

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

*Steven Grossman*  
*Treasurer and Receiver General*

*Kim J. Gainsboro, Esq.*  
*Chairman*

**DECISION**

**WATER WHEEL RESTAURANT, INC. DBA O'HARA'S TAVERN**  
**44 TENNIS PLAZA ROAD**  
**DRACUT, MA 01926**  
**LICENSE#: 029200014**  
**HEARD: 07/19/2011**

Water Wheel Restaurant, Inc. dba O'Hara's Tavern (the "Licensee") holds an all alcohol license issued pursuant to M.G.L. c. 138, §12. The Alcoholic Beverages Control Commission (the "Commission") held a hearing on Tuesday, July 19, 2011, regarding an alleged violation of 204 CMR 2.05 (1) (2 counts), 204 CMR 2.05 (2) (2 counts) and 204 CMR 2.05 (2) (2 counts). Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Michael Teehan's report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts; and
2. Investigator Michael Teehan's Report.

There is one (1) tape of this hearing.

FACTS

1. On March 25, 2011 approximately 3:30 p.m., Investigators Kenny and Teehan investigated the business operation of Water Wheel Restaurant, Inc. dba O'Hara's Tavern.
2. While on the licensed premises, they sat down at the bar area and observed two (2) automatic amusement devices located next to the bar area.
3. The investigators observed a female patron accumulate credits from a video device.
4. The patron informed the bartender of her win and the bartender then reset the machine and gave her U.S. currency.
5. At approximately 3:50 p.m., the same scenario was occurred with a male patron.
6. On May 17, 2011 at approximately 12:05p.m., Investigators Kenny and Teehan entered the licensed premises and observed both machines being removed from the licensed premises.
7. Administrative review indicated that the licensee has had the license since 2009 without any prior violations.

DISCUSSION

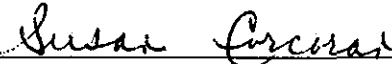
The investigators testified that the licensee stated that the devices were not used for gambling. The licensee was questioned as to why the machines were on the premises and he stated that the manager who was fired had brought them here. He further stated that he never intended to use his establishment in the manner it was used and that the machines had been removed.

CONCLUSION

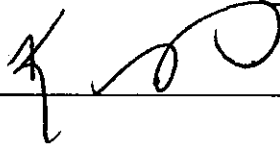
Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05 (1) (2 counts), 204 CMR 2.05 (2) (2 counts) and 204 CMR 2.05 (2) (2 counts). Therefore, the Commission **suspends the license for five (5) days to serve. In addition, the licensee must not possess in or on the licensed premises any automatic amusement device or video poker machine.**

**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Susan Corcoran, Commissioner



Kim S. Gainsboro, Chairman



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  
Administration  
File

September 12, 2011