



Jean M. Lorizio, Esq.  
Chairman

*Commonwealth of Massachusetts  
Department of the State Treasurer  
Alcoholic Beverages Control Commission  
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Boston, MA 02114  
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NOTICE OF SUSPENSION

June 13, 2017

**POLISH PULASKI CLUB OF EASTHAMPTON  
79 MAPLE ST.  
EASTHAMPTON, MA 01027  
LICENSE#: 036600011  
VIOLATION DATE: 11/10/2016  
HEARD: 06/06/2017**

After a hearing on June 6, 2017, the Commission finds Polish Pulaski Club of Easthampton violated:

- 1) M. G. L. c. 138 § 63A Hindering or Delaying an Authorized Investigator of the Commission; and
- 2) 204 CMR 2.05 (1): Permitting Gambling on License Premises.

On the first violation, M.G.L. c. 138 § 63A, the Commission **suspends the license for thirty (30) days to be served.**

On the second violation, 204 CMR 2.05 (1), the Commission **suspends the license for five (5) days of which two (2) days will be served and three (3) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur. The Licensee will serve a total of thirty-two (32) days.**

**In addition, the Licensee must not possess in or on the licensed premises any automatic amusement devices or video poker machines.**

**Scott Vishaway shall be removed from the position of President of the Polish Pulaski Club of Easthampton in accordance with the last paragraph in the Discussion of this Decision.**

**The suspension shall commence on Wednesday, August 9, 2017 and terminate on Saturday, September 9, 2017. The license will be delivered to the Local Licensing Board or its designee on Wednesday, August 9, 2017 at 9:00 A.M. It will be returned to the Licensee Sunday, September 10, 2017.**

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, which must be signed by the Licensee and 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.

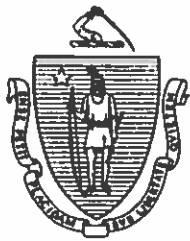
**ALCOHOLIC BEVERAGES CONTROL COMMISSION**



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Chairman

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Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφραστούν αμέσως.  
这份文件是重要的，应立即进行翻译。

cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Christopher Temple, Investigator  
Nicholas Velez, Investigator  
Wayne Peereboom, Esq. via facsimile 413-731-6614  
Administration, File



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**DECISION**

**POLISH PULASKI CLUB OF EASTHAMPTON  
79 MAPLE ST.  
EASTHAMPTON, MA 01027  
LICENSE#: 036600011  
VIOLATION DATE: 11/10/2016  
HEARD: 06/06/2017**

Polish Pulaski Club of Easthampton (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission (the "Commission" or "ABCC") held a hearing on Tuesday, June 6, 2017, regarding alleged violations of:

- 1) M. G. L. c. 138 § 63A Hindering or Delaying an Authorized Investigator of the Commission; and
- 2) 204 CMR 2.05 (1): Permitting Gambling on License Premises.

Prior to the commencement of the hearing, the Licensee stipulated to the violations alleged in Investigator Temple's Report.

The following documents are in evidence:

1. Investigator Temple's Investigative Report;
2. Licensee's Stipulation of Facts; and
3. Blank Payout Slip.

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, November 10, 2016, at approximately 8:45 p.m., Investigators Velez and Temple ("Investigators") investigated Polish Pulaski Club of Easthampton to determine the manner in which their business was being conducted.
2. Investigators entered the licensed premises and observed two electronic video devices located across from the bar area. Each device was fitted with a currency acceptor that had markings indicating it accepted \$1, \$5, \$10, \$20 in U.S. Currency.
3. Investigators identified themselves to the bartender on duty, and asked about the electronic video devices. The bartender stated that the club did pay out on the devices with the rate being ten cents per point. The bartender stated money for the devices was kept separately from the bar.

4. Scott Vishaway, the President of the club, interrupted Investigators to ask what they wanted.<sup>1</sup> Investigators introduced themselves, presented their credentials, and asked Vishaway about the electronic video devices. Vishaway stated that the club does not pay out on the devices. When Investigators reported to Vishaway the bartender's statement, he replied the bartender did not know anything, and then he walked away.
5. As Investigators continued their investigation behind the bar, Vishaway reappeared and confronted Investigators, telling them they could not be behind the bar. Investigators explained to him their right to enter and inspect the licensed premises, and further informed Vishaway regarding M.G.L. c. 138, § 63A, hindering or delaying an authorized Investigator of the ABCC. Investigators then asked Vishaway if he was refusing them access to the bar. Vishaway replied, "I'm not talking to you" and proceeded out of view.
6. Behind the bar next to the cash register, Investigators observed 5 x 5 inch slips which were marked: Time, Machine, Points, Name, Date, Bartender Signature.
7. Investigators were approached by a female who identified herself as Bonnie LaMontagne, the treasurer of the club. Investigators asked Bonnie about the electronic video devices. Bonnie said she is aware of the devices but she informed the club's board that she wanted nothing to do with them. Bonnie informed Investigators that Scott Vishaway is the club's president.
8. Ms. LaMontagne introduced Investigators to Lauren Pomponio, who identified herself as the manager of record. Investigators asked Ms. Pomponio what happened when someone wins on the electronic video devices. Pomponio stated that the player would speak to the bartender on duty and the bartender would verify the points won on the device and record that information on a slip of paper (the 5 x 5 inch slips next to the cash register). The completed slips of paper are then put in the office. The bartender would then pay out the winnings to the individual player. Pompanio stated that she had filled out the slips and paid out winnings to players.
9. While Investigators were speaking with LaMontagne and Pomponio, Easthampton Police Department Sergeant Nicol and Officer Mielke ("Officers") approached them and informed them that Vishaway had contacted Easthampton Police about them. Investigators presented the Officers with their ABCC credentials and explained their investigation.
10. Moments later, Vishaway entered the room and told LaMontagne and Pomponio to "get out of there."
11. Easthampton Police Officers informed Vishaway that they had verified the ABCC Investigators.
12. Vishaway then told Investigators, who were near the office, to leave that area. Investigators requested access to the office to continue their investigation. Vishaway told them no. When Investigators reminded Vishaway that his refusal could result in a charge of hindering or delaying an authorized Investigator of the ABCC, Vishaway stated the Investigators could not have access to this area.

