

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

January 25, 2013

DUDLEY L. BROWN POST 2846 VFW OF US, INC.
4 GIBBS ST.
WAREHAM, MA 02558
LICENSE#: 132800020
VIOLATION DATE: 08/17/2012
HEARD: 12/11/2012

After a hearing on December 11, 2012, the Commission finds Dudley L. Brown Post 2846 VFW of US, Inc. in violation of:

- 1) M.G.L. c. 138, §23- Failure to maintain compliance with the requirements of this chapter, to wit: M.G.L. c. 138, §26 Operating without an approved manager;
- 2) M.G.L. c. 138, §15A- Failure to disclose all persons who have a direct or indirect beneficial or financial interest in said license, to wit: Failure to notify licensing authorities of a change of officers and directors; and
- 3) 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: c. 138, §12 Alcoholic beverages off the license premises.

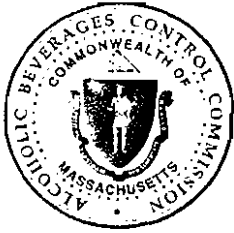
The above-captioned licensee's license is **SUSPENDED INDEFINITELY FORTHWITH** until further written order from this Commission.

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
Jamie Binienda, Investigator
Tara Kelleher, Investigator
Administration
File



The Commonwealth of Massachusetts
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DECISION

DUDLEY L. BROWN POST 2846 VFW OF US, INC.
4 GIBBS ST.
WAREHAM, MA 02558
LICENSE#: 132800020
VIOLATION DATE: 08/17/2012
HEARD: 12/11/2012

Dudley L. Brown Post 2846 VFW of US, 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, December 11, 2012, regarding alleged violations of:

- 1) M.G.L. c. 138, §23- Failure to maintain compliance with the requirements of this chapter, to wit: M.G.L. c. 138, §26 Operating without an approved manager;
- 2) M.G.L. c. 138, §15A- Failure to disclose all persons who have a direct or indirect beneficial or financial interest in said license, to wit: Failure to notify licensing authorities of a change of officers and directors; and
- 3) 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: c. 138, §12 Alcoholic beverages off the license premises.

The above captioned occurred on August 13, 2012, according to Investigator Binienda's Report.

The following documents are in evidence as exhibits:

1. Investigator Binienda's Investigative Report dated August 17, 2012, with attached Wareham Police Department reports for an incident that occurred on August 13, 2012.
 - A. Photograph of Building and Gazebo Outside of Licensed Premises;
 - B. Photocopy of Licensee's Annual Report Filings (2002-2003) and (2005-2012) to the Massachusetts Secretary of State Office; and
 - C. Town of Wareham Reminder Notice to Licensees Regarding M.G.L. c.138 § 1.

There is one (1) audio recording of this hearing, and one witness testified.

FACTS

The Commission makes the following findings, based on the evidence presented at the hearing:

1. On Monday, August 13, 2012, the Wareham Police Department dispatched several officers to the above mentioned premises for report of a disturbance and a stabbing.
2. The incident took place outside the licensed premises.
3. Two people were stabbed resulting in serious injuries requiring medical attention.

