

*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**

**Arbco Corp. dba Red J's Colonial Lounge**  
**24 Clifford Street**  
**New Bedford, MA 02745**  
**License#: 077800051**  
**Heard: August 23, 2011**

Arbco Corp. dba Red J's Colonial Lounge (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, August 23, 2011, regarding an alleged violation of 204 CMR 2.05 (1). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Mark Kenny's report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
2. Investigator Mark Kenny's Report.

There is one (1) tape of this hearing.

**FACTS**

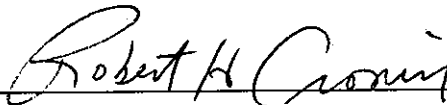
1. On Friday, May 12, 2011, Investigators inspected the business operation of Arbco Corp. dba Red J's Colonial Lounge.
2. The investigators observed four (4) video poker machines.
3. The manager on duty called the owner, who came to the premises.
4. The owner opened a small box behind the bar containing fourteen (14) printed slips.
5. The slips showed the amount of money each ticket was worth.
6. The owner told the investigators the slips indicated payouts from the video poker machines.
7. Administrative review of the file indicates this was the first violation in thirty-seven (37) years of existence.

### CONCLUSION

Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05(1). 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.**

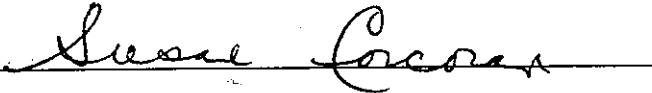
### **ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Robert Cronin, Commissioner



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

Susan Corcoran, Commissioner



Dated: October 6, 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  
Mark Kenny, Investigator  
Administration  
File



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**OFFER IN COMPROMISE IN LIEU OF SUSPENSION**

1. \_\_\_\_\_  
Name of Licensee (include d.b.a., if any)
2. \_\_\_\_\_  
Street Address of Premises City/Town
3. \_\_\_\_\_  
Mailing Address (if different from line 2)
4. \_\_\_\_\_  
Type of License (Restaurant, Package Store, Club, Hotel, Tavern, General on Premise, Veterans Club)
5. The above referenced licensee is submitting this Offer to the Alcoholic Beverages Control Commission in reference to a recent decision, resulting in a suspension:
  - a. Violation Date: \_\_\_\_\_
  - b. Total Number of Days Suspended: \_\_\_\_\_
6. If this offer is accepted, the licensee waives all rights to appeal and waives judicial review of the Commission's decision.
7. The licensee certifies that this offer is calculated according to the formula set forth in M.G.L. Chapter 138, §23.
8. The amounts on the following line items (Item #10 and Item #11) may be from either the twelve months immediately preceding the date of this violation (Item # 5a above) or, for licensees that have been in business for more than one year, from the licensee's most recent full fiscal (income tax) year.
9. State the period covered by the figures on lines 10 and 11: \_\_\_\_\_
10. Total annual receipts from the sale of ONLY alcoholic beverages: \$ \_\_\_\_\_
11. Total annual invoiced costs of ONLY alcoholic beverages sold: \$ \_\_\_\_\_
12. Gross annual alcoholic beverage profit:  
Item# 10 (receipts) minus Item #11 (invoiced costs) \$ \_\_\_\_\_

13. Annual number of days of operation: \_\_\_\_\_  
 Example:  
     - 7 day annual operation = 365  
     - 6 day annual operation = 313  
     - All others (Special Licenses/Seasonal Licenses)  
       enter actual days of operation during the year  
       preceding the violation date: \_\_\_\_\_
14. Daily gross alcoholic beverage profit: \$ \_\_\_\_\_  
 (Divide Line 12 by Line 13)
15. Enter 50% of amount indicated on Line 14: \$ \_\_\_\_\_
16. Daily Fine (enter the greater of Line 15 or \$40.00): \$ \_\_\_\_\_
17. Enter the number of days the License is suspended: \_\_\_\_\_  
 (From Line 5b.)
18. Offer in Compromise: \$ \_\_\_\_\_  
 (Multiply Line 16 by Line 17)

**Signed Under the Penalties of Perjury,**

\_\_\_\_\_  
 Signature of Licensee (If Licensee is a Corporation, Manager of Record signs)

### **ACCOUNTANT'S CERTIFICATION**

I swear under the pains and penalties of perjury that the figures contained in the petition are correct based on the books and records of the above referenced licensee.

\_\_\_\_\_  
 Signature of Licensed Public Accountant

\_\_\_\_\_  
 Mass. License No.

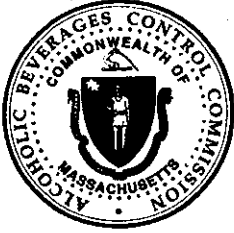
\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Print Name Clearly Licensed Public Accountant

\_\_\_\_\_  
 Print Address Clearly Licensed Public Accountant

#### **PLEASE NOTE:**

- Offer **MUST** be delivered to the A.B.C.C. within 20 calendar days after receipt of Commission's Decision.
- Offer **MUST** be accompanied by a Bank or Certified check for the full amount on Line 18 made payable to the Commonwealth of Massachusetts, A.B.C.C.
- Offer **MUST** be examined and certified by a Massachusetts Licensed Accountant.



*The Commonwealth of Massachusetts*  
*Department of the State Treasurer*  
*Alcoholic Beverages Control Commission*  
*Boston, Massachusetts 02114*

*Steven Grossman*  
*Treasurer and Receiver General*

NOTICE OF SUSPENSION

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

October 6, 2011

**Arbco Corp. dba Red J's Colonial Lounge**  
**24 Clifford Street**  
**New Bedford, MA 02745**  
**License#: 077800051**  
**Heard: August 23, 2011**

After a hearing on August 23, 2011, the Commission finds Arbco Corp. dba Red J's Colonial Lounge in violation of 204 CMR 2.05 (1).

The Commission suspends the licensee's license for a total of two (2) days to be served. The suspension shall commence on **Wednesday, November 30, 2011** and terminate on **Thursday, December 1, 2011**. The license will be delivered to the Local Licensing Board or its designee on Wednesday, November 30, 2011 at 9:00 A.M. It will be returned to the licensee Friday, December 2, 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  
Mark Kenny, Investigator  
Administration  
File