

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

MEMORANDUM AND ORDER ON LICENSEE'S
REQUEST FOR RECONSIDERATION

BEACHMONT V.F.W. POST # 6712 INC.
150 BENNINGTON ST.
REVERE, MA 02151
LICENSE#: 102200003
HEARD: 02/19/2014

Beachmont V.F.W. Post # 6712 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, November 19, 2013, regarding an alleged violation of:

- 1) 204 CMR 2.05 (1): Permitting Gambling;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the licensed premises, to wit: M.G.L. c. 140 §177A (6) – No person keeping or offering for operation or allowing to be kept or offered for operation, any automatic amusement device licensed under this section shall permit the same to be used for the purpose of gambling;
- 3) 204 CMR 2.05 (2), to wit: M.G.L. c. 271 §17 Keeping a building or room, or any part thereof, with apparatus, books or any device, for registering bets, upon the result of machine; knowingly permitting the same to be used or occupied for such purpose; knowingly permitting to be therein kept, exhibited, used or employed, any device or apparatus for registering such bets;
- 4) 204 CMR 2.05 (2), to wit: M.G.L. c. 140 §177A (5) Automatic Amusement devices licensed under this section shall be so installed on the premises described in the license as to be in open view at all times while in operation, and shall at all times be available for inspection;
- 5) C. 138, §1 Failure to file with the Commission annually a list of the names and residences of its officers, together with the amount of salary or compensation received by each employee engaged in the handling or selling of alcoholic beverages; and
- 6) M.G.L. c.138 § 15A Change of Officers and Directors in the non-profit corporation without authorization.

By decision dated January 21, 2014, the Commission found the licensee in violation of the charges.

For the violations of 204 CMR 2.05 (1), M.G.L. c. 140 §177A (6), M.G.L. c. 271 §17, and 204 CMR 2.05 (2), to wit: M.G.L. c. 140 §177A (5), for each charge, the Commission suspended the license for five days (5) days, of which 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. These penalties were to be served concurrently. **IN ADDITION, THE LICENSEE MUST NOT POSSESS IN OR ON THE LICENSED PREMISES ANY AUTOMATIC AMUSEMENT DEVICE OR VIDEO POKER MACHINE.**

For the violations of M.G.L. c. 138, §1 and §15A, the Commission **INDEFINITELY SUSPENDED** the license of Beachmont V.F.W. Post # 6712 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 with both the Commission and the local licensing authorities the appropriate annual reports pursuant to M.G.L. Ch. 138, section 1, for the years 2003 through 2014, and the Licensee filing the appropriate application for approval of the current officers and directors of the Post and that appropriate application if granted by the local licensing authorities and approved by the Commission.

By letter dated January 30, 2014, the Licensee requested a hearing to reconsider the indefinite suspension. The Licensee attended the hearing before the Commission on Wednesday, February 19, 2014, and argued that good cause exists to reconsider the indefinite suspension.

At this hearing, the following documents were submitted at the hearing:

1. Licensee's Annual Report for 2003;
2. Licensee's Annual Report for 2004;
3. Licensee's Annual Report for 2005;
4. Licensee's Annual Report for 2006;
5. Licensee's Annual Report for 2007;
6. Licensee's Annual Report for 2008;
7. Licensee's Annual Report for 2009;
8. Licensee's Annual Report for 2010;
9. Licensee's Annual Report for 2011;
10. Licensee's Annual Report for 2012;
11. Licensee's Annual Report for 2013;
12. Licensee's Annual Report for 2014; and
13. Application to Change the Corporate Officers and Directors, which is awaiting a hearing date before the Local Licensing Board of Revere.

The Licensee testified before the Commission that three (3) of the five (5) automatic amusement devices have been removed from the premises. The two (2) remaining devices are awaiting removal by the vendor, and are currently unplugged and covered by a tarp. The Licensee represented to the Commission that the vendor will have them removed within the next few days.

There is one (1) audio recording of this hearing and one (1) witness testified. The Commission took administrative notice of the Commission records regarding this Licensee.

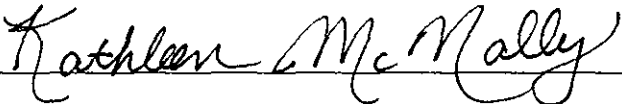
CONCLUSION

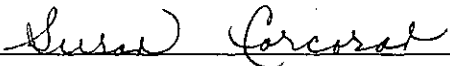
The documents the Licensee provided convinced the Commission that the Licensee has fully complied with the prior order. Counsel for the Licensee stated that all documents have been filed with both the local licensing authorities and the Commission as ordered.

Based on the evidence presented at the hearing, the Commission reconsiders and reverses its prior order of **INDEFINITE SUSPENSION** of the license of Beachmont V.F.W. Post # 6712 Inc. **effective forthwith.**

The indefinite suspension is reconsidered and reversed to a suspension of time served from January 21, 2014 to February 19, 2014.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner 

Susan Corcoran, Commissioner 

Dated: February 19, 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 Mahoney, Chief Investigator
Jan Kujawski, Investigator
Rose Bailey, Investigator
Robert Allen, Esq. via email
Administration
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