4. As a result of this incident, the Wareham Police Department requested the assistance of the Commission's Investigation and Enforcement Division.
5. On Friday, August 17, 2012, Commission Investigators Kelleher and Binienda, along with Wareham Police Detective Dave Simmons, investigated the business operation of Dudley L. Brown Post 2846 VFW of US, Inc. to determine the manner in which their business was being conducted.
6. Commission Investigators and Detective Simmons entered the premises and identified themselves to the bartender on duty, Linda Tannahill. Ms. Tannahill then telephoned Quartermaster Julio Roderick and asked him to come to the premises.
7. On December 29, 2004, the Commission approved a Change of Manager application for this licensee from Michael Dixon to Arthur Lee, Jr. According to an administrative review of the file, Mr. Lee was the last approved manager for this licensee.
8. When Mr. Roderick arrived at the premises, Investigators questioned him regarding the manager of record, Mr. Lee.
9. Mr. Roderick stated, "No, he's not the manager anymore. He's like 70 years old and does not have manager duties anymore."
10. When Investigators asked who the current manager is, Mr. Roderick stated, "Paul Rose is the manager, and has been for about three years."
11. Mr. Roderick further stated, "I order the alcohol and set up the drawer for the bartenders, and Paul Rose does the hiring and firing."
12. Administrative review of the Commission file for this license revealed that the last approved (as of December 29, 1986) officers/directors for the licensee are:
 - o President – August Lopes;
 - o Treasurer – William Stevens;
 - o Clerk – Daniel Monteiro;
 - o Directors – Robert Andrews, August Baptiste, Anthony Spinola, and Charles Gonsalves.
13. The Secretary of State Corporations Division website indicated the current officers/directors as:
 - o President – Michael Dixon;
 - o Treasurer – Julio Roderick;
 - o Clerk – Arthur Lee.
14. Investigators asked if Mr. Dixon was still President of the Corporation.
15. Mr. Roderick stated, "No, he moved to Arizona."
16. Administrative review of the Commission file includes a description of the approved licensed premises as a wooden building of one and one-half story, with four (4) rooms on the first floor, and four (4) rooms on the second floor. The building has two (2) front entrances, three (3) side, and two (2) rear exits.
17. On July 3, 1990, this Commission disapproved an alteration of premises for this licensee because the area to be altered was not contiguous to the premises. The alteration was to include a pavilion and a two hundred (200) foot picnic area.
18. Investigators then asked Mr. Roderick to give them a tour of the premises.
19. Mr. Roderick brought Investigators and Detective Simmons outside the building and over to the pavilion and picnic area.
20. Investigators observed that the pavilion is located a far distance from the back door of the licensed premises. It is beyond the parking lot and is not contiguous to the licensed premises.
21. Investigators asked if the club sold alcoholic beverages outside at the pavilion. Mr. Roderick stated, "Yes, we do."
22. Investigators asked if alcoholic beverages are stored at the pavilion. Mr. Roderick stated, "Yes in an outside storage container."
23. Investigators observed an outside storage container with a lock on it. Inside it there were several cases and bottles of alcoholic beverages.
24. Investigators and Detective Simmons, along with Mr. Roderick, returned to the licensed premises building.

25. Investigators advised Mr. Roderick of the possible violations, and that a report would be submitted to the Chief Investigator for further action.
26. At the Commission hearing, Mr. Julio Roderick, Jr., Mr. Paul Rose, Mr. Edward Costa, and Mr. Arthur R. Lee, Jr. appeared on behalf of the Dudley L. Brown Post 2846 VFW of US, Inc.
27. Mr. Roderick testified that the stabbing incident occurred at the Dudley L. Brown Post 2846 VFW of US, Inc.
28. Mr. Roderick admitted to the Commission that the licensee has been selling alcoholic beverages at the pavilion and a two hundred (200) foot picnic area. Both locations, which are outside the licensed premises, are not included in the description of the licensed premises where the licensee is legally allowed to sell and serve alcoholic beverages.
29. Mr. Roderick testified before the Commission that alcoholic beverages are also stored at the pavilion in an outside storage container that is not included in the description of the licensed premises.
30. Mr. Roderick and Mr. Arthur Lee told the Commission that Mr. Lee, who is the approved manager of this license, was not able to be at the premises that often due to his health.
31. Mr. Roderick and Mr. Lee testified that Mr. Paul Rose is and has been operating the premises as the manager.
32. Mr. Rose has not been approved by the Commission or the Local Board as the manager of this licensed premises.
33. Mr. Roderick and Mr. Lee testified before the Commission that the Officers and Directors which were approved by the Commission and exist in Commission records have changed, and are no longer the Officers and Directors of the corporation or the license.
34. The Commission heard testimony that the officers and directors on file with the Massachusetts Secretary of State, Corporation Division, (not approved by the Commission) have also changed, and are no longer in existence.

DISCUSSION

Licenses to sell alcoholic beverages are a special privilege subject to public regulation and control, Connolly v. Alcoholic Beverages Control Commn., 334 Mass. 613, 619 (1956), for which States have especially wide latitude pursuant to the Twenty-First Amendment to the United States Constitution. Opinion of the Justices, 368 Mass. 857, 861 (1975). The procedure for the issuance of licenses to sell alcoholic beverages is set out in M.G.L. c. 138. Licenses must be approved by both local licensing authorities and the ABCC. M.G.L. c. 138, §§12, 67. See Beacon Hill Civic Assn. v. Ristorante Toscano, Inc., 422 Mass. 318, 321 (1996). Section 23 of c. 138 provides, in pertinent part: "Any license under this chapter held by an individual, partnership, or corporation may be transferred to any individual, partnership or corporation qualified to receive such a license in the first instance, if, in the opinion of the licensing authorities, such transfer is in the public interest." Section 2 of c. 138 provides, in pertinent part: "No person shall ... sell ... alcoholic beverages or alcohol, except as authorized by this chapter [.] Violation of any provision of this section shall be punished except as provided in section twenty-two [for unlawful transportation of alcoholic beverages] by a fine of not less than one hundred nor more than one thousand dollars or by imprisonment for not more than one year, or both."

