



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

December 9, 2014

C. T. COLVIN, INC. DBA CROSSROADS CAFÉ
195 ONOTA STREET
PITTSFIELD, MA 01201
LICENSE#: 097400059
VIOLATION DATE: 05/30/2014
HEARD: 12/2/2014

After a hearing on December 2, 2014, the Commission finds C.T. Colvin Inc. dba Crossroads Café in violation of:

- 1) 204 CMR 2.05 (1) - Permitting Gambling; and
- 2) 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: 26 USC §5301 (c) - refilling of liquor bottles (1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provision of this chapter.

The Commission suspends the licensee's license for a total of three (3) days to be served. The suspension shall commence on Wednesday, January 28, 2015, and terminate on Friday, January 30, 2015. The license will be delivered to the Local Licensing Board or its designee on Wednesday, , 2015 at 9:00 A.M. It will be returned to the licensee Saturday, January 31, 2015.

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
Christopher Temple, Investigator
Matthew Mozian, Esq. via facsimile 413-448-6233
✓Administration, File



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DECISION

C. T. COLVIN, INC. DBA CROSSROADS CAFÉ
195 ONOTA STREET
PITTSFIELD, MA 01201
LICENSE#: 097400059
VIOLATION DATE: 05/30/2014
HEARD: 12/2/2014

C.T. Colvin Inc. dba Crossroads Café (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, December 2, 2014, regarding the alleged violations of:

- 3) 204 CMR 2.05 (1) - Permitting Gambling; and
- 4) 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: 26 USC §5301 (c) - refilling of liquor bottles (1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provision of this chapter.

Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Temple's Report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
 2. Investigator Temple's Violation Report dated May 30, 2014.
- A. Licensee's Copy of Invoice #093419430 dated May 22, 2014 from United Liquors.

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

FACTS

1. On Friday, May 30, 2014, at approximately 10 p.m., Chief Investigator Mahony and Investigator Temple, accompanied by the Pittsfield Police Department, Pittsfield Probation, and Pittsfield Fire Department, entered the licensed premises of C.T. Colvin Inc. dba Crossroads Café to determine the manner in which its business was being conducted.
2. Investigators identified themselves to Diane Sumy, the bartender on duty, informed her that they would be conducting an inspection of the licensed premises, and asked to speak with someone in charge.

3. Gerald Colvin, the license manager, met with investigators.
4. While inspecting the bar area, investigators observed three bottles of Captain Morgan (rum) which appeared to be filled to a higher than the normal level in the bottle.
5. Investigators asked Mr. Colvin to direct them to the liquor storage area downstairs. Downstairs, investigators observed several boxes containing bottles of Admiral Nelson rum (the less expensive version of Captain Morgan rum). Investigators did not observe any boxes of Captain Morgan rum.
6. Investigators identified the bottles of Captain Morgan to Mr. Colvin and informed him that it appeared that he was refilling the bottles from those found downstairs, and that this was a violation.
7. Mr. Colvin stated that he was in fact doing so.
8. The following three bottles were then taken as evidence:
 - 3 1-Liter bottles of Captain Morgan rum
9. Investigators observed a piece of paper on which was written, "Dennis 600 credits 5/30/14", behind the bar. Based on their training and experience, investigators recognized this paper as a payout slip. Mr. Colvin stated the slip was for winnings on the video devices.
10. To the right of the bar, investigators observed an electronic video device named Fruit Bonus. Investigators observed that the device contained characteristics, which based on their training and experience, they know to be an indication that the device is utilized as gambling device.
11. Investigators observed that the devices contained the following characteristics:
 - The device had markings that indicated "for amusement only";
 - The device had a "knock off" button in the back which, when pressed, reset the device to zero and made a ticking sound;
 - The device had the capability to double a bet by selecting the double up button.
12. Investigators inserted \$1.00 of U.S. currency into the machine and observed 4 credits displayed on the screen. Investigators then selected 2 credits (the amount to bet). The machine "registered" the bet by displaying 2 credits selected and 2 credits remaining.
13. Investigators then unplugged the machine and plugged it back in. The machine shut off and then came back on. The 2 credits were still showing on the screen. This indicated that the machine contained a back-up battery. Investigators were able to initiate the "knock off button" mechanism, which reset the credits to zero and created a ticking sound.
14. Mr. Colvin provided investigators with the following information regarding the electronic video devices:
 - The payout is twenty-five cents a point for winnings, which investigators know from their training and experience is the common payout rate for winnings on illegal gambling devices in Massachusetts;
 - Someone comes every morning to write down the counter recordings; and
 - Bill from Pace Vending owns the machines.
15. Investigators informed Mr. Colvin of the violation and that a report would be submitted to the Chief Investigator for review.

CONCLUSION

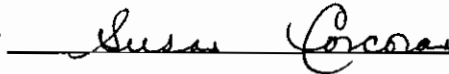
Based on the evidence, the Commission finds the licensee violated:

- 1) 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: 26 USC §5301 (c) - refilling of liquor bottles (1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provision of this chapter.
- 204 CMR 2.05 (1) - Permitting Gambling; and
- 2) 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: 26 USC §5301 (c) - refilling of liquor bottles (1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provision of this chapter.

Therefore, the Commission **suspends the license for seven (7) days of which three (3) 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.**

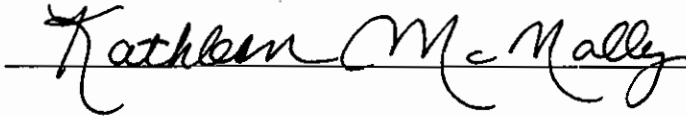
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner



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

Kathleen McNally, Commissioner



Dated: December 9, 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
Christopher Temple, Investigator
Matthew Mozian, Esq. via facsimile 413-448-6233
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