

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

Steven Grossman
Treasurer and Receiver General

AMENDED NOTICE OF SUSPENSION

Kim S. Gainsboro, Esq.
Chairman

January 30, 2012

Woody's, Inc. dba Woody's Liquors
523 Broadway
Somerville, MA 02144
License #: 113000085
Heard: September 13, 2011

After a hearing on September 13, 2011, the Commission found Woody's, Inc. dba Woody's Liquors in violation of 204 CMR 2.05 (2).

The Commission suspended the licensee's license for a total of twelve (12) days to be served. The licensee has already served one and a half (1.5) days of the twelve (12) days suspension.

The balance of the suspension of ten and a half (10.5) days shall commence on **Wednesday, February 29, 2012 and terminate on Saturday, March 10, 2012**. The license will be delivered to the Local Licensing Board or its designee on Wednesday, February 29, 2012 at 9:00 A.M. It will be returned to the licensee Saturday, March 10, 2012 after 4:00 P.M.

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: Frank Russell, Esq.
Local Licensing Board
✓ Frederick G. Mahony, Chief Investigator
Administration
File



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AMENDED DECISION

Woody's, Inc. dba Woody's Liquors
523 Broadway
Somerville, MA 02144
License #: 113000085
Heard: September 13, 2011

Woody's, Inc. dba Woody's Liquors (the "Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §15. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, September 13, 2011, regarding an alleged violation 204 CMR 2.05 (1), possession on the licensed premises of a device which furnishes anything besides merchandise of a quantity and quality commensurate with the price deposited therein, detailed in Investigator Michael Teehan's report.

The following documents are in evidence:

1. Investigator Michael Teehan's Report; and
 2. Receipt Copy.
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- A. Letter from Butters Brazilian, LLP; and
 - B. Receipts for Machines.

There is one (1) tape of this hearing.

FACTS

1. On July 21, 2011 at approximately 8:00 p.m., Investigator Teehan and Capurso investigated the business operation of Woody's, Inc. dba Woody's Liquors in response to a complaint filed with the Investigation and Enforcement Division.
2. Upon entering the licensed premises, Investigators Capurso and Teehan identified themselves to the male clerk on duty as Investigators with the ABCC and a short time later a female clerk entered the licensed premises.
3. Investigators Capurso and Teehan informed both employees of the complaint.
4. Investigators observed four phone card machines in the basement.
5. The printing indicated "Good for 30 Minutes of Phone Time" along with five (5) pin numbers. Ex B
6. Investigator Teehan further observed that in addition to the register type paper that provided calling card service minutes, the screen indicated that there were one hundred and seventy (170) "credits" that had been awarded for placing the five (5) dollars in U.S. currency into the device.
7. The clerk stated to investigators that once an individual is done playing, they print out a ticket from the machine, hand it to the clerk on duty and payout from the cash box behind the counter.

8. Investigator Teehan spoke with the owner on the phone and informed him of the violation.
9. The licensee stated that he believed the machines were legal and that there was no violation due to the fact of the legality of the machines.
10. He also stated that had he known the intent of the machines to "pay-out" for calling cards was illegal, he would not have had them in his establishment.
11. He stated that he would remove the machines and would cease from having any type of machines of this nature in his establishment.
12. An administrative review of the file indicates that the licensee has had the license for fifteen (15) years and this is his second violation in a year.

CONCLUSION

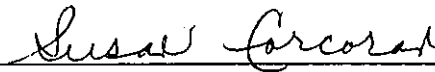
Based on the evidence, the commission finds the licensee violated 204 CMR 2.05 (1), possession on the licensed premises of a device which furnishes anything besides merchandise of a quantity and quality commensurate with the price deposited therein. The Commission **suspends the license for six (6) days. In addition, the licensee must not possess in or on the licensed premises any prohibited device or video poker machine.**

By decision dated June 30, 2010, the Commission had previously ordered a six (6) day license suspension but had held the suspension in abeyance for a period of two (2) years provided no further violations occurred. Based on the violation found above, the licensee violated the conditions of that six (6) day suspension being held in abeyance. The Commission hereby orders that suspension to be served on and after the six (6) day suspension. The licensee will serve a total twelve (12) days.

The licensee has already served one and a half (1.5) days of the twelve (12) days suspension. Therefore, only the balance of the suspension of ten and a half (10.5) days is left to be served.

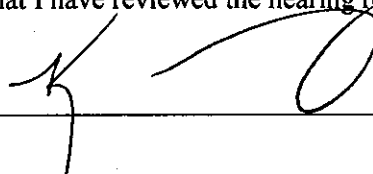
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner



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

Kim S. Gainsboro, Chairman



Dated: January 30, 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: Frank Russell, Esq.
Local Licensing Board
Frederick G. Mahony, Chief Investigator
Administration
File