In reviewing the authority of the Commission, the Supreme Judicial Court has held that [t]he powers of the States in dealing with the regulation of the sale of intoxicating liquors are very broad. What they may wholly prohibit, they may permit only on terms and conditions prescribed by the Legislature. Supreme Malt Products Co., Inc. v. Alcoholic Beverages Control Commission, 334 Mass. ---; Ziffrin, Inc. v. Reeves, 308 U.S. 132, 138-139; Carter v. Virginia, 321 U.S. 131, 137-143. In dealing with a trade, which, because of its great potential evils, can be wholly prohibited, a wide power is given to the Legislature with respect to the delegation of discretionary powers. Particularly in view of the extent to which the policy of c. 138, and the basis for action under it, have been specified, as already indicated, there is no invalid delegation of authority

to the Commission in leaving to it, as was done in § [12], the power to approve or disapprove applicants for licenses. See Butler v. East Bridgewater, 330 Mass. 33, 36-37. Connolly v. Alcoholic Beverages Control Commission, 334 Mass. 613, 619, (1956).

The SJC further held that “[t]he legislative history of [the Commission’s enabling act], and of M.G.L. (Ter.Ed.) Ch. 138, as amended, clearly shows that the powers of the Commission were not intended to be perfunctory or limited. In the very respect here in issue, the approval or disapproval of the action of local licensing authorities, that history indicates that the Commission was charged with important responsibilities and that it was not to be narrowly restricted in performing them.” Connolly v. Alcoholic Beverages Control Commission, 334 Mass. 613, 617 (1956).

M.G.L. c. 138, §23- Failure to maintain compliance with the requirements of this chapter, to wit: M.G.L. c. 138, §26 - Operating without an approved manager:

M.G.L. c. 138, section 23, states in part: “Whenever, in the opinion of the **local licensing authorities** (emphasis supplied), any applicant for a license under section twelve, fourteen, fifteen or thirty A fails to establish to their satisfaction his compliance with the requirements of this chapter, or any other reasonable requirements which they may from time to time make with respect to licenses under said sections, respectively, or to the conduct of business by any licensee thereunder, said authorities may refuse to issue or reissue to such applicant any such license; and whenever in their opinion any holder of such a license fails to maintain compliance with this chapter or it appears that alcoholic beverages are being or have been sold, served or drunk therein in violation of any provision of this chapter, they may, after hearing or opportunity therefor, modify, suspend, revoke or cancel such license...” M.G.L. Ch. 138, section 23, paragraph 4. The term “local licensing authorities” is defined in General Laws chapter 138, §1 as “the licensing boards and commissions established in any city or town under special statute or city charter or under section four or corresponding provisions of earlier laws, or, in a city having no such board or commission or having a board rendered inactive under section eight, the aldermen, or in a town having no such board or commission, the selectmen.” The Commission is not the “local licensing authorities” under chapter 138 of the General Laws. Section 23 of chapter 138 is inapposite to the enforcement authority of the Commission.

The licensee did not argue that it was prejudiced in anyway by this citation of the violation alleged by the investigator and contained in the Commission –issued Notice of Hearing. Therefore, the Commission finds the licensee did not suffer any prejudice in its preparation or presentation of a defense to this alleged violation. The Commission does have express authority to take enforcement action in matters such as this. M.G.L. c. 138, § 64. The Notice of Hearing issued regarding this violation did specify that the alleged violation was “M.G.L. c. 138, § 26 Operating without an approved manager.”

