kim S. Gainsboro  
Chairman

cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Caroline Guarino, Investigator  
Juliana Rice, Esq., Town of Arlington  
Administration  
File

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**DECISION**

**ARLINGTON CHAPTER #49 DISABLED AMERICAN VET, INC.**  
**1207 MASSACHUSETTS AVE**  
**ARLINGTON, MA 02476**  
**LICENSE#: 003000004**  
**HEARD 4/10/2012**

Arlington Chapter #49 Disabled American Vet, Inc. (the "Licensee") holds an all alcoholic beverages license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, April 10, 2012, regarding alleged violations of:

- 1) 204 CMR 2.05 (2) to wit: M.G.L. c. 138 §15;
- 2) M.G.L. c. 138 §1;
- 3) M.G.L. c. 156D §16.22;
- 4) 950 CMR 113.57;
- 5) M.G.L. c. 138, §12;
- 6) M.G.L. c. 138, §23 (3 Counts);
- 7) 204 CMR 2.05 (1) (2 Counts); and
- 8) M.G.L. c. 64 §38A (19 Counts).

Prior to the commencement of the hearing the licensee stipulated to the violations alleged in Investigator Caroline Guarino's Investigative Report.

The following documents and physical items are in evidence:

1. Licensee's Stipulation of Facts;
2. Investigator Guarino's Investigative Report dated March 8, 2012;
3. One (1) 1.75 liter bottle of Canadian Club Whiskey;
4. One (1) 1.75 liter bottle of Caldwell Vodka;
5. One (1) 1.75 liter bottle of Seagrams 7 Crown;
6. Lottery Pull Tabs;
7. Football Pools;
8. Nineteen (19) single pack boxes of cigarettes; and
9. Letter dated April 10, 2012 from Arlington Department of Health and Human Services, Christine Connolly, MPH, to Arlington Town Counsel, Juliana Rice, Esq.

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

FACTS

1. On Tuesday, March 6, 2012, Investigator Caroline Guarino conducted an investigation into the business operation of Arlington Chapter #49 Disabled American Vet, Inc.
2. Investigator Guarino reviewed the administrative file and noted that the licensee has failed to file annually the names and residences of each corporate officer, along with the salary of any employees who engage with the handling or selling alcoholic beverages, with the Commission.
3. According to Commission files, the last approved corporate offers were:
  - Commander: Arthur Mullins
  - Treasurer: Frank Pecorari
4. The last annual filing submitted by the licensee to the Commission was in 1988.
5. The last filing of a Change of Officers/Directors with the Local Licensing Board and the Commission was in 1972.
6. Investigator Guarino searched the web site of the Secretary of the Commonwealth, Corporate Divisions section, and observed that the licensee has not filed an annual report since 1995.
7. Investigator Guarino observed that in 1995, the licensee filed a corporate change with the Secretary of State for the Commonwealth, as follows:
  - President: James Curley
  - Treasurer: Joseph Finneran
  - Clerk: Thomas Lividoti
8. On Thursday, March 8, 2012, at approximately 7:35 p. m., Investigators Capurso, Temple, and Guarino, along with Detectives for the Arlington Police Department, conducted an on-site investigation into the business operation of Arlington Chapter #49 Disabled American Vet, Inc. to determine the manner in which their business was being conducted.
9. Detectives for the Arlington Police Department are also Licensing Agents for the Arlington Licensing Board.
10. Investigators Capurso and Temple, both non-members of this club and acting in an undercover capacity, entered the licensed premises at approximately 7:25 p.m.
11. Both investigators ordered and received two (2) twelve ounce (12 oz.) bottles of Budweiser beer from the bartender on duty.
12. The bartender on duty, later identified as Mr. Edward Bates, asked the investigators to sign a registration book.
13. At approximately 7:35 p.m., Investigator Guarino and the Detectives from the Arlington Police Department entered the licensed premises.
14. Investigators inspected the bar area and observed three (3) 1.75 liter bottles with the sticky residue from a package store sticker.
15. The three (3) bottles were confiscated as evidence:
  - a. 1.75 liter bottle of Caldwell's Vodka;
  - b. 1.75 liter bottle of Canadian Club Whisky; and
  - c. 1.75 liter bottle of Seagram's 7.
16. Investigators observed a box of illegal pull tabs, not authorized by the Massachusetts State Lottery Commission, behind the bar.
17. Investigators observed several pages containing football pool information and games.
18. Investigators also observed a box containing nineteen (19) packs of cigarettes, which did not have the required Massachusetts Tax Stamp on them.
19. The cigarettes were sold by the licensed premises at six dollars (\$6.00) per pack to patrons.

20. The nineteen (19) packs of cigarettes were confiscated as evidence:

- a. Eleven (11) packs of Marlboro Red; and
- b. Eight (8) packs of Marlboro Gold.

21. The manager of record, Mr. Stephen Porciello, was at the licensed premises, and admitted that he does "sometimes" go to the package store and buy alcoholic beverages.

### CONCLUSION

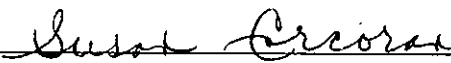
Based on the evidence, the Commission finds the licensee violated:

- 1) 204 CMR 2.05 (2) to wit: M.G.L. c. 138 §15;
- 2) M.G.L. c. 138 §1;
- 3) M.G.L. c. 156D §16.22;
- 4) 950 CMR 113.57;
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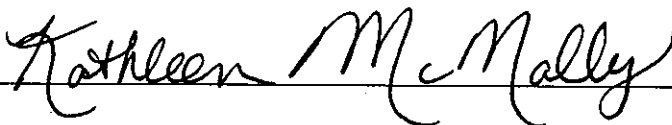
Therefore, the Commission **suspends the license for thirty (30) days of which twelve (12) days will be served and eighteen (18) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

### ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner



Kathleen McNally, Commissioner



Dated: April 13, 2012

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  
Caroline Guarino, Investigator  
Juliana Rice, Esq., Town of Arlington  
Administration  
File