

*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*  
December 16, 2014

**FALMOUTH POST 70 INC., AMVETS**  
**336 PALMER AVE.**  
**FALMOUTH, MA 02540**  
**LICENSE#: 039000097**  
**VIOLATION DATE: 03/06/2014**  
**HEARD: 12/10/2014**

After a hearing on December 10, 2014, the Commission finds the Falmouth Post 70 Inc., Amvets in violation of 204 CMR 2.05 (1) - Permitting Gambling.

The Commission **suspends the licensee's license for a total of two (2) days to be served. The suspension shall commence on Wednesday, February 4, 2015, and terminate on Thursday, February 5, 2015.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, February 4, 2015 at 9:00 A.M. It will be returned to the licensee Friday, February 6, 2015.

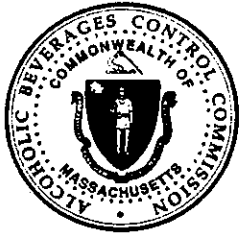
You are advised that pursuant to the provisions of M.G.L. c.138 §23, you may petition the Commission to accept an offer in compromise in lieu of suspension within twenty (20) calendar days following such notice of such suspension. If accepted, you may pay a fine using the enclosed form. All checks must 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  
Nicholas Velez, Investigator  
Mark Kenny, Investigator  
Administration  
File



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**DECISION**

**FALMOUTH POST 70 INC., AMVETS**  
**336 PALMER AVE.**  
**FALMOUTH, MA 02540**  
**LICENSE#: 039000097**  
**VIOLATION DATE: 03/06/2014**  
**HEARD: 12/10/2014**

Falmouth Post 70 Inc., Amvets (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 Wednesday, December 10, 2014, regarding an alleged violation of 204 CMR 2.05 (1) - Permitting Gambling (1 Count). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Velez's Report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts;
2. Investigator Velez's Investigative Report dated March 6, 2014;
3. Pull Tabs (excess of 500);
4. Pull Tabs;
5. Photos (5); and
6. Ticket.

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

**FACTS**

1. On Thursday, September 11, 2014, at approximately 5:30 p.m., Investigators Kenny, and Velez investigated the business operation of Falmouth Post 70 Inc., Amvets to determine the manner in which their business was being conducted and to investigate a complaint filed with this Commission.
2. Investigators entered the premises and observed several automatic amusement devices, labeled as: #1 - Champion Poker; #2 - New Cherry '96; #3 - Crazy Bugs; #4 - unnamed; all located in the left corner of the bar.
3. Nearby these devices, investigators observed another electronic device, labeled as The Master, which dispensed "Pull-Tabs."
4. Investigators identified themselves to the First Commander of the club, Philip Furtado, and informed of the complaint and the inspection.

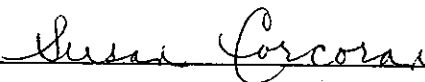
5. Investigators conducted an audit of the devices and observed the following characteristics, which, based on their training and experience, indicated that these electronic devices were being utilized as illegal gambling devices:
  - Each device accepted dollar bills in US Currency ranging from \$1, \$5, \$10, and \$20;
  - Each device had the capability to select the number of points (the amount to bet);
  - Each device registered the bet by displaying the number of points selected;
  - Each device had the capability to double the bet by selecting the double-up button;
  - Each device had markings that indicated "for amusement only"; and
  - The devices had a "knock-off switch" which, when pressed, reset the credits to zero.
6. Investigator Velez placed a one dollar bill into one of the machine, and received 4 credits (.25 per credit). He proceeded to register a bet by selecting 1 credit. When he pressed the print button (a knock off switch), he observed a receipt print and the device cleared and reset the credits to zero.
7. Investigators proceeded to the Pull-Tab device identified as The Master. They observed that the device accepted dollar bills in US Currency ranging from \$1, \$10, and \$20; the device had four buttons on the front with a price of \$.50; and the display window showed five columns of Pull-Tabs.
8. Based on their training and experience, investigators know that pull-tabs are used as gambling tickets in the Pull-Tab game. The object of the game is to match the symbols inside the perforated window at the back of the ticket to the winning combinations printed on the front of it. The winning Pull-Tab ticket is turned in for a monetary prize. The Pull-Tabs were not issued by the Massachusetts Lottery.
9. Investigator Velez placed a one dollar bill into the machine, and received two pull tabs for \$.50 per ticket.
10. Investigators confiscated a handful of used Pull-Tabs from the trash and secured them as evidence.
11. Investigators interviewed Mr. Furtado who stated to them that the club does pay out for the poker machines. He stated that an individual with a winning ticket brings it to the bartender on duty, and the bartender pays the individual in cash.
12. Investigators asked to continue their investigation in the office but Mr. Furtado stated that he did not have keys to the office or to the machines; only the accountant, Niki Grainger, had access to them. Mr. Furtado further stated that he believed boxes of Pull-Tabs were kept in the office.
13. Investigators returned to the licensed premises on Wednesday, September 24, 2014, at approximately 9:45 a.m., to collect the remaining Pull-Tabs.
14. Investigators interviewed Niki Grainger, the accountant for the club. Investigators asked Ms. Grainger who owns the machine. Ms. Grainger stated a man named Jerry owns the machines, and the net revenue is split 60/40 with the club.
15. Investigators informed Ms. Grainger of the violation and that a report would be filed with the Chief Investigator for further action.

### CONCLUSION

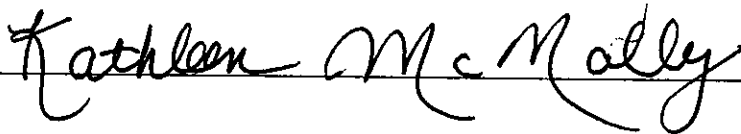
Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05(1) -- Permitting Gambling. Therefore, the Commission **suspends the license for five (5) days, of which two (2) days will be served and three (3) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.** In addition, the licensee must not possess in or on the licensed premises any automatic amusement device or video poker machines.

### ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner



Kathleen McNally, Commissioner



Dated: December 16, 2014

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  
Nicholas Velez, Investigator  
Mark Kenny, Investigator  
Administration  
File