



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

Steven Grossman
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

DECISION

ARLINGTON ATHLETIC AND SOCIAL CLUB
564 HAMPSHIRE STREET
LAWRENCE, MA
LICENSE #: 059400043
HEARD: 10/25/2011

Arlington Athletic and Social Club (the "Licensee") holds an all alcohol license issued pursuant to Massachusetts General Laws chapter 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, October 25, 2011, regarding an alleged violation of 204 CMR 2.05 (1), 204 CMR 2.05 (2) and 204 CMR 2.05 (2). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Rose Bailey's report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts;
2. Report of Investigator Rose Bailey;
3. Blue Memo Book from July 1, 2011;
4. Arlington Profit and Loss Report dated January 2011; and
5. Statement from Kevin Kiley dated July 1, 2011.

A. List of Arlington Club Charities.

There is one (1) tape of this hearing.

FACTS

1. On Friday, July 1, 2011, Investigators Keefe, Kujawski and Bailey conducted an inspection of the Arlington Athletic and Social Club relative to a filed complaint.
2. Upon entering the premises investigators observed five (5) video poker devices; two (2) located in the bar area, three (3) located in a separate poolroom.
3. Investigators identified themselves to the bartender on duty identified as Mike McGrath.
4. Investigators asked to speak with the license manager or a board member.
5. The bartender immediately contacted the financial secretary.
6. Investigator Keefe spoke with the club's financial secretary, identified as Joseph Dumont, at which time Investigator Keefe informed him investigators would be conducting an inspection of the licensed premises relative to a complaint filed with the Alcoholic Beverages Control Commission and requested his presence.

- All machines had a "knock off" button on the exterior to reset the credits to zero (0).
- 28. Investigator Bailey then asked Mr. Kiley to explain how the pay out of winnings from the machines works.
- 29. He stated the bartender on duty would look at the credits won after being informed by the individual they wanted to cash out.
- 30. The bartender resets the machine to zero by pushing the knock off button.
- 31. The individual is paid out the winning credits from the bank bag in the kitchen. The bartender writes the pay out information in the memo book indicating the machine number, credits won and cash payout.
- 32. At the end of the night the bartender puts the piece of paper in the bank bag showing the amount of U.S. currency paid out during the shift.
- 33. Investigator Bailey then asked Mr. Kiley permission to inspect the club offices.
- 34. While conducting the inspection Mr. Kiley provided Investigator Bailey with 5 months of the club's profit and loss statements (Ex 3).
- 35. Investigator Bailey asked Mr. Kiley if the line item referenced other, under income was the monthly income derived from the video poker devices after the split with the vendor.
- 36. He stated, yes.
- 37. The profit and loss statements submitted as evidence reveals the total income derived from the video poker devices was twenty thousand, eight hundred and fifty-two dollars and fifty-two cents (\$20,852.52) within a five (5) month period.
- 38. Investigator Bailey then asked Mr. Kiley to provide her with a written statement relative to the source of funds referenced in the profit and loss statements, as cash income, generated from the profits of the five (5) video poker devices (Ex 4).
- 39. Mr. Kiley stated he would contact the vendor immediately and have the machines removed.
- 40. He didn't want the club to lose the liquor license because of the poker machines.
- 41. Investigators were present when Mr. Kiley contacted Hot Shots and requested the machines be removed from the premises immediately.
- 42. He then informed the investigators the machines would be picked up in the morning.
- 43. Investigators thanked Mr. Kiley for his cooperation and informed him that a violation report would be submitted to the Chief Investigator for review and a hearing notice to appear before the Commission would be forthcoming.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05 (1), 204 CMR 2.05 (2) and 204 CMR 2.05 (2). The Commission **suspends the license for five (5) days of which five (5) 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.**