



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 23, 2014

AMVETS POST #79 NATICK INC.
OFF SUPERIOR DRIVE
NATICK, MA 01760
LICENSE#: 076800002
VIOLATION DATE: 09/11/2013
HEARD: 01/14/2014

After a hearing on January 14, 2014, the Commission finds Amvets Post #79 Natick Inc. in violation of 204 CMR 2.05(1) Permitting Gambling.

The Commission **suspends the licensee's license for a total of fifteen (15) days to be served. The suspension shall commence on Wednesday, March 12, 2014 and terminate on Wednesday, March 26, 2014.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, March 12, 2014 at 9:00 A.M. It will be returned to the licensee Thursday, March 27, 2014.

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
Tara Kelleher, Investigator
Jan Kujawski, Investigator
Administration
File

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DECISION

**AMVETS POST #79 NATICK INC.
OFF SUPERIOR DRIVE
NATICK, MA 01760
LICENSE#: 076800002
VIOLATION DATE: 09/11/2013
HEARD: 01/14/2014**

Amvets Post #79 Natick 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, January 14, 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 Kelleher's Report.

The following documents are in evidence:

1. Licensee's Stipulation of Facts;
 2. Investigator Kelleher's Report dated September 11, 2013; and
 3. Photocopies of American Express Gift Cards;
 4. Photograph of Devices in Licensed Premises;
 5. Photograph of Door in Licensed Premises
 6. Photograph of Machine Wiring Licensed Premises
 7. Photograph of Wired In/Out Counters Licensed Premises
 8. Photograph of Devices Wiring Licensed Premises
 9. Photograph of Devices Wiring Licensed Premises
 10. Photograph of Devices Wiring Licensed Premises
 11. Photograph of Counters Licensed Premises
 12. Photograph of Won/Loss Screen of Device Licensed Premises
 13. Photograph of Devices Wiring Licensed Premises
 14. Photograph of Automatic Amusement Devices on Licensed Premises;
 15. List of Winners and Amounts Won; and
 16. Blank Sheets.
- A. Licensee's Income and Expenses, and Charitable Donations; and
B. Licensee's DOR Certificate of Good Standing and/or Tax Compliance dated December 11, 2013.

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

FACTS

1. On Wednesday, September 11, 2013, Investigators Kujawski and Kelleher, with Natick Police Officer Keven Kelley, conducted an investigation of the business operation of Amvets Post #79 Natick Inc. to determine the manner in which its business was being conducted.
2. Investigators entered the licensed premises and identified themselves to the bartender on duty, Cynthia Wright.
3. Ms. Wright directed investigators to the licensed manager, Walter Connery, who was seated at the bar.
4. Investigators conducted an inspection of the bar area and observed four electronic video devices, which based on their training and experience, they know to be commonly used as gambling devices.
5. Investigators questioned Mr. Connery regarding the machines, and he advised that they were poker machines, where winners would "receive an American Express prepaid card" in \$50.00 denominations as a prize.
6. Mr. Connery provided investigators with a tour of the club.
7. Investigators observed several disconnected electronic video gaming machines in a back room with a closed door.
8. Mr. Connery advised investigators that these devices were obtained from the Edward P. Clark Post # 107 American Legion Natick, MA. He said that the board of the Amvets Post took a vote to allow the machines to be stored at this licensed premises and that he had voted against it, but was "outnumbered." By a Commission decision dated May 30, 2013, these devices were ordered removed from the Edward P. Clark Post #107.
9. Mr. Connery stated to investigators that he knew very little about the mechanics of the gambling devices located in the bar area. He contacted Paul Carew, whom he identified as the member in charge of the devices.
10. Mr. Carew was the sole key holder to the devices and was able to assist investigators in the audit of the devices.
11. Investigators conducted an audit of the devices, with the following information:
 - o Machine #1 "Cherry Eight" had a start number of 551738 and an end number of 517642.
 - o Machine #2 "Joker Poker" had a start number of 621196 and an end number of 843842.
 - o Machine #3 (labeled as #5) "Cherry Eight" had a start number of 280801 and an end number of 9434324.
 - o Machine #4 "Wicked Witch" had a start number of 508321 and an end number of 032743.
12. Investigator Kujawski then placed \$1.00 U.S. currency in machine #1, and received four credits (twenty-five cents per credit), which based on their training and experience, investigators know to be the common rate on devices which are utilized for illegal gambling. Investigator Kujawski played and lost which resulted in an end number of 551742.
13. Mr. Carew conducted a financial audit of the Cherry Eight machine and advised investigators the device contained \$61.00, one dollar of which was deposited by Investigator Kujawski.
14. Investigator Kujawski then placed \$1.00 U.S. currency in machine #2, and received four credits. He played two games, losing the first game and winning the second game. He gained one credit which resulted in an end number of 843847.
15. Mr. Carew conducted a financial audit of the Joker Poker machine and advised investigators the device contained \$121.00, one dollar of which was deposited by Investigator Kujawski.
16. Investigator Kujawski then placed \$1.00 U.S. currency in machine #3, received four credits, played and lost, which resulted in an end number of 280805.

