



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

May 30, 2013

**EDWARD CLARK POST #107 AM. LEGION INC. DBA AMERICAN LEGION
11 WEST CENTRAL ST.
NATICK, MA 01760
LICENSE#: 076800007
VIOLATION DATE: 01/17/2013
HEARD: 05/14/2013**

After a hearing on May 14, 2013, the Commission finds Edward Clark Post #107 Am. Legion Inc. dba American Legion in violation of 204 CMR 2.05 (1) Permitting Gambling.

The Commission **suspends the licensee's license for a total of twelve (12) days to be served. The suspension will be served concurrently with the Indefinite Suspension to be served on the violation of c. 138, §1.**

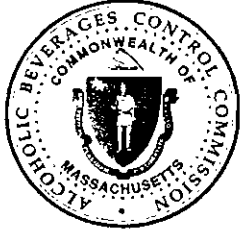
You are advised that pursuant to the provisions of M.G.L. c.138 §23, you may petition the Commission to accept an offer in compromise in lieu of suspension within twenty (20) calendar days following such notice of such suspension. If accepted, you may pay a fine using the enclosed form. All checks must 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
Tara Kelleher, Investigator
Dennis Keefe, Investigator
Frederick W. Riley, Esq. via fax 781-581-7301
Administration
File



The Commonwealth of Massachusetts
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DECISION

EDWARD CLARK POST #107 AM. LEGION INC. DBA AMERICAN LEGION
11 WEST CENTRAL ST.
NATICK, MA 01760
LICENSE#: 076800007
VIOLATION DATE: 01/17/2013
HEARD: 05/14/2013

Edward Clark Post #107 Am. Legion Inc. dba American Legion (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 14, 2013, 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 Kelleher's Report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts;
2. Investigator Kelleher's Investigative Report dated January 17, 2013;
3. Blank Envelopes Marked for Gaming Machine Tallies;
4. Football Grid Sheet [Patriots/Ravens] dated January 20, 2013;
5. NFL Game Sheets (19 Pages);
6. State Lottery Commission Letter dated February 26, 2009, "Keep Door Closed";
7. NFC And AFC Championship Games;
8. Superbowl Envelope And Gambling Grid Sheet;
9. Deposit Envelope From Middlesex Savings Marked for Six Sections;
10. Eight Manila Envelopes with Game Machine Tally in Each;
11. Two Manila Envelopes Marked "Squares" dated December 30, 2012;
12. Binder Containing Reports for Gaming Machines and Deposit Slips for Citizens Bank;
13. Gaming Machine;
14. Four Photographs of Machines.

A. Edward Clarke Post #107 which includes:

- o Commission Notice of Hearing dated April 1, 2013 for hearing to be held May 14, 2013;
- o Secretary of the Commonwealth, Revival Certificate dated April 23, 2013;
- o Secretary of the Commonwealth Annual Reports for 2006-2007; 2009, 2011-2012;
- o Names and Address of Officers, with List of Employees and Salaries, dated May 13, 2013;
- o Income and Charitable Donations for 2009, 2011, and 2012;
- o Five Letters of Recommendation;
- o Discharge Papers for Thomas Greene; and
- o Commonwealth of Massachusetts House Docket no. 1547 dated January 18, 2013.

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

FACTS

1. On Friday, January 17, 2013, Investigators Keefe and Kelleher investigated the business operation of Edward Clark Post #107 Am. Legion Inc. dba The American Legion, Natick, MA to determine the manner in which their business was being conducted.
2. Investigators entered the premises and identified themselves to Thomas Green, a member of the board of directors.
3. Investigators conducted an investigation of the premises.
4. Investigators observed six stand-alone electronic video devices in a room separate from the bar area. Each machine was numbered in a variance of numbers from 1 to 6.
5. The room had a door with a locking mechanism. Affixed to the door was a notice, issued by the Massachusetts State Lottery Commission ("MSLC") to State Lottery Sales Agent license holders. The notice stated the MSLC rules and regulations, including unlicensed or illegal gaming machines. A hand-written message, which stated "KEEP DOOR CLOSED", had been added to the notice.
6. Investigators observed that each device accepted "currency ranging from \$1, \$5, \$10, and \$20 U.S. Dollars" as stated on the external bill validator, and allowed users to "double up." Each machine contained three blue "dip switches", two back-up batteries, and a flip switch. When the flip switch was operated, the machine displayed an in number and an out number or a "credit/debit" number based on the points/bets on the screen. All the machines were hard-wired with three points of entry for which electrical wires could enter the room.
7. Investigators observed the video poker machines had characteristics which, based on their training and experience, indicated that the machines were utilized as gambling devices.
8. Chief Investigator Mahony, Investigator Kelleher, and Investigator Kujawski conducted an inspection of the bar area where they located six remote knock-off boxes marked with numbers from 1 to 6.
9. Chief Mahony and Investigator Keefe conducted an audit of each machine. Investigator Keefe inserted US currency to play the machine, and Chief Mahony pressed the reset button.
10. On machine #1 the beginning number on the machine was 272603. Investigator Keefe inserted a one dollar bill and gained four credits, bringing the number to 272607. He played the machine and won five credits, bringing the number to 852679. When Chief Mahony pressed the reset button, the ending number on the machine changed to 852684.
11. On machine #2 the beginning number on the machine was 131584. Investigator Keefe inserted a one dollar bill and gained four credits. He played the machine and lost two credits, and the machine showed the number 927777. When Chief Mahony pressed the reset button, the ending number on the machine changed to 927779.

