

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

March 24, 2015

PORTUGUESE AMERICAN CENTER, INC.
59 CHARLES ST.
LOWELL, MA 01852
LICENSE#: 063000023
VIOLATION DATE: 02/06/2013
HEARD: 02/24/2015

After a hearing on February 24, 2015, the Commission finds Portuguese American Center, Inc. violated:

- 1) 204 CMR 2.05(1): Permitting Gambling;
- 2) 204 CMR 2.05(1), to wit: M.G.L. c. 140, §177A(6); and
- 3) 204 CMR 2.05(2), to wit: M.G.L. c. 271, §17.

The Commission suspends the licensee's license for a total of ten (10) days to be served. The suspension shall commence on Wednesday, May 13, 2015 and terminate on Friday May 22, 2015. The license will be delivered to the Local Licensing Board or its designee on Wednesday, May 13, 2015 at 9:00 A.M. It will be returned to the licensee May 23, 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.

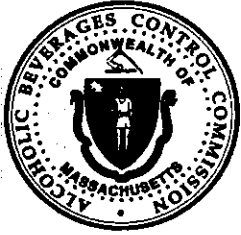
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Rose Bailey, Investigator
Jan Kujawski, Investigator
Administration, File

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Department of the State Treasurer
Alcoholic Beverages Control Commission
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DECISION

PORTUGUESE AMERICAN CENTER, INC.
59 CHARLES ST.
LOWELL, MA 01852
LICENSE#: 063000023
VIOLATION DATE: 02/06/2013
HEARD: 02/24/2015

Portuguese American Center, 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, February 24, 2015, regarding alleged violations of:

- 1) 204 CMR 2.05(1): Permitting Gambling;
- 2) 204 CMR 2.05(1): Permitting an illegality on the licensed premises, to wit: M.G.L. c. 140, §177A(6) No person keeping or offering for operation, or allowing to be kept or offered for operation, any automatic amusement device licensed under this section shall permit the same to be used for the purpose of gambling; and
- 3) 204 CMR 2.05(2), to wit: M.G.L. c. 271, §17 Keeping a building or room, or any part thereof, with apparatus, books or any device, for registering bets, upon the result of machine, knowingly permitting the same to be used or occupied for such purpose, knowingly permitting to be therein kept, exhibited, used or employed, any device or apparatus for registering such bets.

Prior to the commencement of the hearing, the Licensee stipulated to the violation alleged in Investigator Bailey's Report.

The following documents are in evidence:

1. Violation Report with attachments (no Exhibit C);
 2. Licensee's Stipulation of Facts
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1. List of groups that are part of P.A.C. (Portuguese American Center)

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

FACTS

1. On Wednesday, February 6, 2013 at approximately 4:55 p.m., Chief Investigator Mahony, Investigators Kujawski, Velez, and Bailey, conducted an inspection of the above referenced licensed premises relative to a filed complaint.

2. Upon entering the bar area, the Investigators identified themselves to the bartender on duty and asked to speak with the manager or member of the Board of Directors. A male identified as Joao Puga stated that he was the Club President.
3. The Investigators again identified themselves and informed Mr. Puga that they would be conducting an inspection of the licensed premises relative to a filed complaint.
4. Investigators Kujawski and Bailey conducted an inspection of the bar area. While the inspection of the bar area was being conducted, Investigator Velez observed a room behind the bar in which 3 electronic video devices were located (Attachment A – 4 pages).
5. Investigator Kujawski asked Mr. Puga the following questions:
 - Who owns video poker devices? “The Club”.
 - Does the Club pay out winnings on the video poker devices? “No, they’re for amusement only. I really don’t know anything about them. I just know people play them”.
 - Who does know about them? “Manuel, the Club manager”.
 - How long have you been the club President? “About 2 ½ years”.
6. Mr. Puga was then asked to contact the manager. He stated the manager would be back in a few minutes he was running errands relative to a planned festival.
7. Mr. Puga was asked to open the electronic video device #1 (Quick Draw Poker) for inspection. Investigator observed U.S. currency contained in the money bin of device #1. Mr. Puga was asked to count the currency. The following information was recorded based upon the U.S. currency contained within the money bin: Device #1 - \$44.00 U.S. currency.
8. During the inspection, the license manager arrived and identified himself to Investigators as Manuel Pais. Investigator Kujawski asked Mr. Pais the following questions:
 - How long have you been the license manager? “2 ½ years”.
 - Are you responsible for the video poker devices? “Yes”.
 - Are you responsible to account for the money made from the video poker devices? “Yes”.
 - When did you last empty the money bins of the devices? “This morning”.
 - How much money was in the devices? “About \$400 but I haven’t emptied the machines since Monday”.
 - Do you have a record of the amount removed from the devices this morning? “Yes, in the safe downstairs”.
 - Does the Club pay out winnings on the video poker devices? “No, people play for fun”. Mr. Pais then pointed to a sign on the wall above the devices which stated ‘For Entertainment Only’. (Attachment B – 1 page).
9. Mr. Pais opened video devices #2 and #3 (Quick Draw Poker) for inspection. Investigator observed U.S. currency contained in the money bin of device #1.
10. Mr. Pais was asked to count the currency. The following information was recorded based upon the U.S. currency contained within the money bin: Device #2 - \$244.00 U.S. currency; Device #3 - \$55.00 U.S. currency.
11. Investigators continued the inspection of the devices and observed the following characteristics, which based on their training and experience, to be indications that the machines are utilized as gambling devices:

