



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

August 26, 2014

TYLER RESTAURANT INC.
796 TYLER ST.
PITTSFIELD, MA 01201
LICENSE#: 097400069
VIOLATION DATE: 05/30/2014
HEARD: 08/19/2014

After a hearing on August 19, 2014, the Commission finds Tyler Restaurant Inc. in violation of:

- 1) 204 CMR 2.05 (1) Permitting Gambling;
- 2) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: c. 138, §34D Any establishment which sells alcoholic beverages to be drunk on the premises, shall post a copy of the penalties set forth in subdivision.

The Commission **suspends the licensee's license for a total of two (2) days to be served. The suspension shall commence on Wednesday, October 15, 2014, and terminate on Thursday, October 16, 2014.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, October 15, 2014 at 9:00 A.M. It will be returned to the licensee Friday, October 17, 2014.

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
Administration
File

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The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
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Steven Grossman
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DECISION

TYLER RESTAURANT INC.
796 TYLER ST.
PITTSFIELD, MA 01201
LICENSE#: 097400069
VIOLATION DATE: 05/30/2014
HEARD: 08/19/2014

Tyler Restaurant Inc. (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, August 19, 2014, regarding an alleged violation of:

- 1) 204 CMR 2.05 (1) Permitting Gambling;
- 2) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: c. 138, §34D Any establishment which sells alcoholic beverages to be drunk on the premises, shall post a copy of the penalties set forth in subdivision.

The above captioned occurred on May 30, 2014, according to Investigator Temple's Violation Report.

The following documents are in evidence:

1. Investigator Temple's Violation Report dated May 30, 2014;

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

FACTS

1. On Friday, May 30, 2014, at approximately 10:45 p.m., Chief Investigator Mahony and Investigator Temple, along with members of the Pittsfield Police Department, Pittsfield Probation, and Pittsfield Fire Department, conducted an investigation of the business operation of Tyler Restaurant Inc. to determine the manner in which its business was being conducted.
2. Investigators entered the premises and identified themselves to the bartender on duty, Jason Brodeur, and told him that they would be conducting an inspection of the licensed premises.
3. Investigators observed an electronic video device located to the right of the entrance.
4. Investigators made the following observations, which based on their training and experience, indicate that this electronic device were being utilized as a gambling device:
 - The device accepted dollar bills ranging from \$1, \$5, \$10, \$20.
 - The device had the capability to double up the bet by selecting a double-up button.
 - The device had a "knock off" mechanism on the device which when pressed, created a ticking sound and reset the winning credits to zero.

5. Investigators inserted one U.S. dollar bill into the machine which registered four credits, then selected one credit to play. The machine registered the bet (one credit) and showed three credits remaining. After pressing the knock-off button investigators heard a clicking sound, and the credits reset to zero.
6. Mr. Brodeur stated to investigators that he pays out twenty-five cents per point for winnings and records the credits in a calendar behind the bar. He resets the device by pressing the knock-off button.
7. Based on their training and experience, investigators know that twenty-five cents is a common rate paid for winnings on illegal gambling devices in Massachusetts.
8. Investigators asked Mr. Brodeur if he had any warning signs posted as they had not observed any on the premises. Mr. Brodeur stated that he did not have any poster.
9. Investigators informed Mr. Brodeur of the violation and that a report would be filed with the Chief Investigator for review.

CONCLUSION

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

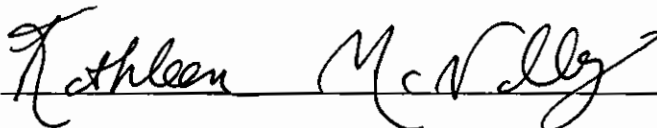
- 1) 204 CMR 2.05 (1) Permitting Gambling;
- 2) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: c. 138, §34D Any establishment which sells alcoholic beverages to be drunk on the premises, shall post a copy of the penalties set forth in subdivision.

Therefore the Commission **suspends the license for 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 devices or video poker machines.**

The Commission refers the matter regarding the Licensee's application for a change of manager to the Investigative Unit for further action forthwith.

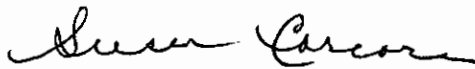
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



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

Susan Corcoran, Commissioner



Dated: August 26, 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
Administration
File