17. Mr. Carew conducted a financial audit of machine #3 – Cherry Eight – and advised investigators the device contained \$21.00, one dollar of which was deposited by Investigator Kujawski.
18. Investigator Kujawski then placed \$1.00 U.S. currency in machine #4, received four credits, played and lost, which resulted in an end number of 508325.
19. Mr. Carew conducted a financial audit of the Wicked Witch machine and advised investigators the device contained \$1.00, which was deposited by Investigator Kujawski.
20. Investigators observed that the devices contained the following characteristics:
 - o Each device accepted U.S. Currency dollar bills ranging from \$1, 5, 10, and 20;
 - o Each device allowed users the option to “double up”;
 - o Each device had inside blue “dip switches” and two back-up batteries;
 - o Each device had a flip switch which, when operated, displayed an “in” and “out” number which investigators know from their training and experience to indicate the number of points earned through the insertion of U.S. Currency and the number of points won through the operation of the device;
 - o Each device had a button on the back right, a “knock off” switch which, when pressed, reset the credits.
21. Mr. Carew advised investigators that the machines are leased through Able Vending, and the money is split with the owner of the machines who comes weekly to collect the money. Mr. Carew could not “remember the name of the person he deals with” but stated that he shows up weekly to collect his share.
22. Investigators asked if a log book was used to keep track of the total collected and the amount split with Able Vending.
23. Mr. Carew stated that he just totals the amount up, gives the share to Able Vending, and deposits the club’s share into their bank account.
24. Investigators asked how Mr. Carew kept track of prizes won. He advised that the player who wins tells the bartender on duty, who then looks at the points and writes the amount on a sheet of paper with the member’s name and corresponding machine number.
25. Mr. Carew then showed investigators, as an example, a sheet dated 09/04/13 to 09/07/13 which had a section for date, name, and machine number. On this form, the total came to \$1197.00. Investigators found in the office a similar form dated 09/03/13, with the names of three people, and a total of \$210.00.
26. Mr. Carew advised investigators that he had a bank deposit envelope with the current week’s deposit in it. When he counted the contents in front of investigators, the total came to \$890.00.
27. Mr. Carew also provided investigators with photocopies of 28 American Express prepaid gift cards, each valued at \$50.00. Winners were compensated with the gift cards in lieu of cash prizes.
28. Investigators informed Mr. Carew and Mr. Connery of the violations and that a violation report would be filed with the Chief Investigator for further action.

CONCLUSION

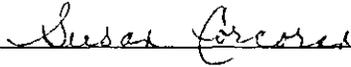
Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05(1) Permitting Gambling. Therefore, the Commission **suspends the license for twenty (20) days of which fifteen (15) days will be served and five (5) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur.**

The Commission is extremely concerned that the Licensee was housing several machines for the Edward P. Clark Post # 107 American Legion Natick, MA which was previously found to be in violation by this Commission, and was required to remove its machines!

THE MACHINES MUST BE REMOVED IMMEDIATELY FROM THE LICENSED PREMISES PER ORDER OF THE COMMISSION. IN ADDITION, THE LICENSEE MUST NOT POSSESS IN OR ON THE LICENSED PREMISES ANY AUTOMATIC AMUSEMENT DEVICE OR VIDEO POKER MACHINE.

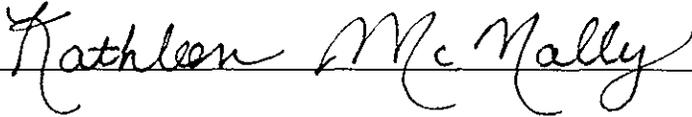
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner



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

Kathleen McNally, Commissioner



Dated: January 23, 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
Tara Kelleher, Investigator
Jan Kujawski, Investigator
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