



*Commonwealth of Massachusetts  
Department of the State Treasurer  
Alcoholic Beverages Control Commission  
239 Causeway Street  
Boston, MA 02114  
Telephone: 617-727-3040  
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**Jean M. Lorizio, Esq.**  
*Chairman*

**NOTICE OF SUSPENSION**

February 28, 2017

**CLEGHORN ATHLETIC ASSOCIATION D/B/A ST. JOSEPH CLUB  
109 OAK HILL ROAD  
FITCHBURG, MA 01420  
LICENSE#: 039400041  
VIOLATION DATE: 05/19/2016  
HEARD: 02/21/2017**

After a hearing on February 21, 2017, the Commission finds Cleghorn Athletic Association d/b/a St. Joseph Club violated:

- 1) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 23K §37 (a) Operating or permitting to be operated a game or gaming device;
- 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) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, § 26- Operating licensed premises without an approved manager (1 Count);
- 4) M.G.L. c. 138, § 15A - Change of officers/directors in the non-profit corporation with authorization. (Since 1973)

On each of the first two charges, 204 CMR 2.05 (2) to wit, M.G.L. c. 23K §37 (a) and M.G.L. c. 140 § 177A (6), 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. These suspensions shall run concurrently.**

**In addition, the Licensee must not possess in or on the licensed premises any automatic amusement devices or video poker machines.**

On both the third charge, M.G.L. c. 138, § 26, and the fourth charge, M.G.L. C. 138 § 15A, the Commission **INDEFINITELY SUSPENDS** the license of Cleghorn Athletic Association d/b/a St. Joseph Club **effective forthwith** until further written order of the Commission. **All suspensions shall run concurrently.**

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 suspension will include, but not be limited to, the Licensee filing with both the Commission and the local licensing authorities the appropriate applications for approval of a new manager of record and the current officers and directors of the Licensee.

In addition, the Licensee must file the appropriate annual reports pursuant to M.G.L. c. 138, § 1 for the last ten (10) years from calendar year 2008 through calendar year 2017.

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.

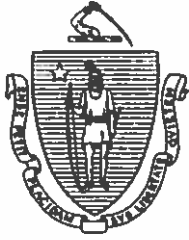
### **ALCOHOLIC BEVERAGES CONTROL COMMISSION**



Jean M. Lorizio  
Chairman

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这份文件是重要的，应立即进行翻译。

cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Brad Doyle, Investigator  
Rose Bailey, Investigator  
Administration, File



**Jean M. Lorizio, Esq.**  
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## **DECISION**

**CLEGHORN ATHLETIC ASSOCIATION D/B/A ST. JOSEPH CLUB  
109 OAK HILL ROAD  
FITCHBURG, MA 01420  
LICENSE#: 039400041  
VIOLATION DATE: 05/19/2016  
HEARD: 02/21/2017**

Cleghorn Athletic Association d/b/a St. Joseph Club (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, February 21, 2017, regarding alleged violations of:

- 1) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 23K §37 (a) Operating or permitting to be operated a game or gaming device;
- 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) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, § 26- Operating licensed premises without an approved manager (1 Count);
- 4) M.G.L. c. 138, § 15A - Change of officers/directors in the non-profit corporation with authorization. (Since 1973)

Prior to the commencement of the hearing, the Licensee stipulated to the violations alleged in Investigator Doyle's Report.

The following documents are in evidence:

1. Investigator Doyle's Investigative Report;
2. Photos of Gaming Devices;
3. Copies of A-Z Quality Vending Slips;
4. Photos of Gaming Devices;

5. Copies of A-Z Quality Vending Slips;
6. Licensee's Annual Reports (2013, 2016) from Secretary of the Commonwealth's Corporations Division with St. Joseph Club Newsletter from February 2016;
7. Form 43s for an Approved and a Disapproved Manager Applications; and
8. Licensee's Stipulation of Facts.

The Commission took Administrative Notice of the Licensee's Commission files.