12. On machine #3 the beginning number on the machine was 467334. Investigator Keefe inserted a one dollar bill and gained four credits. He played the machine and lost. The ending number on the machine was 444213. There was no change to the number when the Chief Mahony pressed the reset button.
13. On machine #4 the beginning number on the machine was 718754. Investigator Keefe inserted a one dollar bill and gained four credits. He played the machine and won two credits and the machine showed the number 052864. When Chief Mahony pressed the reset button, the ending number on the machine changed to 052870.
14. On machine #5, the beginning number on the machine was 399457. Investigator Keefe inserted a one dollar bill and gained four credits bringing the number to 399461. He played and lost. When Chief Mahony pressed the reset button, the ending number on the machine changed to 277871.
15. On machine #6, the beginning number on the machine was 903899. Investigator Keefe inserted a one dollar bill and gained four credits. He played the machine and lost one credit and the machine showed 219328. When Chief Mahony pressed the reset button, the ending number on the machine changed to 291331.
16. Mr. Green provided keys to open all the machines and assisted investigators, who conducted a financial audit, with the handling and counting of all currency.
17. Each machine contained one U.S. dollar which Investigator Keefe had placed in it during the inspection. However, machine #6 contained \$81.00 in the form of four \$20 dollar bills, and one single dollar bill, all in U.S. currency.
18. When investigators inspected the bar area, they found a clip board with a "football square" gambling grid sheet along with an envelope, dated 01/17/2013, which contained \$140.00 in U.S. currency. The envelope also had a hand-written notation stating, "office has 840 more" and "Superbowl Squares." The currency was counted and secured by the bartender on duty, Karen McNally. The envelope and grid sheet were taken as evidence.
19. Investigators found a second "football square" gambling grid sheet in the same location. This gambling grid sheet had a date of "01/20/2012", with "Patriots" written horizontally and "Ravens" written vertically. The sheet contained numerous hand-written names throughout the 100 squares.
20. Investigators also confiscated blank "NFL bracket lottery" sheets covering the dates for Thursday, September 13th, Sunday, September 16th, and Monday, September 17th.
21. Based on their training and experience, investigators determined these sheets are consistent with unlicensed or illegal gambling.
22. Behind the bar investigators also found three manila envelopes. One envelope was marked "Patriots Squares 12/30/2012". The second envelope was marked "Squares". Both these envelopes were empty.
23. The third envelope was dated 1/17/2013 with "Bev/Karen" written on top with six sections following. Each section was marked with a start number, an end number, a coin total, and a dollar amount. The start date listed on each section matched the numbers audited from the remote knock off boxes.

24. Ms. McNally advised investigators that she totals and fills in the numbers and payouts for the gaming machines on these envelope sections, at the end of her shift. She stated that the "payout is twenty-five cents a credit."
25. Investigators located 40 additional envelopes, identical in nature to the third envelope found, except for being blank, in the office. These envelopes contained no currency, and were taken as evidence.
26. Ms. McNally advised investigators that the numbers are filled in at the beginning of the day by the opening bartender, and completed at the end of the night by the closing bartender. The amounts are then added to the tally for the bar and secured in a safe at the end of each shift.
27. Investigators inspected the office area and found in the trash receptacle nine more envelopes, identical in nature to ones listed above. The envelopes had a "start #" and "end #" with dollar amounts ranging from zero to \$240.00. Ms. McNally confirmed these figures as "payout from the gaming machines."
28. Chief Mahony interviewed Mr. Greene as to the nature of these envelopes. However Mr. Green stated, he "did not know" about them.
29. Chief Mahony made several unsuccessful attempts to contact the manager of record, Bob Ahearn. However he did speak with Steven Dare, the Board Chairman, and advised Mr. Dare as to the nature of their presence.
30. Investigators informed the Mr. Greene of the violation and that a report would be filed for further action.

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 twelve (12) days of which twelve (12) days will be served concurrently with the Indefinite Suspension to be served on the violation of c. 138, §1.**

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 _____

Kathleen McNally, Commissioner _____



DATE: May 30, 2013

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
Tara Kelleher, Investigator
Dennis Keefe, Investigator
Frederick W. Riley, Esq. via fax 781-581-7301
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