



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

January 23, 2014

EAST SIDE ATHLETIC ASSN. OF MALDEN INC.
14 WEBSTER COURT
MALDEN, MA 02148
LICENSE#: 064600046
VIOLATION DATE: 11/21/2013
HEARD: 01/14/2014

After a hearing on January 14, 2014, the Commission finds East Side Athletic Assn. of Malden Inc. in violation of 204 CMR 2.05(1) Permitting Gambling.

The Commission suspends the licensee's license for a total of fifteen (15) days to be served. The suspension shall commence on Wednesday, March 12, 2014 and terminate on Wednesday, March 26, 2014. The license will be delivered to the Local Licensing Board or its designee on Wednesday, March 12, 2014 at 9:00 A.M. It will be returned to the licensee Thursday, March 27, 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
Christopher Temple, Investigator
Caroline Guarino, Investigator
Jan Kujawski, Investigator
Patrick MacDonald, Esq. via facsimile 781-322-1663
Administration
File

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DECISION

EAST SIDE ATHLETIC ASSN. OF MALDEN INC.
14 WEBSTER COURT
MALDEN, MA 02148
LICENSE#: 064600046
VIOLATION DATE: 11/21/2013
HEARD: 01/14/2014

East Side Athletic Assn. of Malden 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, January 14, 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 Temple's Report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
2. Investigator Temple's Violation Report dated November 21, 2013.

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

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

FACTS

1. On Thursday, November 21, 2013, at approximately 2:45 p. m., Investigators Wilichoski, Kujawski, and Temple conducted an investigation of the business operation of East Side Athletic Assn. of Malden Inc. to determine the manner in which its business was being conducted.
2. Investigators entered the licensed premises, identified themselves to the bartender on duty, John Witham.
3. Investigators informed Mr. Witham of the inspection, and asked to speak with someone in charge.
4. Joseph Rooney identified himself to investigators as the treasurer of the club.
5. While behind the bar, investigators observed an enclosed room but they were unable to see the inside of it. Investigators observed a sign on the front door which read, "Members only."
6. Inside the room, investigators observed four electronic video devices with two individuals playing one of the devices. Investigators observed a sign on the wall which stated, "Notice See bartender for point redemption."
7. Investigators observed that three of the devices were labeled as Video Redemption Game, and the fourth device was labeled as Collect Bonus 8000.

8. Investigators observed that each electronic video device contained characteristics, which based on their training and experience, they know to be indications that the devices are utilized as gambling devices.
9. Investigators observed that the devices contained the following characteristics:
 - o Each video device had markings that indicated "for amusement only"
 - o Each device had the capability to double a bet by selecting the double up button;
 - o Each device had a "knock off" button in the form of a "Push for Ticket" button which reset the credits to zero, and created a ticking sound.
10. Investigator Temple placed \$1.00 in US Currency into the first Video Redemption Game video poker machine, and observed 4 credits displayed on the screen. He then selected 1 credit to bet. The machine "registered" the bet by displaying 1 credit selected and 3 credits remaining. Investigator Temple hit the "Push for Ticket" button which initiated the "knock off" mechanism. This action reset the credits to zero and created a ticking sound.
11. Mr. Rooney provided investigators with the following information:
 - o the Club pays out twenty-five cents a point for winnings;
 - o someone from the board of directors comes every morning to note the counter numbers;
 - o the bartender on duty writes down how much money is in the drawer at the end of the day;
 - o Action Jackson owns the machines;
 - o Justin, from Action Jackson, comes every Wednesday morning to collect money.
12. Mr. Rooney stated that he was unsure of what the split was between the club and Action Jackson.
13. Mr. Rooney showed investigators the drawer from where he stated the payouts for winnings on the video devices were made. Mr. Rooney stated the drawer contained approximately \$6500.00.
14. Investigators informed Mr. Rooney that a violation report would be filed with the Chief Investigator for further review.
15. A review of the Licensee's file indicated that this is not the first violation of 204 CMR 2.05(1).

CONCLUSION

Based on the evidence, the Commission finds the licensee violated of 204 CMR 2.05(1) Permitting Gambling. . Therefore, the Commission **suspends the license for twenty (20) days of which fifteen (15) days will be served and 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.**

The machines must be removed IMMEDIATELY from the licensed premises per Order of the Commission. 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

Kim S. Gainsboro, Chairman _____

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

Susan Corcoran, Commissioner _____

Dated: January 23, 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
Christopher Temple, Investigator
Caroline Guarino, Investigator
Jan Kujawski, Investigator
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