



The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Steven Grossman
Treasurer and Receiver General

NOTICE OF SUSPENSION

Kim S. Gainsboro, Esq.
Chairman

WATER WHEEL RESTAURANT, INC. DBA O'HARA'S TAVERN
44 TENNIS PLAZA ROAD
DRACUT, MA 01926
LICENSE#: 029200014
HEARD: 07/19/2011

September 12, 2011

After a hearing on July 19, 2011, the Commission finds Water Wheel Restaurant, Inc. dba O'Hara's Tavern in violation of 204 CMR 2.05 (1) (2 counts), 204 CMR 2.05 (2) (2 counts) and 204 CMR 2.05 (2) (2 counts).

The Commission **suspends the licensee's license for a total of five (5) days to be served.** The suspension shall commence on **Wednesday, October 26, 2011 and terminate on Sunday, October 30, 2011.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, October 26, 2011 at 9:00 A.M. It will be returned to the licensee Monday, October 31, 2011.

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
Michael Teehan, Investigator
Administration
File



The Commonwealth of Massachusetts
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DECISION

WATER WHEEL RESTAURANT, INC. DBA O'HARA'S TAVERN
44 TENNIS PLAZA ROAD
DRACUT, MA 01926
LICENSE#: 029200014
HEARD: 07/19/2011

Water Wheel Restaurant, Inc. dba O'Hara's Tavern (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 19, 2011, regarding an alleged violation of 204 CMR 2.05 (1) (2 counts), 204 CMR 2.05 (2) (2 counts) and 204 CMR 2.05 (2) (2 counts). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Michael Teehan's report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
2. Investigator Michael Teehan's Report.

There is one (1) tape of this hearing.

FACTS

1. On March 25, 2011 approximately 3:30 p.m., Investigators Kenny and Teehan investigated the business operation of Water Wheel Restaurant, Inc. dba O'Hara's Tavern.
2. While on the licensed premises, they sat down at the bar area and observed two (2) automatic amusement devices located next to the bar area.
3. The investigators observed a female patron accumulate credits from a video device.
4. The patron informed the bartender of her win and the bartender then reset the machine and gave her U.S. currency.
5. At approximately 3:50 p.m., the same scenario was occurred with a male patron.
6. On May 17, 2011 at approximately 12:05p.m., Investigators Kenny and Teehan entered the licensed premises and observed both machines being removed from the licensed premises.
7. Administrative review indicated that the licensee has had the license since 2009 without any prior violations.

DISCUSSION

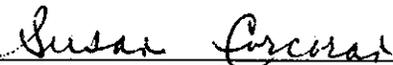
The investigators testified that the licensee stated that the devices were not used for gambling. The licensee was questioned as to why the machines were on the premises and he stated that the manager who was fired had brought them here. He further stated that he never intended to use his establishment in the manner it was used and that the machines had been removed.

CONCLUSION

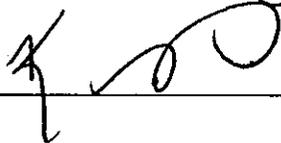
Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05 (1) (2 counts), 204 CMR 2.05 (2) (2 counts) and 204 CMR 2.05 (2) (2 counts). Therefore, the Commission **suspends the license for five (5) days to serve. In addition, the licensee must not possess in or on the licensed premises any automatic amusement device or video poker machine.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner



Kim S. Gainsboro, Chairman



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
Michael Teehan, Investigator
Administration
File

September 12, 2011