M.G.L. c. 138, section 26, states in part: “No corporation, organized under the laws of the Commonwealth or of any other state or foreign country, shall be given a license to sell in any manner any alcoholic beverages unless such corporation shall have first appointed, in such manner as the licensing authorities by regulation prescribe, as manager or other principal representative, a citizen of the United States, and shall have vested in him by properly authorized and executed written delegation as full authority and control of the premises, described in the license of such corporation, and of the conduct of all business therein relative to alcoholic beverages as the licensee itself could in any way have and ~~exercise if it were a natural person resident in the commonwealth, nor unless such manager or representative is, with respect to his character, satisfactory to the licensing authorities.”~~ M.G.L. Ch. 138, section 26, paragraph 2.

M.G.L. c. 138 § 26 requires each corporation that holds a license to “have first appointed, in such manner as the licensing authorities by regulation prescribe, as manager or other principal representative, a citizen by properly authorized and executed written delegation as full authority and control of the premises, described in the license of such corporation, and of the conduct of all business therein relative to alcoholic beverages as the licensee itself could in any way have and exercise if it were a natural person resident in the Commonwealth.” The license manager is a position required by law. M.G.L. c. 138, § 26. Operating the license without the approved license manager in place violates M.G.L. c. 138, § 26. Howard Johnson Company v. ABCC, 24 Mass. App. Ct. 487 (1987). An application that has not been approved by both the Local Board and the Commission does not comply with the statutory requirements.

Investigator Binienda testified that during his inspection of the premises, he was told by Mr. Roderick, that Mr. Arthur Lee is no longer the manager of the premises. Mr. Paul Rose is the manager and has been for approximately the last three years. Mr. Roderick testified before the Commission that Mr. Lee has been ill, and has not been able to operate and manage the licensed premises. Mr. Paul Rose, who was present at the hearing, is managing the premises. Mr. Arthur Lee, the approved manager, testified before the Commission that due to his health, he is only able to spend a few hours a week at the premises. Mr. Rose is at the premises the majority of the time.

The licensee violated M.G.L. c. 138 § 26. The Commission finds that a violation of M.G.L. c. 138, § 23- Failure to maintain compliance with the requirements of this chapter, to wit: M.G.L. c. 138, § 26 - Operating without an approved manager, was committed. Mr. Arthur Lee, the approved manager, testified that he is not able to be at the premises that often. Investigator Binienda and Mr. Roderick both testified before the Commission that Mr. Paul Rose, who is not approved by the licensing authorities, is managing the premises.

M.G.L. c. 138, § 15A- Failure to disclose all persons who have a direct or indirect beneficial or financial interest in said license, to wit: Failure to notify licensing authorities of a change of officers and directors:

M.G.L. c. 138, § 15A requires that a licensee or applicant for an alcoholic beverages license disclose all individuals who have a direct or indirect beneficial interest in the license. The Appeals Court held in Number Three Lounge, Inc. v. Alcoholic Beverages Control Commission, 7 Mass. App. Ct. 301 (1979), the concept of a “direct or indirect beneficial interest” in a license can range from an ownership interest to an absolute proprietary interest to a mere possessing right and includes the right of control. The officers and directors of a corporation are the control group of that corporation.

In this case, the licensee changed the officers and directors of the corporation that holds the license without the statutorily required prior approval from both the Local Board and the Commission. The individuals who were last disclosed and approved by the Local Board and the Commission to hold the positions of corporate directors and corporate officers either withdrew from or abandoned their roles in the corporation. The licensee neither sought nor received the statutorily required approvals of this change. This is a violation of M.G.L. c. 138, § 15A.

A licensee, who wishes to transfer its license, or an interest in its alcoholic beverages license, is required to obtain prior written approval from the licensing authorities. This allows the licensing authorities to determine if the transfer is in the public interest, and if the proposed transferee is someone who qualifies to hold a license.

Implicit in the transfer of a license is the surrender of control. A “transfer of a business takes place when the person introduced to it runs the business for his own account.” Griffin's Brant Rock Package Store,

Inc. v. Alcoholic Beverages Control Commission, 12 Mass. App.Ct.768, 771, 429 N.E.2d 62, 65 (1981). The Commission is instructed by the cases of Cleary v. Cardullo's, Inc., 347 Mass. 337, 346-350, 198 N.E.2d 281 (1964) and Number Three Lounge, Inc. v. Alcoholic Beverages Control Comm., 7 Mass. App. 301, 304-308, 387 N.E.2d 181 (1979). As characterized by the Appeals Court in the Griffin's Brant Rock case, "[i]n Cleary, the purported principal contributed no financial resources and was wholly dependent on his father and corporations controlled by his father." Griffin's Brant Rock Package Store, Inc. v. Alcoholic Beverages Control Commission, 12 Mass. App.Ct.768, 771, 429 N.E.2d at 65, and "[i]n Number Three Lounge, there was evidence that a son-in-law of a person who had been refused a license was substituted as an applicant, but the substitution lacked all economic substance." Griffin's Brant Rock Package Store, Inc. v. Alcoholic Beverages Control Commission, 12 Mass. App. Ct. at 773-774, 429 N.E. 2d at 66.

