

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

March 5, 2012

CLUB #2104 INC. DBA NORTH ANDOVER V.F.W.
32 PARK STREET
NORTH ANDOVER, MA 01845
LICENSE#: 082600010
HEARD 2/28/2012

After a hearing on February 28, 2012, the Commission finds Club # 2104 Inc. dba North Andover V.F.W. (the "Licensee") in violation of M.G.L. c. 94 §186 (6 counts).

The Commission **suspends the licensee's license for a total of six (6) days to be served.** The suspension shall commence on **Wednesday, April 25, 2012 and terminate on Monday, April 30, 2012.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, April 25, 2012 at 9:00 A.M. It will be returned to the licensee Tuesday, May 1, 2012.

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.

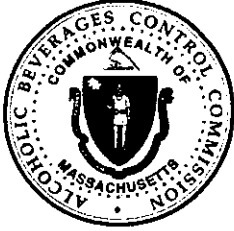
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro
Chairman

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Rose Bailey, Investigator
Robert F. Kelley, Esq. via facsimile
Administration
File

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The Commonwealth of Massachusetts
Department of the State Treasurer
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DECISION

CLUB #2104 INC. DBA NORTH ANDOVER V.F.W.
32 PARK STREET
NORTH ANDOVER, MA 01845
LICENSE#: 082600010
HEARD 2/28/2012

Club # 2104 Inc. dba North Andover V.F.W. (the "Licensee") holds an all alcoholic beverages license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, February 28, 2012, regarding an alleged violation of M.G.L. c. 94 §186 (6 counts). Prior to the commencement of the hearing, the licensee stipulated to the violations alleged in Investigator Rose Bailey's Investigative Report.

The following documents and physical items are in evidence as exhibits:

1. Investigator Bailey's Investigative Report dated November 30, 2011;
 2. Licensee's Stipulation of Facts; and
 3. Six (6) bottles of alcoholic beverages.
- A. A List of Charitable Foundations to Whom the Licensee Made Contributions.

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

FACTS

1. On Friday, August 17, 2011, at approximately 11:00 a. m., Investigators Paul Capurso, Caroline Wilichoski, and Rose Bailey investigated the business operation of Club # 2104 Inc. dba North Andover V.F.W. to determine the manner in which their business was being conducted.
2. Investigators identified themselves to a male employee, later identified as the License Manager, Mr. Joseph Lynch.
3. Investigators informed Mr. Lynch that the Commission had received an anonymous complaint, and they would conduct an inspection of the licensed premises.
4. Investigators questioned Mr. Lynch about the three (3) gaming devices (Bumble Bee, Skill Cherry '97, and New Fruit Bonus '96) on the licensed premises.
5. Mr. Lynch stated that the devices had recently been brought back into the licensed premises approximately two (2) weeks ago.
6. Mr. Lynch stated that the devices had been previously removed because they had heard of inspections being conducted in the area.


7. Mr. Lynch stated that in the past, the licensee had appeared before the Commission for a gambling violation.
8. Mr. Lynch stated that the devices do not pay out and are only for amusement.
9. Investigator Wilichoski discussed the previous violation hearing with Mr. Lynch.
10. Investigator Wilichoski asked Mr. Lynch if he told the Commission at that hearing that the devices would be removed.
11. Mr. Lynch stated that statement was true.
12. Mr. Lynch reiterated that the devices were for amusement only.
13. Investigators conducted an inspection of the devices and the office.
14. Investigators did not find any ledgers or pay off slips.
15. Investigators did not find any currency in the bins of the devices.
16. Investigators did observe a wire connecting the devices to a printer and computer in the manager's office.
17. Mr. Lynch stated the printer was used to reset the devices to zero after someone played them for amusement.
18. Mr. Lynch stated that all proceeds in the devices were split with the vending company, Hot Shots.
19. Mr. Lynch stated he would immediately contact the vendor and have the devices removed.
20. Investigators observed Mr. Lynch making a phone call and overheard him state that he wanted the devices removed from the club immediately.
21. Investigators asked to whom Mr. Lynch had spoken.
22. Mr. Lynch stated he spoke with Mr. Bob Vanmeter, the owner of Hot Shots.
23. Mr. Lynch stated that a truck was being sent over to the licensed premises to remove the devices.
24. Investigators conducted an inspection of the bar area, and observed six (6) bottles of alcoholic beverages containing fruit flies and other foreign matter.
25. The six (6) bottles taken into evidence were:
 - a) Dekuyper Apricot Flavored Brandy, 1 liter;
 - b) Fleischmann's Blended Whiskey, 1 liter;
 - c) Glenlivet Scotch Whiskey, 1 liter;
 - d) Martini and Rossi Vermouth, 1 liter;
 - e) Martini and Rossi Vermouth, 1 liter; and
 - f) Pinnacle Cotton Candy Vodka, 1 liter.
26. Investigators showed Mr. Lynch the confiscated evidence.
27. Investigators informed Mr. Lynch of the violation, and that a report would be submitted to the Chief Investigator for review.
28. Investigator Capurso conducted an administrative review of the file. The licensee has held this license since as far back as the Commission records indicates to 1961.

CONCLUSION

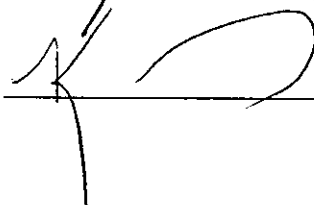
Based on the evidence, the Commission finds the licensee violated of M.G.L. c. 94 §186 (6 counts). The Commission **suspends the licensee's license for ten (10) days, of which six (6) days will be served and four (4) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



Kim S. Gainsboro, Chairman



Dated: March 5, 2012

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
Rose Bailey, Investigator
Robert F. Kelley, Esq. via facsimile
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