

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

September 28, 2011

Bavarian Reading & Progressive Society
41 Knox Street
Lawrence, MA 01840
License #: 059400050
Heard: 07/26/2011

After a hearing on July 26, 2011, the Commission finds Bavarian Reading & Progressive Society in violation of 204 CMR 2.05 (1) and 204 CMR 2.05 (2).

The Commission **suspends the licensee's license for a total of two (2) days to be served**. The suspension shall commence on **Wednesday, November 16, 2011** and terminate on **Thursday, November 17, 2011**. The license will be delivered to the Local Licensing Board or its designee on Wednesday, November 16, 2011 at 9:00 A.M. It will be returned to the licensee Friday, November 18, 2011.

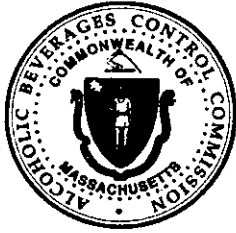
You are advised that pursuant to the provisions of M.G.L. c.138 §23, you may petition the Commission to accept an offer in compromise in lieu of suspension within twenty (20) calendar days following such notice of such suspension. If accepted, you may pay a fine using the enclosed form. All checks must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



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

Bavarian Reading & Progressive Society
41 Knox Street
Lawrence, MA 01840
License #: 059400050
Heard: 07/26/2011

Bavarian Reading & Progressive Society (the "Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, July 26, 2011, regarding an alleged violation of 204 CMR 2.05 (1) and 204 CMR 2.05 (2). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Timothy Hooton's report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts;
2. Investigator Timothy Hooton's Report;
3. Pixie Envelope;
4. Mike B. Envelope; and
5. Total Envelope.

There is one (1) tape of this hearing.

FACTS

1. On Wednesday, March 23, 2011, Investigators Doyle, Hooton and Lt. Conway of the Lawrence Police Department, investigated the business operation of Bavarian Reading & Progressive Society regarding a complaint that the club was paying off on video poker machines.
2. Upon entering the club, investigators observed six (6) electronic video poker machines. They then identified themselves to the President and manger and asked him about "pay-offs" and informed him that an inspection of the bar was going to take place.
3. The investigators inspected the machines and noted that they each had characteristics which were indicative of machines being utilized for gambling.
 - The machines accepted dollar bills ranging from one (1) dollar to twenty (20) dollars
 - The machines were marked for amusement only

- All six (6) machines had a reset button in the back
 - Each machine had a backup battery
 - Each machine had electronic dip switches to set odds
 - Each machine had two (2) meters in the unit to record credits in and credits out
4. The investigators asked the manager to open the machines
 5. Machine #1 had zero (0) in the money bin. Meters inside the unit showed credits in: **1500009** and credits out: **9854163**. The reset button was in the back.
 6. Machine #2 had zero (0) in the money bin. Meters inside the unit showed credits in: **944104** and credits out: **755187**. The reset button was in the back.
 7. Machine #3 had zero (0) in the money bin. Meters inside the unit showed credits in: **545227** and credits out: **47135**.
 8. Investigator Doyle places one (1) dollar in the machine and received four (4) credits (.25 per credit), after selecting one (1) credit the machine registered the bet displaying one (1) credit to be played and showed three (3) credits remaining.
 9. The reset button in the back of the machine was reset to zero (0) and the meters were then recorded as credits in: **545231** and credits out: **479138**. This machine had a double up option.
 10. Machine #4 had zero (0) in the money bin. Meters inside the unit showed credits in: **341689** and credits out: **159964**.
 11. Investigator Doyle places one (1) dollar in the machine and received four (4) credits (.25 per credit), after selecting one (1) credit the machine registered the bet displaying one (1) credit to be played and showed three (3) credits remaining.
 12. The reset button in the back of the machine was reset to zero (0) and the meters were then recorded as credits in: **341690** and credits out: **159967**. This machine had a double up option.
 13. Machine #5 had zero (0) in the money bin. Meters inside the unit showed credits in: **896101** and credits out: **504056**.
 14. Investigator Doyle places one (1) dollar in the machine and received four (4) credits (.25 per credit), after selecting one (1) credit the machine registered the bet displaying one (1) credit to be played and showed 3 credits remaining.
 15. The reset button in the back of the machine was reset to zero and the meters were then recorded as credits in: **896105** and credits out: **504059**.
 16. This machine had a double up option.
 17. Machine #6 had two hundred and ninety-three (293) dollars in the money bin. Meters inside the unit showed credits in: **39122** and credits out: **509212**. The reset button was in the back.
 18. They asked the manager who's money was in the bin and he informed them that it was his money and he was playing the machines because he was bored.
 19. After approaching the owner about their observations of the machines and the characteristics of each machine, they further questioned him again regarding the "payoffs."
 20. He gave investigators three (3) envelopes, two (2) of which had monies in them for "payoffs."
 21. The first envelope had, "Mike B 400 #6" written on the front which they understood from their training and experience to mean that the payout was for Mike B who won four hundred (400) points on machine #6.
 22. The manager told them they were correct and he would win one hundred (100) dollars (.25 per point), the envelope was empty because the winnings had not been put in yet and that the machines were owned by Hot Shots Vending and that it is a 60/40 split.

23. The second envelope stated, "Pixie, 1600 #4."
24. They called over Pixie and asked her about the pay-offs on the machines and she told them that the clubs pays off in U.S. currency to members.
25. Pixie, who won sixteen hundred (1600) points on machine #4 which meant she had won four hundred (400) dollars (.25 per point).
26. The envelope was empty and Pixie stated the winnings had not been put in yet.
27. The third envelope contained eight hundred and twenty-two dollars and twenty five cents (\$822.25).
28. The manager informed the investigators that was what the machines totaled for the week of March 14, 2011 to March 20, 2011.
29. The investigators then confiscated the envelopes and left the money with the manager.
30. The investigators informed the owner of the violation and told him a report would be filed.

DISCUSSION

The Licensee testified that the manager has not been in the establishment for a lengthy period of time, approximately one (1) year. He also admitted when speaking with the investigators that the machines were used for gaming and that the pay off was in US currency. He also stated that the establishment has been in existence for one hundred and twenty (120) years and has not had any violations.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05(1) (1 count) and 204 CMR 2.05(2) (1 count). The licensee has no prior violations. Therefore, the Commission **suspends the license for a period of 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

Susan Corcoran, Commissioner *Susan Corcoran*

Kim S. Gainsboro, Chairman *Kim S. Gainsboro*

Robert H. Cronin, Commissioner *Robert H. Cronin*

Dated: September 28, 2011

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
Timothy Hooton, Investigator
Administration
Robert Kelley, Esq. via Facsimile
File