The most recent administrative review of the Commission file for the licensee, Dudley L. Brown Post 2846 VFW of US, Inc., revealed that the last approved (as of December 29, 1986) officers/directors for the licensee are: President – August Lopes; Treasurer – William Stevens; Clerk – Daniel Monteiro; and Directors – Robert Andrews, August Baptiste, Anthony Spinola, and Charles Gonsalves. The Commission heard testimony that these individuals are not the current Officers and Directors of this corporation and the licensee.

Evidence was presented to the Commission that the records of the Secretary of State, Corporations Division indicate that the current officers/directors of the licensee are: President – Michael Dixon; Treasurer – Julio Roderick; and Clerk – Arthur Lee. Mr. Roderick and Mr. Lee each appeared and testified before the Commission. The Commission heard evidence that Mr. Dixon is no longer the President of the Corporation as he has moved to Arizona, and that neither the Commission records, nor the filings of the Secretary of State are accurate. The Officers and Directors do not exist as these records reflect. The Commission records indicate that the President is August Lopes; the Treasurer is William Stevens; the Clerk is Daniel Monteiro; and the Directors are Robert Andrews, August Baptiste, Anthony Spinola, and Charles Gonsalves, and that these are the only persons who have any direct or indirect beneficial interest in this license.

The Commission records did not disclose that the licensee ever sought the statutorily required prior approval to change the officer and directors for individuals other than those approved by the Commission to have a direct or indirect beneficial interest in this license. The Appeals Court held in Number Three Lounge, Inc. v. Alcoholic Beverages Control Commission, 7 Mass. App. Ct. 301 (1979), the concept of an ownership interest can vary from an absolute proprietary interest to a mere possessory right.

The Commission is convinced by satisfactory proof and finds that there was a change of officers and directors resulting in a transfer of a direct or indirect beneficial interest in the license, without first obtaining written approval and permission from both the Local Board and the Commission, as required by statute. M.G.L. c. 138, sections 15A and 23.

204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: c. 138, §12 - Alcoholic beverages off the license premises:

204 CMR 2.05 (2) states: No licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to the place in or on the licensed premises. The licensee shall be responsible therefore, whether present or not. M.G.L. c. 138 gives the Commission the authority to grant, revoke and suspend licenses. Chapter 138 was "enacted ... to serve the public need and ... to

protect the common good.” M.G.L. c. 138, § 23, as amended through St. 1977, c. 929, § 7. “[T]he purpose of discipline is not retribution but the protection of the public. Arthurs v. Board of Registration in Medicine, 383 Mass. 299, 317 (1981). The Commission is given “comprehensive powers of supervision over licensees,” Connolly v. Alcoholic Beverages Control Commission, 334 Mass. 613, 617 (1956), as well as broad authority to issue regulations. The Local Board has authority to enforce Commission regulations. New Palm Gardens, Inc. v. Alcoholic Beverages Control Commission, 11 Mass. App. Ct. 785, 788 (1981).

The law is well-settled that under the regulation, [204 CMR 2.05 (2)] the responsibility of the licensee is to exercise sufficiently close supervision so that there is compliance with the law on the premises. A vendor who sells alcohol is “bound at his own peril to keep within the conditions of his license.” Commonwealth v. Gould, 158 Mass. 499, 507 (1893). Burlington Package Liquors, Inc. v. Alcoholic Beverages Control Commission, 7 Mass. App. Ct. 186, 190 (1979). It is, thus, quite possible for a licensee to offend the regulatory scheme without scienter. Rico’s of the Berkshires, Inc. v. ABCC, 19 Mass. App. Ct. 1026, 1027 (1985) (rescript).