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

#### FINDINGS OF FACT

1. On Thursday, May 19, 2016, at approximately 1:30 p.m., Investigators Bailey and Doyle ("Investigators") investigated the Cleghorn Athletic Association d/b/a St. Joseph Club to determine the manner in which their business was being conducted and to investigate a complaint filed with this Commission.
2. Investigators were buzzed into the club, identified themselves to a female bartender on duty, and asked to speak with any officers or directors of the corporation. The bartender stated she would contact the president to come to the club.
3. Within the lounge area, Investigators observed two automatic amusement devices. (Exhibits 2, 4)
4. Don Tapply, treasurer of the club, arrived on the premises. Investigators informed him of the complaint and asked who owned the amusement devices.
5. Mr. Tapply stated the devices are owned by A-Z Vending, and the split between the club and the company is 60% for the club, 40% for the A-Z Vending. He stated someone from A-Z Vending comes to the club once a week to collect its percentage of the winnings.
6. Mr. Tapply produced a permit for the devices and informed Investigators that he does not have any keys to open the devices.
7. Investigators asked Mr. Tapply how customers collected winnings on these devices. The bartender stated that when a person is done playing, she records how many credits were earned. She then presses the "Double" and "Big" buttons simultaneously which resets the credits earned to zero. The bartender stated she pays the person his winnings.
8. Investigators asked Mr. Tapply if any records were kept regarding the devices.
9. Investigators accompanied Mr. Tapply into the club's office where Tapply produced some yellow slips of paper which indicated the club's share of the cash in the two machines. Mr. Tapply estimated the machines brought in a few hundred dollars per week for the club. (Exhibits 3, 5)
10. Investigators observed that the electronic video devices (2 deluxe '97) had the following characteristics which, based on their training and experience, indicated these electronic video devices were being used as gambling devices:
  - Each device accepted U. S. Currency in bills ranging from \$1, \$5, \$10, \$20;
  - Each device was marked "for amusement only";

- Each device had a “knock off” mechanism to reset the credits earned to zero;
  - The minimum bet to play a game was 8 credits.
11. Investigator Doyle inserted three U.S. dollars into electronic video device #1, and received 12 credits (0.25 per credit). The minimum bet to play a game was 8 credits. He selected 8 credits to bet and the screen show 4 credits remaining. Investigator Doyle then pressed the “Double” button and the “Big” button on the front of the device. This knock-off mechanism reset the remaining 4 credits to zero.
  12. Investigators asked Mr. Tapply how often Officers and Directors of the club changed. Tapply stated the last election was held in 2015 for the currently serving 2016 officers.
  13. Mr. Tapply stated that Tony Antinarella is the most recent manager; however, Tony informed the club he was no longer interested in the position. (Exhibit 7)
  14. Investigators informed Mr. Tapply of the violation and that a report would be submitted to the Chief Investigator for review.
  15. Investigators conducted an administrative review of the Licensee’s file which shows that the most recent application for Officers and Directors was received by the Commission in October of 2015. This October 2015 application was returned no action as it was incomplete. No other applications for new Officers/Directors have been submitted to the Commission since 1973. A review of the Secretary of the Commonwealth’s website reveals that the Officers and Directors have been changed on numerous occasions but none of these changes were approved by the Fitchburg Licensing Board and the Commission as required by M.G.L. c. 138, § 15A. (Exhibit 6)
  16. Further review of the Licensee’s file indicates the club applied for a change of manager in March 2015 to Judith Hayden. This application was returned no action because the officers/directors had not been updated. The last approved manager of record was Frank Norton.

### CONCLUSION

Based on the evidence, the Commission finds the Licensee violated:

- 1) 204 CMR 2.05 (2) Permitting an illegality on the licensed premises, to wit: M.G.L. c. 23K §37 (a) Operating or permitting to be operated a game or gaming device;
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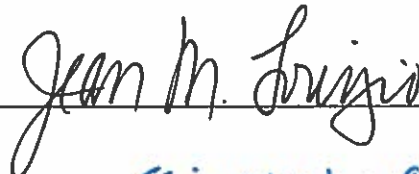
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In addition, the Licensee must file the appropriate annual reports pursuant to M.G.L. c. 138, § 1 for the last ten (10) years from calendar year 2008 through calendar year 2017.

#### ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



Elizabeth A. Lashway, Commissioner



Kathleen McNally, Commissioner



Dated: February 28, 2017

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.

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