

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

DECISION

UNION CLUB INC.
141 CABOT ST
BEVERLY, MA 01915
LICENSE#: 010000004
HEARD: 07/10/2012

Union Club 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, July 10, 2012, regarding an alleged violation of:

- 1) 204 CMR 2.05 (1)-Permitting Gambling (1 Count);
- 2) 204 CMR 2.05 (2), to wit: M.G.L. c. 140 §177A (6) No person keeping or offering for operation, or allowing to be kept or offered for operation, any automatic amusement device licensed under this section shall permit the same to be used for the purpose of gambling (1 count);
- 3) 204 CMR 2.05 (2), to wit: M.G.L. c. 140 §177A (5) Automatic devices under this section shall so be installed on the premises described in the license as to be in open view at all times while in operation, and shall at all times be available for inspection.

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

The following documents are in evidence:

1. Licensee's Stipulation of Facts;
2. Investigator Doyle's Investigative Report dated March 15, 2012;
3. Two (2) Photos of "Members Only" Closed Door;
4. Twelve (12) Photos of Automatic Amusement Devices;
5. Poker Tracking Sheet dated March 15, 2012;
6. Three (3) Green Slips Found in Bar Area Cigar Box;
7. Photo of Plastic Bin with Pull Tabs;
8. Five (5) Green Slips from Automatic Amusement Devices; and
9. Photo of Smitty's NCAA Pool.

A. Licensee's Certificate of Completion dated June 20, 2012 for Safe ID Check® Program.

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

FACTS

1. On Thursday, March 15, 2012, at approximately 09:00 p.m., Investigators Capurso, Bailey, and Doyle conducted an investigation of the business operation Union Club Inc. to determine the

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- manner in which its business is conducted and to investigate a complaint of gambling filed with this agency.
2. Investigators were buzzed in through the front door and walked upstairs to a room with a pool table.
 3. Investigators observed a locked door marked, "Members Only" with a sign stating "Keep This Door Closed at all times."
 4. When investigators knocked on the door, an individual opened it, and investigators observed five (5) automatic amusement devices inside the locked room.
 5. Investigators Capurso and Doyle walked to the lounge area and spoke to the bartender on duty, Mr. Robert Tivnan, informing him they would inspect the bar area.
 6. Adjacent to the bar, in the storage area, investigators observed a blue safe which Mr. Tivnan opened for them.
 7. Inside the blue safe investigators observed a cigar box with five hundred and fifty (550) dollars in U. S. Currency; three (3) green printout slips with hand written markings of dollar amounts, initials, and numbers; and a white slip of paper marked, "poker tracking sheet".
 8. The poker tracking sheet reflected a date, a beginning dollar amount of six hundred ninety-five (695) dollars, and hand written markings of dollar amounts and initials.
 9. Investigators asked Mr. Tivnan about the green slips and the poker tracking sheet.
 10. Mr. Tivnan stated that individuals who played the automatic amusement devices would print out the green slips, from the machines they played, for credits they had earned.
 11. Mr. Tivnan stated that the bartender on duty would accept the slips, place them in the cigar box, and then pay the individuals for credits earned using money therein.
 12. Mr. Tivnan stated that the automatic amusement devices are owned by 4 STAR Vending.
 13. On the bar, investigators observed a plastic bin which contained approximately 1000 – 2000 "pull tabs".
 14. The pull tables were marked "TRISTATE 7's" and sold for one (1) dollar per tab.
 15. Investigators inspected the automatic amusement devices:
 - a. Collect Bonus 8000
 - b. Fruit Bonus
 - c. All Fruit
 - d. Multi-Fever Game
 - e. Special Odds.
 16. Investigators observed these electronic video devices had several characteristics, which based on their training and experience, indicated that the machines were used as gambling devices. Those characteristics were:
 - a. Machines accepted dollar bills (in denominations of 1,5,10 and 20);
 - b. Machines had markings "for amusement only"; and
 - c. All machines have a "knock off" mechanism to reset the credits earned to zero.
 17. Investigators placed a one (1) dollar bill into each device.
 18. On Machine no. 1, one (1) dollar inserted received twenty (20) credits (i.e., five (5) cents per credit):
 - o Nine (9) credits were selected to be played;
 - o The device registered the bet showing eleven (11) credits remaining;
 - o Using the reset button on the back of the device, investigator reset the credit earned to zero; and
 - o The device released a green slip showing eleven (11) credits.
 19. On Machine no. 2, one (1) dollar inserted received twenty (20) credits (i.e., five (5) cents per credit):
 - o Using the reset button on the back of the device, investigator reset the credit earned to zero; and
 - o The device released a green slip showing twenty (20) credits.

20. On Machine no. 3, one (1) dollar inserted received twenty (20) credits (i.e., five (5) cents per credit):
 - Ten (10) credits were selected to be played;
 - The device registered the bet showing ten (10) credits remaining;
 - Investigator pressed a blank white button on the front panel of the device; and
 - The device printed a green slip showing ten (10) credits.
21. On Machine no. 4, one (1) dollar inserted received twenty (20) credits (i.e., five (5) cents per credit):
 - Investigator pressed a red "game over" button on the front panel of the device; and
 - The device printed a green slip showing twenty (20) credits.
22. On Machine no. 5, one (1) dollar inserted received four (4) credits (i.e., twenty-five (25) cents per credit):
 - Investigators pressed a "take ticket" button on the front panel of the device; and
 - The device printed a green slip showing four (4) credits.
23. Investigators also observed a white poster board advertising, "Smitty's NCAA Pool", which cost twenty-five (25) dollars to enter.
24. Investigators spoke with Mr. Thomas Smith, Vice President of the club.
25. Mr. Smith stated the pool referred to the thirty-two (32) teams remaining in the 2012 NCAA Basketball Tournament.
26. Investigators informed Mr. Tivnan and Mr. Smith of the violations and that a report would be submitted to the Chief Investigator for review.

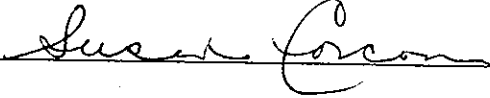
CONCLUSION

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

- 1) 204 CMR 2.05 (1)-Permitting Gambling (1 Count);
- 2) 204 CMR 2.05 (2), to wit: M.G.L. c. 140 §177A (6) No person keeping or offering for operation, or allowing to be kept or offered for operation, any automatic amusement device licensed under this section shall permit the same to be used for the purpose of gambling (1 count);
- 3) 204 CMR 2.05 (2), to wit: M.G.L. c. 140 §177A (5) Automatic devices under this section shall so be installed on the premises described in the license as to be in open view at all times while in operation, and shall at all times be available for inspection.

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 device or video poker machine.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner 

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

Kathleen McNally, Commissioner 

Dated: July 17, 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
Brad Doyle, Investigator
Thomas J. Gately II, Esq. via facsimile
Administration
File