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<sup>1</sup> Administrative review of the Licensee's file shows Polish Pulaski Club's corporate officers are: President – Scott Vishaway; Vice-President – Louis Kaleta; Treasurer – Bonny Lamontagne; Asst. Treasurer – John Callini; Secretary – Kasia Wynne; and the manager of record is Keri-Ann Aubin.

13. Investigators again informed Vishaway of M.G.L. c. 138, § 63A, hindering or delaying an authorized Investigator of the ABCC, and asked him directly if he refused to provide them with access to the office. Vishaway stated that he had keys to the devices and could open them, but he refused to provide access to the office.
14. Investigators asked Vishaway to open the electronic devices, which he refused to do three times. When Investigators asked for his name which Vishaway had not yet told them, he refused to answer.
15. Investigators informed Mr. Vishaway of the violation and that a report would be submitted to the Chief Investigator for further action.

### DISCUSSION

Licenses to sell alcoholic beverages are a special privilege subject to public regulation and control, Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 619 (1956), for which States have especially wide latitude pursuant to the Twenty-First Amendment to the United States Constitution. Opinion of the Justices, 368 Mass. 857, 861 (1975). The procedure for the issuance of licenses and required conduct of licensees who sell alcoholic beverages is set out in Massachusetts General Laws, Chapter 138.

Chapter 138 gives the Commission the authority to grant, revoke and suspend licenses. Chapter 138 was "enacted ... to serve the public need and ... to protect the common good." M.G.L. c. 138, §23. "[T]he purpose of discipline is not retribution, but the protection of the public." Arthurs v. Bd. of Registration in Medicine, 383 Mass. 299, 317 (1981). The Commission is given "comprehensive powers of supervision over licensees." Connolly, 334 Mass. at 617.

M.G.L. c. 138, § 63A is violated when a person "hinders or delays any authorized investigator . . . in the performance of his duties . . . or . . . refuses to give to such investigator . . . such information as may be required for the proper enforcement of this chapter." Lion Distributors, Inc. v. Alcoholic Beverages Control Commission, 15 Mass. App. Ct. 988 (1983).

In this case, Vishaway, the President of the Club, was dishonest with the Investigators when they asked him whether the club pays out on winnings from the gaming devices. He then told Investigators that they could not have access behind the bar, and he said he refused to speak with them. Vishaway called the police to complain about the Investigators. After the police arrived, Vishaway denied the Investigators access to the office, told the Investigators to leave the area of the office, and refused to open the gaming machines for the Investigators. The President's refusal to honestly answer the Investigator's questions or provide them access to the premises, violated M.G.L. c. 138, § 63A.

The Commission hereby orders the Licensee to file with both the Commission and the Local Board the appropriate application for a change in the current officers and directors of the Polish Pulaski Club of Easthampton so that Scott Vishaway is no longer a director or officer of the Licensee and that appropriate application is granted by the Local Licensing Authorities and approved by the Commission.

## CONCLUSION

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

- 1) M. G. L. c. 138 § 63A Hindering or Delaying an Authorized Investigator of the Commission; and
- 2) 204 CMR 2.05 (1): Permitting Gambling on License Premises.

On the first violation, M.G.L. c. 138 § 63A, the Commission **suspends the license for thirty (30) days to be served.**

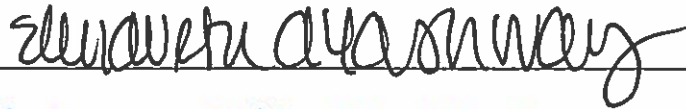
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**In addition, the Licensee must not possess in or on the licensed premises any automatic amusement devices or video poker machines.**

**Scott Vishaway shall be removed from the position of President of the Polish Pulaski Club of Easthampton in accordance with the last paragraph in the Discussion of this Decision.**

## ALCOHOLIC BEVERAGES CONTROL COMMISSION

Elizabeth A. Lashway, Commissioner



Kathleen McNally, Commissioner



Dated: June 13, 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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