



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

Steven Grossman
Treasurer and Receiver General

**AMENDED
DECISION**

Kim J. Gainsboro, Esq.
Chairman

**AMERICAN LEGION POST # 61
249 BROADWAY
REVERE, MA 02151
LICENSE#: 102200090
VIOLATION DATE: 03/27/2013
HEARD: 06/25/2013**

American Legion Post # 61 (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, June 25, 2013, regarding alleged violations of 204 CMR 2.05(1) – Permitting Gambling. Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Teehan's Report.

The following documents are in evidence as exhibits:

1. Licensee's Stipulation of Facts;
2. Investigator Teehan's Investigative Report dated March 27, 2013; and
3. Record of Money Payout Grid

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

FACTS

1. On Wednesday, March 27, 2013, at approximately 5:30 p.m., Investigators Keefe, Doyle, and Teehan investigated the business operation of American Legion Post # 61 to determine the manner in which their business was being conducted.
2. Investigators entered the premises and observed three electronic video devices (Video Poker and two Cherry Masters) in the bar area.
3. Investigators identified themselves to the bartender on duty, Ed Harrington, and inspected the bar area.
4. Investigators observed a cash box in plain view under the cash register behind the bar. The cash box contained \$1000 (one thousand dollars) in US Currency and a piece of white paper with hand-written notations which indicated the name, amount paid and name.
5. Mr. Harrington telephoned the financial officer of the club, Gerry Amore, and a short time later Mr. Amore arrived at the licensed premises.
6. During the interview with the investigators, Mr. Amore stated that the licensee does pay off for winnings on the electronic video devices. The Video Poker to the left and the middle Cherry Master machine paid out at a rate of twenty-five cents per point, while the other Cherry Master machine on the right paid out at a rate of five cents per point.

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7. Investigators recognized these machines and pay out rates, based on their training and experience, as a standard pay-off rate for illegal gambling devices in Massachusetts.
8. Mr. Amore further stated to investigators that the machine vendor is Action Jackson and the split is fifty percent of the net revenue for the club, and fifty percent of the net revenue for Action Jackson.
9. Investigators made the following observations which, based on their training and experience, indicated that these electronic devices were being utilized as gambling devices:
 - Each device had markings that indicated "for amusement only".
 - After inserting the required amount of money into the device, an investigator selected the number of credits to bet. The device "registered" the bet by displaying the number of credits selected.
 - All the devices accepted dollar bills in US Currency ranging from \$1, \$5, \$10, and \$20.
 - The devices had the capability to double the bet by selecting the double-up button.
10. Investigator Teehan placed one dollar in the Video Poker device and proceeded to register a bet. He then pressed a button on the back right side of the device (a knock off switch) and observed the credits reset.
11. Investigator Teehan placed a dollar bill in each of the Cherry Masters devices and proceeded to register a bet. Each device had a white ticket mechanism (a knock off switch) on them. When that mechanism was pressed, investigators observed the credits reset.
12. Investigators informed Mr. Amore of the violation and that a report would be filed with the Chief Investigator.

CONCLUSION

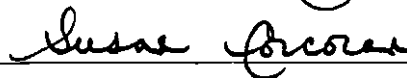
Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05(1) – Permitting Gambling. Therefore, the Commission **suspends the license for three (3) days, of which three (3) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur. In addition, the licensee must not possess in or on the licensed premises any video poker machines.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



Susan Corcoran, Commissioner



DATE: July 10, 2013

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
 Michael Teehan, Investigator
 Dennis Keefe, Investigator
 Administration
 File