

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

BERKLEY POST #121 AMERICAN LEGION
80 MYRICKS ST
BERKLEY, MA 02779
LICENSE #: 009000002
HEARD: 10/03/2012

Berkley Post #121 American Legion (the "Licensee") 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.

By decision dated August 14, 2012, the Commission **INDEFINITELY SUSPENDED** the license of Berkley Post #121 American Legion **effective forthwith**, until further written order of the Commission.

The Commission held that it would consider issuing a further order upon written request of the Licensee showing good cause to reconsider this indefinite suspension and a hearing before the Commission that the licensee attends.

The licensee filed a written request to reconsider the indefinite suspension. The licensee attended a hearing before the Commission on Wednesday, October 3, 2012, and argued that good cause exists to reconsider the indefinite suspension.

At hearing, the Licensee presented evidence and argument that persuaded the Commission that, immediately upon receipt of the Commission Decision and Notice of the indefinite suspension that the Licensee complied with the order and suspended all licensed activities, and that the Licensee took steps to cure the non-compliance that formed the basis for the violations that resulted in the order of indefinite suspension. Further, on October 4, 2012, the Commission unanimously approved an application to change the officers and directors and to change the license manager.

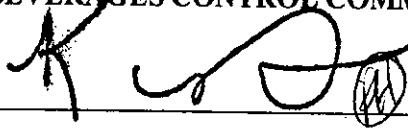
1767 0690

CONCLUSION

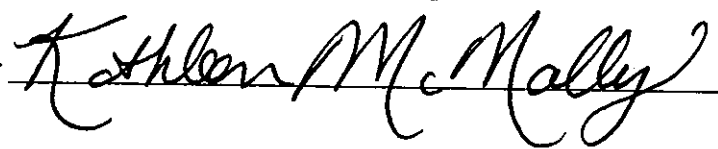
Based on the evidence, the Commission reconsiders and reverses its prior order of INDEFINITE SUSPENSION of the license of Berkley Post #121 American Legion effective forthwith. The penalty is hereby revised to a suspension of time served from August 15, 2012 to October 5, 2012. The license may be returned to the Berkley Post #121 American Legion forthwith.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro, Chairman



Kathleen McNally, Commissioner



Dated: October 5, 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 Mahoney, Chief Investigator
Jack Carey, Investigator
James H. Fagan, Esq., via Facsimile
File