

*Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
Telephone: 617-727-3040
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Jean M. Lorizio, Esq.
Chairman

NOTICE OF SUSPENSION

May 12, 2017

**RK& E CORP. D/B/A BK'S BAR & GRILL
264 OCEAN AVE.
REVERE, MA 02151
LICENSE#: 102200037
VIOLATION DATE: 02/02/2016
HEARD: 05/09/2017**

After a hearing on May 9, 2017, the Commission finds RK& E Corp. d/b/a BK's Bar & Grill violated:

- 1) 204 CMR 2.05 (1)-Permitting Gambling;
- 2) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises to wit: M.G.L. c. 23K, §37 (a) Unlawful conduct or operation of game or gaming device in violation of chapter;
- 3) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 271, § 17 Keeping a building or room, or any part thereof, with apparatus, books or any device for registering bets, upon the result of a machine; knowingly permitting the same to be used or occupied for such purpose; knowingly permitting to be therein kept, exhibited, used or employed, any device or apparatus for registering such bets.
- 4) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 140, § 177A (6) No person keeping or offering for operation, or allowing to be kept or offered for operation an automatic amusement device licensed under this section shall permit the same to be used for the purpose of gambling.

Therefore, the Commission **suspends the license for a total of 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.**

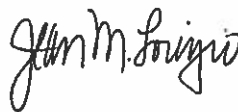
In addition, the Licensee must not possess in or on the licensed premises any automatic amusement devices or video poker machines.

The suspension shall commence on Wednesday, July 5, 2017, and terminate on Thursday, July 6, 2017. The license will be delivered to the Local Licensing Board or its designee on Wednesday, July 5, 2017 at 9:00 A.M. It will be returned to the Licensee Friday, July 7, 2017.

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, which must be signed by the Licensee and 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



Jean M. Lorizio
Chairman

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这份文件是重要的，应立即进行翻译。

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Joseph DiCiccio, Investigator
Jan Kujawski, Investigator
Christopher Temple, Investigator
James J. Cipoletta, Esq. via facsimile
Administration, File



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DECISION

**RK& E CORP. D/B/A BK'S BAR & GRILL
264 OCEAN AVE.
REVERE, MA 02151
LICENSE#: 102200037
VIOLATION DATE: 02/02/2016
HEARD: 05/09/2017**

RK& E Corp. d/b/a BK's Bar & Grill (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, May 9, 2017, regarding alleged violations of:

- 1) 204 CMR 2.05 (1)-Permitting Gambling;
- 2) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises to wit: M.G.L. c. 23K, §37 (a) Unlawful conduct or operation of game or gaming device in violation of chapter;
- 3) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 271, § 17 Keeping a building or room, or any part thereof, with apparatus, books or any device for registering bets, upon the result of a machine; knowingly permitting the same to be used or occupied for such purpose; knowingly permitting to be therein kept, exhibited, used or employed, any device or apparatus for registering such bets.
- 4) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 140, § 177A (6) No person keeping or offering for operation, or allowing to be kept or offered for operation an automatic amusement device licensed under this section shall permit the same to be used for the purpose of gambling.

Prior to the commencement of the hearing, the Licensee stipulated to the violations of 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, as alleged in Investigator Di Cicco's Report.

The following documents are in evidence:

1. Licensee's Stipulation to 204 CMR 2.05 (2) Violations;
2. Investigator Di Cicco's Investigative Report;
3. Photo of Envelope Containing U.S. Currency; and
4. Photos of Gaming Devices;

The Commission took Administrative Notice of the Licensee's Commission files.

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

FINDINGS OF FACT

1. Investigators Kujawski, Temple, Di Cicco, and Chief Investigator Mahony ("Investigators") conducted an investigation of RK& E Corp. d/b/a BK's Bar & Grill to determine the manner in which its business was being conducted.
2. On Monday, February 1, 2016, Investigator Di Cicco was working in an undercover capacity at RK& E Corp. d/b/a BK's Bar & Grill located at 264 Ocean Avenue, Revere, MA.
3. Investigator Di Cicco sat at the bar, ordered an Amstel Light beer and played Keno. He observed multiple people enter a back room of the licensed premises.
4. The back room contained electronic video devices which Investigator Di Cicco had observed on prior visits to the establishment.
5. While seated at the bar, Di Cicco observed a woman from the back room call out to the bartender on duty, Tito. He observed Tito go into the back room and return to the bar area several minutes later. Upon his return, Tito got a soft pouch from what appeared to be a beer chest, and he took money out of the pouch. The woman from the back room came out to the bar, and Tito gave her the money he had taken from the pouch.
6. During his previous visits to the bar, Investigator Di Cicco had observed similar behavior by Tito and by a female named Marilyn, whom patrons and employees addressed as Mel. On several occasions, Mel stated to Di Cicco that she had sent Tito to pick up supplies. She talked to Di Cicco about ordering stock for the bar, events at the bar and had sold him football squares for the Super Bowl game on February 7, 2016.
7. Over the course of his investigation, Investigator Di Cicco observed both Mel and Tito go into the back room which contained electronic video devices, when called there by patrons. Di Cicco observed Mel and Tito return to the bar, go over to the beer cooler located at the end of the bar by the door, remove a pouch from the cooler, and take cash out of the pouch. Then Mel or Tito would return to the back room with the cash. On occasion a person from the back room would come up to bar. On prior visits, Di Cicco observed Mel hand to a male individual, who had been in the back room, cash before the male exited the bar. Based on his training and experience, Investigator Di Cicco knew this behavior to be consistent with that of illegal gambling.