The licensee is responsible for illegalities, disturbances, and/or disorders that occur on the licensed premises. The licensee has a duty of care to prevent foreseeable harm to its patrons and others. See Tobin, Id; Westerback v. Harold F. Leclair Co., 50 Mass. App. Ct. 144 (2000); Kane v. Fields Corner Grille Inc., 341 Mass. 640, 641 (1961); Carey v. New Yorker of Worcester, Inc. 355 Mass. 450, 451 (1969).

M.G.L. c. 138, Section 12, states in part: “A common victualler duly licensed under chapter one hundred and forty to conduct a restaurant, an innholder duly licensed under said chapter to conduct a hotel, a pub brewer and a keeper of a tavern as defined by this chapter, in any city or town wherein the granting of licenses under this section to sell all alcoholic beverages or only wines and malt beverages, as the case may be, is authorized by this chapter, subject however, in the case of a tavern, to the provisions of section eleven A, may be licensed by the local licensing authorities, subject to the prior approval of the commission, to sell to travelers, strangers and other patrons and customers not under twenty-one years of age, such beverages to be served and drunk, in case of a hotel or restaurant licensee, only in the dining room or dining rooms and in such other public rooms or areas of a hotel as the local licensing authorities may deem reasonable and proper, and approve in writing;...” M.G.L. c. 138, section 12, paragraph 1.

Evidence was presented at the hearing that an Administrative review of the Commission file includes a description of the approved licensed premises as a wooden building of one and one-half story, with four (4) rooms on the first floor, and four (4) rooms on the second floor. The building has two (2) front entrances, three (3) side, and two (2) rear exits. On July 3, 1990, this Commission previously disapproved an alteration of premises for this licensee because the area to be altered, to include the pavilion and a two hundred (200) foot picnic area, was not contiguous to the premises. Investigator Binienda testified that he inspected the premises with Mr. Roderick, who brought him outside the licensed premises and over to the pavilion and picnic area, which is not contiguous to the licensed premises. Investigator Binienda testified that the pavilion is located a far distance from the back door of the licensed premises. It is beyond the parking lot, and is not contiguous to the licensed premises. Investigator Binienda testified that Mr. Roderick admitted that the licensee sells and stores alcoholic beverages outside at the pavilion, which is not approved as part of the licensed premises. Mr. Roderick admitted to the Commission that the licensee has been selling and serving alcoholic beverages at the pavilion and at a two hundred (200) foot picnic area. The licensee also admitted to storing alcoholic beverages at the pavilion. These areas are not approved as areas under the description of the licensed premises.

Based on the evidence and by the licensee’s own admissions, the Commission finds that the licensee was selling alcoholic beverages outside of the approved area of its licensed premises in violation of 204 CMR

2.05 (2) - Permitting an illegality on the licensed premises, to wit: c. 138, §12 - Alcoholic beverages off the license premises.

CONCLUSION

Based on the evidence, the Commission finds that the licensee did violate:

- 1) M.G.L. c. 138, §23- Failure to maintain compliance with the requirements of this chapter, to wit: M.G.L. c. 138, §26 Operating without an approved manager;
- 2) M.G.L. c. 138, §15A- Failure to disclose all persons who have a direct or indirect beneficial or financial interest in said license, to wit: Failure to notify licensing authorities of a change of officers and directors; and
- 3) 204 CMR 2.05 (2) - Permitting an illegality on the licensed premises, to wit: c. 138, §12 Alcoholic beverages off the license premises.

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of Dudley L. Brown Post 2846 VFW of US, Inc. **effective forthwith**, until further written order of the Commission.

The Commission will not issue any further order without a written request from the licensee showing good cause to reconsider this indefinite suspension and a hearing before the Commission that the licensee attends. Good cause for the Commission to consider issuing a further written order revising the order of indefinite suspensions will include, but not be limited to, the Licensee filing the appropriate application to secure the required approvals for at least two (2) transactions, i.e. an approved license manager as required by M.G.L. c. 138, section 26 and for approval of the officers and directors of the license holder corporation as required by M.G.L. c. 138, section 15A. In addition, the Licensee must become current on the annual report required by M.G.L. c. 138, section 1 and any filing(s) with the Office of the Secretary of the Commonwealth required to comply with the corporation laws of the Commonwealth.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner *Kathleen McNally*

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

Susan Corcoran, Commissioner *Susan Corcoran*

DATE: January 25, 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~~
- Jamie Binienda, Investigator
- Tara Kelleher, Investigator
- Administration
- ✓File