



*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

August 14, 2012

**BERKLEY POST #121 AMERICAN LEGION**  
**80 MYRICKS ST**  
**BERKLEY, MA 02779**  
**LICENSE#: 009000002**  
**HEARD: 07/24/2012**

After hearing on July 24, 2012, the Commission finds violations of:

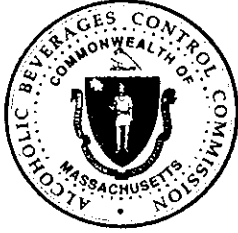
1. 204 CMR 2.05(1) - Permitting Gambling;
2. M.G.L. Ch. 138 §15A- Change of Officers/Directors in Corporation;
3. M.G.L. Ch. 138 §1- Failure to File Annually with the Commission: Names and Residences of Each Corporate Officer; and
4. M.G.L. Ch. 138 §26- Operating without an Approved Manager.

The above-captioned licensee's license is **suspended indefinitely effective forthwith** until further order from this Commission.

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.

Kim S. Gainsboro  
Chairman

cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
John Carey, Investigator  
James H. Fagan, Esq. via facsimile (508)823-9825  
Administration  
✓File



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**DECISION**

**BERKLEY POST #121 AMERICAN LEGION**  
**80 MYRICKS ST**  
**BERKLEY, MA 02779**  
**LICENSE#: 009000002**  
**HEARD: 07/24/2012**

Berkley Post #121 American Legion (the "Licensee" or "Legion Post") holds an all alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, July 24, 2012, regarding an alleged violation of:

1. 204 CMR 2.05(1) - Permitting Gambling;
2. M.G.L. Ch. 138 §15A- Change of Officers/Directors in Corporation;
3. M.G.L. Ch. 138 §1- Failure to File Annually with the Commission: Names and Residences of Each Corporate Officer; and
4. M.G.L. Ch. 138 §26- Operating without an Approved Manager.

Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator John Carey's Report.

The following documents are in evidence:

1. Investigator Carey's Report dated April 26, 2012;
  2. The Licensee's Stipulation of Facts; and
  3. Pull Tabs (Two (2) Samples).
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- A. 2010 Filings;
  - B. 2011 Filings; and
  - C. 2012 Filings.

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

## FACTS

1. The Commission was notified by WBZ-TV of possible illegal gambling going on at the Berkley Post #121 American Legion.
2. Investigator Carey conducted an administrative review of the file and observed that the last approved manager form was dated January 26, 1997 for Ms. Veronica Tibbets.
3. Investigator Carey also observed that the most recent notification of the licensee's officeholders was dated November 10, 1982.
4. They are documented as:
  - Commander: Garvin Hardin
  - Senior Vice Commander: Richard Tavares
  - Junior Vice Commander: Benjamin Rose
  - Adjutant: Joseph McCarthy
  - Treasurer: John Vanderkaaden
  - Chaplin: Thomas Souza
5. When Investigator Carey checked with the Secretary of State's Office for the most recent annual report listed on October 20, 2011, they were listed as:
  - President: Steven Thrasher
  - Treasurer: William A. Bassett
  - Clerk (or Secretary): James Duarte
  - Directors (or Officers having powers of Directors): Robert Welch, Benjamin Rose, Fred Simmons
6. On Thursday, April 26, 2012, at approximately 3:45 p.m., Investigators Teehan and Carey conducted an investigation of the business operation of the Legion Post, to determine the manner in which its business is conducted and to investigate a complaint filed with this agency.
7. In the parking lot of the licensed premises, investigators walked by a green pickup truck which had two (2) plastic tubs containing pull tabs.
8. This truck was later identified as belonging to Mr. Steven Thrasher, President of the club.
9. Upon entering the licensed premises, investigators asked for Ms. Veronica Tibbets, the manager according to Commission records.
10. Investigators were informed that Ms. Tibbets had not worked there for a number of years, and she now lives in Florida.
11. Investigators asked to speak with the person in charge, and the manager on duty.
12. Mr. Steven Thrasher stated he was the Commander of the post and in charge.
13. Mr. Thrasher stated he did not know a licensed premises needed a licensed manager.
14. He stated some other people helped him to run the bar of the post.

15. Investigator Carey asked Mr. Thrasher about the pull tabs that were out in his truck, and the ones at the bar, that appeared to have been recently played.
16. Mr. Thrasher stated they had been selling and paying out on the pull tabs to help defray the cost of running the Legion Post.
17. Mr. Thrasher stated he was not aware that selling the pull tabs was illegal.
18. He had gathered the pull tabs, in his truck, to destroy them.
19. Investigators asked if there were any more on the premises and he stated there were a couple of boxes of pull tabs in a closet that had not been opened yet.
20. Investigators asked to see the closet and informed Mr. Thrasher that they would take the eight (8) unopened boxes of pull tabs, along with those boxes from his truck, into custody.
21. Investigators informed Mr. Thrasher that a report would be submitted to the Commission for review.
22. Investigators instructed Mr. Thrasher to contact the Berkley Town Hall as soon as possible to begin the application process for a licensed manager, and to submit the paperwork in regard to the post's duly elected officers to the Local Board and the Commission.

#### CONCLUSION

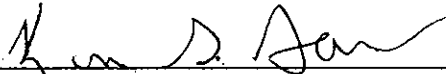
Based on the evidence, the Commission finds the licensee violated:

1. 204 CMR 2.05(1) - Permitting Gambling;
2. M.G.L. Ch. 138 §15A- Change of Officers/Directors in Corporation;
3. M.G.L. Ch. 138 §1- Failure to File Annually with the Commission: Names and Residences of Each Corporate Officer; and
4. M.G.L. Ch. 138 §26- Operating without an Approved Manager.

The Commission **INDEFINITELY SUSPENDS** the license of the Legion Post **effective forthwith** until further written order of the Commission.

The Commission will not issue any further order without a written request from the licensee showing good cause to reconsider this indefinite suspension and a hearing before the Commission that the licensee attends.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro, Chairman 

Kathleen McNally, Commissioner 

Dated: August 14, 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  
John Carey, Investigator  
James H. Fagan, Esq. via facsimile (508)823-9825  
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