8. On Monday, February 1, 2016, at approximately 2:30 p.m., Investigator Di Cicco entered the back room of the licensed premises where the electronic video devices were kept. Di Cicco made the following observations that based on his knowledge, training and experience, indicated the devices were being used for illegal gambling. He observed:
 - a. Signs around the room which read for entertainment only;
 - b. The devices had signs which read for amusement only;
 - c. Each device accepted U. S. Currency in bills ranging from \$1, \$5, \$10, \$20;
 - d. Each device had the capacity to choose the amount to bet, to raise the bet, and to double up;
 - e. The devices in the back room were not visible to most areas of the establishment;
 - f. The back room was equipped with surveillance cameras.
9. Inside the back room, Investigator Di Cicco observed three white females who were utilizing the electronic video devices. Di Cicco sat at the second device from the right which was a touch screen device with several games on it. That device did not appear to have a name. Di Cicco inserted \$6.00 into the machine (a five dollar bill and a one dollar bill) and the device displayed \$6.00. He then played a few hands of poker, of which he won some and lost some. The dollar amount in his bank changed based on his bet and the amount won or lost.
10. Di Cicco then got a flush poker hand and won over \$45.00. He played another hand and his winnings dropped to \$45.00 even. The other patrons in the room told Di Cicco he should cash out and stay ahead. Di Cicco then called Tito into the back. Tito verified the winnings, then touched a button on the left-hand corner of the screen. A dialog box popped up, Tito pressed another button, and the electronic video device reset the bank to zero.
11. Tito asked if Di Cicco had been paid out at the establishment before this time. Di Cicco informed Tito that he had. The three females in the room also informed Tito that they had seen Di Cicco in there before. The three females talked amongst themselves, asking why Tito was giving Di Cicco a hard time.
12. Tito said he needed to make a phone call before he made the pay-out. At approximately 3:15 p.m., Tito paid out \$45.00 in U.S Currency to Di Cicco (in the form of two \$20.00 bills and one \$5.00 bill). Di Cicco then gave \$5.00 to Tito as a tip. Di Cicco stated to Tito that he did not understand why Tito gave him such a hard time. Tito told Di Cicco not to worry about it, and he offered Di Cicco a beer. Di Cicco declined the beer saying he had to return to work and then exited the premises.
13. On Friday, August 19, 2016, at approximately 9:21 p.m., Investigators Kujawski, Temple and Chief Mahony ("Investigators") conducted an investigation of RK& E Corp. d/b/a BK's Bar & Grill to determine the manner in which its business was being conducted.
14. Investigators entered the premises and observed five electronic video devices in a back room. Device #1 was named Platinum Touch III; device #2 called Platinum Touch I; device #3 marked Platinum Touch I, II, & III; and device #5 named Platinum Touch III.
15. Electronic video device #4 was powered off and unnamed. Device #4 had markings "for amusement only" and it had a currency acceptor for U.S. Currency in various denominations.

16. Investigators observed the electronic video devices had the following characteristics which, based on their training and experience, indicated these devices were being utilized for illegal gambling:
- Each device accepted U. S. Currency in bills ranging from \$1, \$5, \$10, \$20, \$50;
 - Each device was marked “for amusement only”;
 - Each device had a “knock off” mechanism in the form of a redeem button, which when pressed, reset the credits earned to zero.
17. Electronic video device #2 indicated it had .23 “dollars.” Investigator Temple inserted \$1.00 U.S. Currency into device #2, which then registered 1.23 “dollars.” Temple then selected .75 (the amount he wanted to bet) which the device registered. When he pressed play, the device indicated a win of 0.50 and a win of 0.80. The device displayed on the bottom left corner that the bet was 0.75 with winnings of 1.30.
18. After several plays on device #2, Investigator Temple had accumulated 10.73 “dollars.” Temple then pressed the Redeem button on the screen. A dialog box popped up asking if he wanted to redeem his credits (10.73 dollars). Temple pressed the yes button. Another dialog box popped up asking “Dollars” 10.73 Clear Yes or No. Investigator Temple selected Yes and the credits reset to zero.
19. Investigators asked for the manager and were directed to Marilyn Symmes. Investigators asked Ms. Symmes if the business payed out the electronic video devices. Symmes stated the devices were for entertainment only and the bar did not make pay outs on them.
20. Chief Mahony asked Ms. Symmes to confirm her statement that the bar did not make pay outs on the machines. Ms. Symmes confirmed that no pay outs were made.
21. Investigators informed the Licensee of the violation and that a report would be submitted to the Commission 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: M.G.L. c. 23K, §37 (a) Unlawful conduct or operation of game or gaming device in violation of chapter;
- 3) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 271, § 17 Keeping a building or room, or any part thereof, with apparatus, books or any device for registering bets, upon the result of a machine; knowingly permitting the same to be used or occupied for such purpose; knowingly permitting to be therein kept, exhibited, used or employed, any device or apparatus for registering such bets.
- 4) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 140, § 177A (6) No person keeping or offering for operation, or allowing to be kept or offered for operation an automatic amusement device licensed under this section shall permit the same to be used for the purpose of gambling.

On the first violation, 204 CMR 2.05 (1)-Permitting Gambling, 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.**

On the second violation, 204 CMR 2.05 (2) to wit: M.G.L. c. 23K, §37 (a), 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. This suspension shall run concurrently with the one above.**

On the third violation, 204 CMR 2.05 (2), to wit: M.G.L. c. 271, § 17 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. This suspension shall run concurrently with those above.**

On the fourth violation, 204 CMR 2.05 (2), to wit: M.G.L. c. 140, §177A (6), 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. This suspension shall run concurrently with those above.**

Therefore, the Commission **suspends the license for a total of 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.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner

Kathleen McNally

Jean M. Lorizio, Chairman

Jean M. Lorizio

Elizabeth A. Lashway, Commissioner

Elizabeth A. Lashway

Dated: May 12, 2017

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.

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