



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

Steven Grossman
Treasurer and Receiver General

Kim S. Gainsboro, Esq.
Chairman

NOTICE OF SUSPENSION

May 20, 2014

THE AMERICAN LEGION GOVONI POST # 387 INC.
94 MAIN ST.
KINGSTON, MA 02364
LICENSE#: 056800004
VIOLATION DATE: 11/25/2013
HEARD: 05/13/2014

After a hearing on May 13, 2014, the Commission finds The American Legion Govoni Post # 387 Inc. 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, July 9, 2014, and terminate on Thursday, July 10, 2014.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, July 9, 2014 at 9:00 A.M. It will be returned to the licensee Friday, July 11, 2014.

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
Richard J. Fitzpatrick, Esq. via facsimile 617-825-0411
Administration
File

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The Commonwealth of Massachusetts
Department of the State Treasurer
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DECISION

THE AMERICAN LEGION GOVONI POST # 387 INC.
94 MAIN ST.
KINGSTON, MA 02364
LICENSE#: 056800004
VIOLATION DATE: 11/25/2013
HEARD: 05/13/2014

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, May 13, 2014, regarding an alleged violation of 204 CMR 2.05 (1): Permitting Gambling. 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. Investigator Velez's Investigative Report dated November 25, 2013;
 2. Licensee's Stipulation of Facts;
 3. Photos of Five Machines;
 4. Blank Slip of Paper to List Credits to Play Game.
- A. Licensee's Letter Dated April 30, 2014, Showing Its Charitable Support.

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

The Commission took administrative notice of the Licensee's records.

FACTS

1. On Monday, November 25, 2013, at approximately 3:00 p. m., Investigators Kenny and Velez conducted an investigation of the business operation of The American Legion Govoni Post # 387 Inc. to determine the manner in which its business was being conducted and to investigate a complaint filed with this Commission.
2. Investigators entered the licensed premises and identified themselves to license manager, Peter Fossetti. They informed him of the complaint and inspected the bar area.
3. Investigators observed five electronic video devices (Royal Flush) located in a room adjacent to the bar area.

4. Investigators made the following observations, which based on their training and experience, indicate that these electronic devices were being utilized as gambling devices:
 - Each device had markings which indicated “for amusement only”.
 - Each device accepted dollar bills ranging from \$1, \$5, \$10, \$20.
 - After inserting US currency into the device, an investigator selected the number of credits (the amount to bet). The device “registered” the bet by displaying the number of credits selected.
 - Each device had the capability to double up the bet by selecting a double-up button.
 - Each device had a “knock off” mechanism in the form of print button on the machine which when pressed, reset the winning credits to zero, and printed out a slip indicating the number of credit points, date, time, and serial number of the machine.
5. Investigators inserted one U.S. dollar into one of the devices which registered four credits, then selected one credit to play. The machine registered the bet (one credit) and showed three credits remaining. After pressing the print button investigators heard a clicking sound. A receipt then printed and the credits reset to zero.
6. Mr. Fossetti stated to investigators that the club does payoff in U.S. Currency for winnings on the electronic video devices. He stated that an individual brings the printed ticket to the bar, and the bartender on duty pays the individual in cash.
7. Mr. Fossetti stated that Lionel Vending owns the machines and the split of net revenue is 60% for the club and 40% for Lionel Vending. He also stated that the net revenue to the club is approximately \$1500.00 per week.
8. Investigators advised Mr. Fossetti of the violation and that a report would be submitted to the Chief Investigator for review.

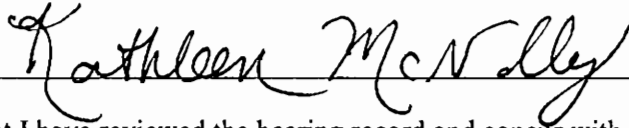
CONCLUSION

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.

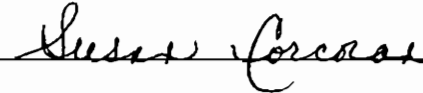
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



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

Susan Corcoran, Commissioner



Dated: May 21, 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
Richard J. Fitzpatrick, Esq. via facsimile 617-825-0411
Administration
File