



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

AMENDED
NOTICE OF SUSPENSION

May 19, 2014

FRATERNAL ORDER OF EAGLES MALDEN AERIE #893
75 MERIDIAN ST.
MALDEN, MA 02148
LICENSE#: 064600034
VIOLATION DATE: 11/20/2013
HEARD: 05/06/2014

After a hearing on May 6, 2014, the Commission finds Fraternal Order of Eagles Malden Aerie #893 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.**

A request by the licensee to reschedule the suspensions for a later date has been allowed by this Commission.

The suspension shall commence on Tuesday, June 24, 2014, and terminate on Wednesday, June 25, 2014. The license will be delivered to the Local Licensing Board or its designee on Tuesday, June 24, 2014 at 9:00 A.M. It will be returned to the licensee Thursday, June 26, 2014.

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
Caroline Guarino-Wilichoski, Investigator
Christopher Temple, Investigator
Christopher G. Fallon, Esq. via facsimile 781-322-1663
Administration
File



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Department of the State Treasurer
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Boston, Massachusetts 02114

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NOTICE OF SUSPENSION

May 7, 2014

FRATERNAL ORDER OF EAGLES MALDEN AERIE #893
75 MERIDIAN ST.
MALDEN, MA 02148
LICENSE#: 064600034
VIOLATION DATE: 11/20/2013
HEARD: 05/06/2014

After a hearing on May 6, 2014, the Commission finds Fraternal Order of Eagles Malden Aerie #893 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, June 25, 2014, and terminate on Thursday, June 26, 2014.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, June 25, 2014 at 9:00 A.M. It will be returned to the licensee Friday, June 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
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DECISION

FRATERNAL ORDER OF EAGLES MALDEN AERIE #893
75 MERIDIAN ST.
MALDEN, MA 02148
LICENSE#: 064600034
VIOLATION DATE: 11/20/2013
HEARD: 05/06/2014

Fraternal Order of Eagles Malden Aerie #893 (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 6, 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 Teehan's Report.

The following documents are in evidence:

1. Investigator Teehan's Violation Report dated November 20, 2013;
2. Licensee's Stipulation of Facts; and
3. Photocopy of Video Game score card.

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

FACTS

1. On Wednesday, November 20, 2013, at approximately 2:00 p. m., Investigators Keefe and Teehan conducted an investigation of the business operation of Fraternal Order of Eagles Malden Aerie #893 to determine the manner in which its business was being conducted.
2. Investigators entered the licensed premises, identified themselves to the bartender on duty, Rocky Brooks, and inspected the bar area.
3. Investigators observed four electronic video devices, in the back of the bar area. Also in plain view were several 4" by 5" pads of paper printed with Video Game – amusement only, machine number, number of credits towards gift card of choice, no cash prizes.
4. Next to the cash register, investigators observed an index card with a hand written note which indicated machine#1, 11/18, and 320-80.
5. Investigators interviewed Mr. Brooks who stated that the Licensee does payoff for winnings on the electronic video devices with gift cards. He explained the 320-80 notation on the index card indicates that 320 credits won and \$80.00 paid out in gift cards.
6. Based on their training and experience, investigators know that the standard payoff rate for illegal gambling devices in Massachusetts is twenty-five cents per point.

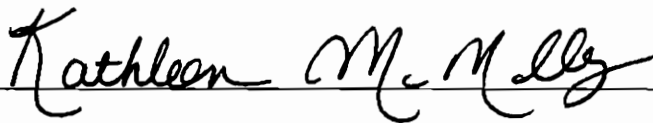
7. Mr. Brooks further stated that the vendor [for the devices] is Able Vending and the split is 50% of net revenue to the club and 50% net revenue to Able Vending.
8. Investigators made the following observations, which based on their training and experience, indicate that these electronic devices were 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 a push button on the back of the machine, or of a ticket button on the front console, which when pressed, reset the winning credits to zero.
9. Investigator Keefe inserted one U.S. dollar into Crazy Bugs 2, Triple Fever, and Fever Game machine which registered a bet in each device. He then pressed a button on the back of the device (the knock-off switch) and investigators observed the credits reset to zero.
10. Investigator Keefe inserted one U.S. dollar into the New Fruit Bonus 96 machine which registered the bet. He then placed a coin on two bolts (the knock off switch) on the side of the device and investigators observed the credits reset to zero.
11. Investigators advised Mr. Brooks of the violation and that a report would be submitted to the Chief Investigator for review.

CONCLUSION

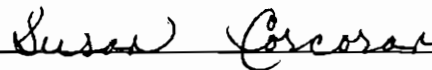
Based on the evidence, the Commission finds the Licensee violated 204 CMR 2.05 (1): Permitting Gambling. Therefore, the Commission **suspends the license for five (5) days of which two (2) days will be served and three (3) days will be held in abeyance for a period of two (2) years provided no further 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



Susan Corcoran, Commissioner



Dated: May 7, 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
Michael Teehan, Investigator
Dennis Keefe, Investigator
Christopher G. Fallon, Esq. via facsimile 781-322-1663
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