



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

Deborah B. Goldberg
Treasurer and Receiver General

Kim S. Gainsboro, Esq.
Chairman

NOTICE OF SUSPENSION

April 14, 2015

THE AMERICAN LEGION GOVONI POST #387 INC.
94 MAIN STREET
KINGSTON, MA 02364
LICENSE#: 056800004
VIOLATION DATE: 09/24/2014
HEARD: 04/07/2015

After a hearing on Tuesday, April 7, 2015, the Commission finds The American Legion Govoni Post #387 Inc. violated M.G.L. c. 138 §64 Failure to Comply with a Commission Order and Terms of Suspension.

The above-captioned licensee's license is **SUSPENDED INDEFINITELY effective forthwith** until further written order of the Commission.

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.

Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Mark Kenny, Investigator
Nick Velez, Investigator
Administration
File



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DECISION

THE AMERICAN LEGION GOVONI POST #387 INC.
94 MAIN STREET
KINGSTON, MA 02364
LICENSE#: 056800004
VIOLATION DATE: 09/24/2014
HEARD: 04/07/2015

The American Legion Govoni Post #387 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, April 7, 2015, regarding an alleged violation of M.G.L. c. 138 §64 Failure to Comply with a Commission Order and Terms of Suspension. Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Kenny's Report.

The following documents are in evidence:

1. Investigator Kenny's Investigative Report; and
2. Licensee's Stipulation of Facts.

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

FACTS

1. On Tuesday, May 13, 2014, the Commission held a hearing regarding an alleged violation of 204 CMR 2.05 (1): Permitting Gambling. Prior to the commencement of that hearing, the licensee stipulated to the violation alleged in Investigator Velez's Report dated November 25, 2013.
2. On May 21, 2014, the Commission issued a decision which stated that based on the evidence, the Commission finds the licensee violated 204 CMR 2.05 (1): Permitting Gambling. As the licensee has been in business for since 1948 and has had no previous violations, 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 machine.**
3. The Licensee received notice of the Commission's decision and order.
4. On Wednesday, September 24, 2014, at approximately 3:30 p.m., Investigators Kenny and Velez (the "Investigators") investigated the business operation of The American Legion Govoni Post #387 Inc. to determine the manner in which their business was being conducted.

5. While on the licensed premises, Investigators observed three (3) video poker machines in open view in the bar area.
6. Investigators advised the bartender on duty of the above violation and that a report would be submitted to the Chief Investigator for review.
7. At the April 7, 2015 hearing of this matter, Peter Cobb, the Licensee's Finance Officer, and David Fernandes, the Licensee's Bar Manager, testified for the Licensee.
8. Mr. Cobb testified that gambling machines had been at the licensed premises for more than twenty (20) years and that they were removed last year about a week or two before the hearing on the 2014 Suspension. He testified that after the 2014 Suspension, the Board voted to reinstall the machines, despite the Commission's order that the Licensee not have any such devices/machines on the licensed premises.
9. Neither Mr. Cobb nor Mr. Fernandes were able to pinpoint the date when the machines were brought back onto the licensed premises, but they acknowledged that it must have been sometime after the May 20, 2014 issuance of the 2014 Suspension and before the September 24, 2014 visit by the Investigators.
10. Mr. Cobb testified that the machines are no longer on the licensed premises and that they were removed (for the second time) about a week or two before the initial hearing date of this matter, February 24, 2015.

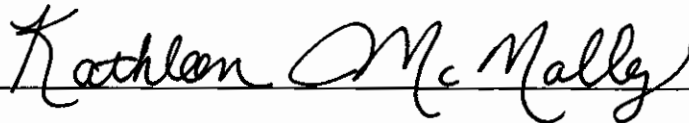
CONCLUSION

Based on the evidence, the Commission finds the licensee violated M.G.L. c. 138 §64 Failure to Comply with a Commission Order and Terms of Suspension. Therefore, the Commission **INDEFINITELY SUSPENDS** the Licensee's license **effective forthwith**, until further written order of the Commission.

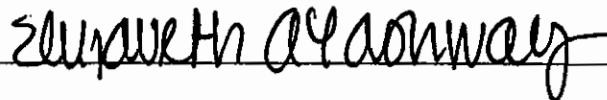
The Commission will not issue any further order without a written request from the Licensee showing good cause to reconsider this indefinite suspension and a hearing before the Commission that the Licensee attends.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



Elizabeth A. Lashway, Commissioner



Dated: April 14, 2015

You have the right to appeal this decision to the Superior Court 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
Mark Kenny, Investigator
Nick Velez, Investigator
Administration, File