



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 6, 2014

AMERICAN LEGION POST #22
33 LEGION PARKWAY
WHITMAN, MA 02382
LICENSE#: 146200007
VIOLATION DATE: 03/06/2014
HEARD: 08/05/2014

After a hearing on August 5, 2014, the Commission finds the American Legion Post #22 in violation of 204 CMR 2.05 (1) - Permitting Gambling.

The Commission **suspends the licensee's license for a total of two (2) days to be served. The suspension shall be served concurrently with the Indefinite Suspension effective forthwith.**

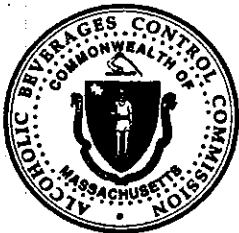
You are advised that pursuant to the provisions of M.G.L. c.138 §23, you may petition the Commission to accept an offer in compromise in lieu of suspension within twenty (20) calendar days following such notice of such suspension. If accepted, you may pay a fine using the enclosed form. All checks must 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
Michael Teehan, Investigator
Christopher Temple, Investigator
Ralph Quimby, Esq. via facsimile 781-447-3852
Administration
File



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DECISION

Kim J. Gainsboro, Esq.
Chairman

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33 LEGION PARKWAY
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LICENSE#: 146200007
VIOLATION DATE: 03/06/2014
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American Legion Post #22 (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 5, 2014, regarding an alleged violation 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:

1. Licensee's Stipulation of Facts; and
2. Investigator Teehan's Investigative Report dated March 6, 2014.

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

FACTS

1. On Thursday, March 6, 2014, at approximately 8:15 p.m., Investigators Temple, Kenny, and Teehan investigated the business operation of American Legion Post #22 to determine the manner in which their business was being conducted.
2. Investigators entered the premises and observed five electronic video devices, numbered 1 through 5, located in the bar area behind a petition.
3. Investigators identified themselves to the bartender on duty, Maura Long, and inspected the bar area.
4. Investigators observed a meter in plain view behind the bar. The meter displayed five buttons, numbered 1 through 5.
5. Investigator Temple placed a one dollar bill into each machine, and proceeded to register a bet. When he pressed the numbered button (a knock off switch), investigators observed the credits on the electronic device cleared and reset.
6. Investigators observed that the meter appeared to be hard-wired into the devices. Based on their training and experience, investigators recognized that these electronic devices were being utilized as illegal gambling devices.

7. Ms. Long contacted the manager, Ralph Quimby, via telephone. A short time later, Mr. Quimby arrived at the licensed premises along with two uniformed police officers and a detective from the Whitman Police Department.
8. Mr. Quimby stated to investigators that the Licensee does payoff for winnings on the electronic video devices with a bottle of booze and tickets to the Boston Bruins hockey and Boston Red Sox baseball games.
9. Mr. Quimby stated that once an individual finished playing, he would inform the bartender on duty, who would record the points earned on a piece of paper. The bartender would then reset the device using the meter behind the bar. The individual with the most points at the end of the month wins the prize.
10. Mr. Quimby further stated that K & L Vending owns the machines and the split is 60% net revenue for the club and 40% net revenue for K & L.
11. Investigators conducted an audit of the devices and made the following observations which, based on their training and experience, indicated that these electronic devices were being utilized as illegal gambling devices:
 - Each device accepted dollar bills in US Currency ranging from \$1, \$5, \$10, \$20, \$50, and \$100.
 - Each device had two meters within to record credits in and credits out.
 - 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.
 - The devices had the capability to double the bet by selecting the double-up button.
12. Machine #1, named "Skill Cherry", had two meters: the first meter indicated 655448 and the second meter indicated 867941. The device also had electronic meters which were accessed by manipulating a toggle switch and a button on the display board. This displayed another screen In Meter 035995, Out Meter 023443. There was \$139.00 in U.S. Currency in the device.
13. Machine #2, named "Super Poker", had two meters: the first meter indicated 805324 and the second meter indicated 534460. The device also had electronic meters which were accessed by manipulating a toggle switch and a button on the display board. This displayed another screen In Meter 29836, Out Meter 11082. There was \$27.00 in U.S. Currency in the device.
14. Machine #3, named "Super Poker", had two meters: the first meter indicated 614164 and the second meter indicated 439081. The device also had electronic meters which were accessed by manipulating a toggle switch and a button on the display board. This displayed another screen In Meter 16048, Out Meter 4723. There was \$13.00 in U.S. Currency in the device.
15. Machine #4 had two meters: the first meter indicated 615809 and the second meter indicated 695228. There was \$322.00 in U.S. Currency in the device.
16. Machine #5 had two meters: the first meter indicated 996350 and the second meter indicated 508196. There was \$719.00 in U.S. Currency in the device.
17. Investigators informed Mr. Quimby 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 204 CMR 2.05(1) – Permitting Gambling. 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. The two (2) days will be served concurrently with the Indefinite Suspension.**

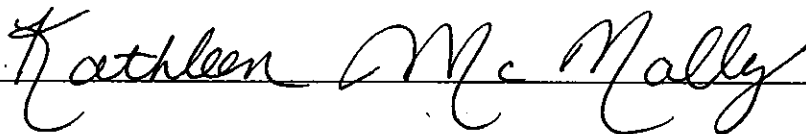
In addition, the licensee must not possess in or on the licensed premises any automatic amusement device or video poker machines.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner



Kathleen McNally, Commissioner



Dated: August 6, 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
Michael Teehan, Investigator
Christopher Temple, Investigator
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