



**Jean M. Lorizio, Esq.**  
*Chairman*

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

**BELCHERTOWN MEMORIAL POST #8428 V.F.W. INC.  
41 PELHAM RD. / P.O. BOX 650  
BELCHERTOWN, MA 01007  
LICENSE#: 008400008  
VIOLATION DATE: 02/18/2016  
HEARD: 05/09/2017**

Belchertown Memorial Post #8428 V.F.W. Inc. (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, May 9, 2017, regarding an alleged violation of 204 CMR 2.05 (1) – Permitting Gambling. Prior to the commencement of the hearing, the Licensee stipulated to the violations alleged in Investigator Velez's Report.

The following documents are in evidence:

1. Investigator Velez's Investigative Report;
2. Photos of Two Gaming Devices;
3. Photo of Internal Data of Device named Diamond Skilled Games Gold;
4. Copy of Accounting Slip from B&S Entertainment;
5. Copy of Winning Ticket; and
6. Licensee's Stipulation of Facts.

The Commission took Administrative Notice of the Licensee's Commission files.

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

## **FINDINGS OF FACT**

1. On Thursday, February 18, 2016, at approximately 12:45 p.m., Investigators Kujawski and Velez ("Investigators") investigated the Belchertown Memorial Post #8428 V.F.W. Inc. to determine the manner in which their business was being conducted.
2. Investigators entered the premises and identified themselves to the bartender on duty, Jen Fleming. Near the bar, Investigators observed two automatic amusement devices. The devices were labeled Massachusetts Skill Touch (#1) and Diamond Skilled Games Gold (#2).

3. Investigators observed the electronic devices had the following characteristics which, based on their training and experience, indicated these devices were being used as gambling devices:
  - Each device accepted U. S. Currency in bills ranging from \$1, \$5, \$10, \$20;
  - Each had the capability to select the number of points (the amount to bet);
  - Each registered the bet by displaying the number of points selected;
  - Each had the capability to double up the bet by selecting a double-up button;
  - Each device had a “knock off” mechanism in the form of a print button, which when pressed, reset the credits earned to zero.
4. Investigator Velez inserted \$1.00 U.S. Currency into electronic video device #1, labeled Massachusetts Skill Touch, and received 4 credits (0.25 per credit). He selected 1 credit to bet and the screen show 3 credits remaining.
5. Investigators then conducted an audit of device #1 which contained \$1,340 in U.S. Currency. Investigators also observed a Crown Royal bag which contained \$1,211 in U.S. Currency and a slip marked B& S Entertainment Inc. with notations indicating an account number, date, games, total, and commission.
6. Investigator Velez played electronic video device #2, labeled Diamond Skilled Games Gold in the same manner and with the same results as that of device #1.
7. Investigators then conducted an audit of device #2, which contained \$685 in U.S. Currency. Investigators manipulated a button on the device which changed the screen to display internal data. This data indicated the name of the game, number of games played, average play, total play, total won, net, and payout percentage.
8. Investigators spoke to the Quartermaster of the club, Vernon Wheeler. Wheeler stated that when a player won on the devices, that person would take the winning slip to the bartender, who would then pay out the winnings in cash. Mr. Wheeler stated the payout slips are kept in a blue bag in a drawer beneath the cash register.
9. Ms. Fleming showed Investigators where the blue bag was kept. Investigators observed that the blue bag contained \$103 in U.S. Currency, a slip indicating date, time, and \$395.00.
10. Investigators informed the Licensee of the violation and that a report would be submitted to the Chief Investigator for review.
11. Investigators interviewed Steven Sheldon, the owner of B&S Entertainment Inc. Mr. Sheldon stated that the Crown Royal bag inside the device which contained \$1211 in U.S. Currency was left inside the machine two weeks ago for the club to use for payouts. Sheldon also stated that the split between his company and the club is 50/50.
12. During the hearing, the Licensee testified that the two automatic amusement devices have been removed from the premises.
13. Administrative review of the Licensee’s file indicates the club has been in business for 48 years with no prior violations.

### CONCLUSION

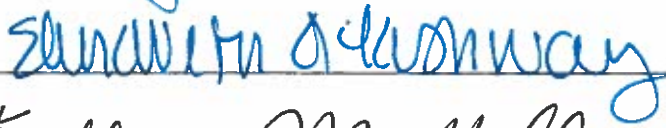
Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05 (1) – Permitting Gambling. Therefore, the Commission **suspends the license for five (5) days of which five (5) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur. In addition, the Licensee must not possess in or on the licensed premises any automatic amusement devices or video poker machines.**

### **ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Jean M. Lorizio, Chairman



Elizabeth A. Lashway, Commissioner



Kathleen McNally, Commissioner



Dated: May 12, 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  
Nicholas Velez, Investigator  
Jan Kujawski, Investigator  
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Administration, File