

Re: Merchant Mariner's Social Club, Inc.  
Premise: 26 Wing Street  
City/Town: New Bedford, MA 02740  
Heard: August 24, 2010

### **DECISION**

Merchant Mariner's Social Club, Inc. ("the Licensee") holds an all alcohol license issued pursuant to Massachusetts General Laws c 138, §12. The Alcoholic Beverages Control Commission ("the Commission") held a hearing on July 7, 2009 regarding an alleged violation of M.G.L. c 138, §64 – Failure to Comply with the Laws of the Commonwealth, to wit: M.G.L. c 62C §47A (d) and 830 CMR 62C.47A.2(4), which resulted in an agreement between the licensee and the Department of Revenue ("DOR").

On August 24, 2010, a second hearing was held by the Commission as a result of the Licensee's failure to meet the conditions of the payment plan it had agreed to. DOR requested revocation of the license.

The following documents are in evidence:

1. Violation Report from Investigator Caroline Guarino-Wilichoski
2. Notice of Delinquency and Request for License Revocation from the DOR

There is one (1) tape of this hearing.

### **Facts**

1. On June 24, 2008, DOR issued and mailed to the Licensee a formal notification of state tax delinquency pursuant to M.G.L. c 62C §47A(d) and 830 CMR 62C.47A.2(4). Ex. 2
2. On December 29, 2008, DOR notified the Commission that the Licensee was delinquent in the payment of \$27,056.58 in Club Alcohol and Meal Taxes, plus statutory additions as required by M.G.L. c. 62C, for various tax periods. The Licensee had an opportunity for and engaged in, an informal conference with DOR under 830 CMR 62C.47A.2(3). The Licensee remained delinquent. Ex. 2
3. On July 7, 2009, the Commission convened an 11:30 a.m. hearing on the alleged violations. During the hearing, the Licensee admitted to the violations and stated

- that it would make every effort to comply with the reporting requirements and pay its outstanding tax liability to DOR. Testimony.
4. The Licensee and DOR agreed to an installment plan for payment of the delinquent taxes, as well as the filing of all missing tax returns. The Licensee immediately provided DOR with a check in the amount of \$1800.00. Testimony, Ex. 2
  5. The Licensee failed to comply with the agreed-upon installment plan and did not file all tax returns. Testimony
  6. On October 16, 2009, the Licensee remained delinquent and DOR again, issued and mailed to the Licensee a formal notification of state tax delinquency pursuant to M.G.L. c 62C § 47A (d) and 830 CMR 62C.47A.2 (4). Testimony
  7. On January 22, 2010, DOR notified the Commission that the Licensee had failed to pay \$29,349.74 in Club Alcohol and Meals taxes, plus statutory additions as required by M.G.L. c. 62C, for various tax periods. The Licensee had not filed in good faith a pending application for abatement of these taxes or a pending petition before the Appellate Tax Board contesting these taxes. Ex. 2.
  8. The Commission held a second hearing on the issue on non-payment on the installment plan on August 24, 2010. During the hearing, Don McGurk from the DOR appeared and testified that the Licensee owed DOR more than \$30,000 in delinquent taxes, for various tax periods. Testimony
  9. The Licensee appeared and testified that the Licensee was unable to comply with DOR because of a lack of funds. The Licensee was open only three (3) days a week and had ten (10) members. An agreement could not be reached between DOR and the Licensee for payment of the delinquent taxes. The Licensee was unable to provide any estimate as to when the Licensee would be able to pay the delinquent taxes in full. Testimony

### Conclusion

Based on the evidence, the Commission finds the licensee violated Massachusetts General Laws c. 138, § 64. The Commission **INDEFINITELY SUSPENDS the license of Merchant Mariner's Social Club, Inc. effective immediately.**

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 in Boston, Massachusetts this 4<sup>th</sup> day of October 2010.

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 days of receipt of this decision.

cc: New Bedford Licensing Board  
Frederick G. Mahony, Chief Investigator  
Caroline Garino-Wilichoski, Investigator  
Donald McGurk, DOR  
File