- Each device accepted dollar bills ranging from \$1, \$5, \$10 and \$20
 - Each device had a "knock off" mechanism to reset the credits to zero by placing a metal key against two metal bolts located on the exterior of the devices
 - Each device had a back-up battery in place
 - Each device had electronic dipswitches to set odds
 - Each device had two meters within the unit to record credits in and credits out
12. Investigator Bailey recorded the following information relative to the meters located within the device referenced as device #1: credits in – 044719 and credits out – 022337.
 13. Investigator Bailey then placed a \$1.00 U.S. currency in the device and received 4 credits (.25 per credit), after selecting 1 credit, the machine registered the bet displaying 1 credit to be played and showing 3 credits remaining. Mr. Pais then placed a key on the metal bolts located on the exterior left side of the device and the credits reset to zero.
 14. The meters were then recorded as: credits in – 044723 and credits out – 022340.
 15. The number of points resulting in the insertion of \$1 U.S. currency reflects that each point is worth .25, and based on the Investigators' training and experience, this is the standard value per credit for illegal gambling machines in the Commonwealth of Massachusetts.
 16. While Investigator Bailey conducted the machine audit, Investigator Kujawski continued to question Mr. Puga and Mr. Pais relative to the club paying out winnings on the video poker devices. Mr. Pais admitted to the violation.
 17. Accompanied by both Mr. Puga and Mr. Pais, Investigator Bailey conducted an inspection of the club's office located in the basement of the licensed premises. Mr. Pais opened the safe located in the office and removed a white envelope which he stated was the money collected from the video machines that morning.
 18. The Investigators observed a hand written notation on the envelope – Poker \$406. Mr. Pais was then asked if that was his hand writing to which he stated 'Yes'. Mr. Pais was asked to count the currency. The total currency within the envelope was \$668.00. Based upon Mr. Pais' earlier statement as well as the hand written notation of \$406.00. Investigator Kujawski requested for Mr. Pais to recount the currency again.
 19. The recount resulted in a total of \$668.00. Mr. Pais was asked to remove the currency, provide a written notation on the envelope indicating the correct amount in the envelope as well as the time period from which the money derived: 2/4/13 – 2/6/13 (Attachment D – 1 page).
 20. In addition to the previous findings, further inspection revealed numerous white envelopes on a table within the office. Each envelope indicated a date, the name of a bartender, an itemized listing of the source of the total currency within the envelope.
 21. Mr. Pais stated the item listed as Maquinas referred to the income derived from the video poker devices as well as the notation of "Poker owes my drawer" is winnings paid out from poker devices (Attachment E – 4 pages).
 22. The inspection also revealed the club's profit and loss statement for the period of January through December 2012, dated 1/12/13. This statement indicated the total income derived from the video poker devices for the calendar year 2012 to be \$83,943.50 (Attachment F – 3 pages).
 23. The Investigators thanked Mr. Pais for his cooperation and informed him that a violation report would be submitted to the Chief Investigator for review.

CONCLUSION

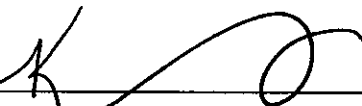
Based on the evidence, the Commission finds the licensee violated:

- 1) 204 CMR 2.05(1): Permitting Gambling;
- 2) 204 CMR 2.05(1): Permitting an illegality on the licensed premises to wit: M.G.L. c. 140, §177A(6) No person keeping or offering for operation, or allowing to be kept or offered for operation, any automatic amusement device licensed under this section shall permit the same to be used for the purpose of gambling; and
- 3) 204 CMR 2.05(2), to wit: M.G.L. c. 271, §17 Keeping a building or room, or any part thereof, with apparatus, books or any device, for registering bets, upon the result of machine, knowingly permitting the same to be used or occupied for such purpose, knowingly permitting to be therein kept, exhibited, used or employed, any device or apparatus for registering such bets.

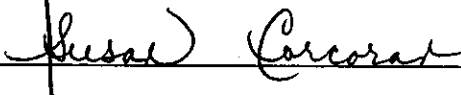
Therefore, the Commission suspends the license for ten (10) days of which ten (10) days will be served. In addition, the licensee must not possess in or on the licensed premises any automatic amusement devices or video poker machines.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro, Chairman



Susan Corcoran, Commissioner



Dated: March 24, 2015

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
Rose Bailey, Investigator
Jan Kujawski, Investigator
Administration
File