



Jean M. Lorizio, Esq.
Chairman

*Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
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NOTICE OF SUSPENSION

May 5, 2017

**K OF C HOME ASSOCIATION OF FITCHBURG, INC.
165 ELECTRIC AVE.
FITCBURG, MA 01420
LICENSE#: 039400011
VIOLATION DATE: 5/19/2016
HEARD: 04/18/2017**

After a hearing on April 18, 2017, the Commission finds K of C Home Association of Fitchburg, Inc. violated:

- 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 (1 Count).

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

The suspension shall commence on Wednesday, June 21, 2017 and terminate on Thursday, June 22, 2017. The license will be delivered to the Local Licensing Board or its designee on Wednesday, June 21, 2017 at 9:00 A.M. It will be returned to the Licensee Friday, June 23, 2017.

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, which must be signed by the Licensee and 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.

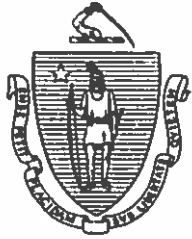
ALCOHOLIC BEVERAGES CONTROL COMMISSION



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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Dennis Keefe, Investigator
Jan Kujawski, Investigator
Patrick P. MacDonald, Esq. via facsimile 781-322-1663
Administration, File



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DECISION

**K OF C HOME ASSOCIATION OF FITCHBURG, INC.
165 ELECTRIC AVE.
FITCHBURG, MA 01420
LICENSE#: 039400011
VIOLATION DATE: 5/19/2016
HEARD: 04/18/2017**

K of C Home Association of Fitchburg, Inc. (the "Licensee") holds an alcohol license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission (the "Commission" or "ABCC") held a hearing on Tuesday, April 18, 2017, regarding alleged violations 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 (1 Count).

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

The following documents are in evidence:

1. Investigator Keefe's Investigative Report;
2. Betting Slips;
3. Cash from machines;
4. Photos of Log book for winnings;
5. Photos of gaming machines;
6. 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 12:30 p.m., Investigators Kujawski and Keefe (“Investigators”) investigated K of C Home Association of Fitchburg, Inc. to determine the manner in which their business was being conducted.
2. Investigators entered the licensed premises and identified themselves to a female bartender on duty, Eileen Ramsden and notified her of the inspection.
3. During the inspection, Investigators observed three electronic video devices in a room to the right of the bar.
4. Investigators asked Ms. Ramsden if she could provide them with information on the electronic devices. Ms. Ramsden stated that she would call the president and manager [of the club] as they would have more knowledge of the machines.
5. President of the club, Dan Cucchiara, and manager, David LeBlanc, arrived at the club to speak with Investigators.
6. Both men stated the club was a charitable organization, and the money made on the devices went back into the [local] community. The men stated that they do pay out cash if a patron wins on the machines.
7. Investigators asked Mr. LeBlanc who owns the electronic devices. Mr. LeBlanc replied the devices are owned by A-Z Vending. A representative of the company, Mark Murrey comes every two weeks to collect the money won and distribute the 50% split to the club. Mr. LeBlanc stated the club receives approximately \$1,000 every two weeks.
8. LeBlanc stated when a patron wins, he finds the bartender who keeps track of the winnings on slips. Investigators observed three gaming slips in the cash register. The slips list the date, device points, and device number, with an area for a signature.
9. Investigators requested that Mr. LeBlanc open the three devices to take inventory. LeBlanc stated he only had a key for the cash boxes of the devices. LeBlanc opened the cash box of each device and counted the money. Device #1 had no money; device#2 had \$41.00; and device# 3 had \$30.00.
10. Investigators noted electronic device#1 was marked Lucky 8 Line; while electronic device #2 was marked Platinum Touch I, II, III; electronic devices #3 Platinum Touch III and device #4 marked Platinum Touch I, II, III.
11. Investigators conducted an audit of the electronic video devices and observed the following characteristics which, based on their training and experience, indicated these electronic devices were being used as gambling devices:
 - Each accepted U. S. Currency in bills ranging from \$1, \$5, \$10, \$20;
 - Each had the capability to select the number of points (the amount to bet);
 - Each registered the bet by displaying the number of points selected;
 - Each had a “knock off” mechanism, in the form of two bolts in the front, which when pressed reset the credits to zero.

12. Investigator Keefe placed \$1.00 in U.S. Currency into the device which displayed 4 credits. Investigators observed that \$1.00 is equal to 4 points, which is twenty-five cents per point. He played on all the devices. Investigator Keefe then placed a quarter against the two screws on the side of the device (the knock-off switch) and observed the credits reset to zero.
13. Investigators asked Mr. LeBlanc where the money made on the devices was kept. LeBlanc brought Investigators to an office in the rear of the building located near the function room. LeBlanc showed Investigators a cash box which, when he counted it, contained approximately \$2,000 in U.S. Currency.
14. Investigators also took possession of a log in which the currency inserted in the devices and currency paid out on the three devices was tracked.
15. Investigators informed Cucchiara and LeBlanc of the violation and that a report would be submitted to the Chief Investigator for review.

CONCLUSION

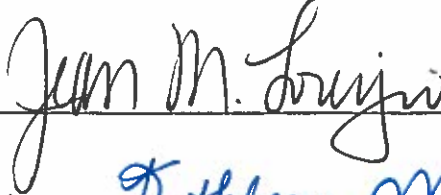
Based on the evidence, the Commission finds the Licensee violated:

- 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 (1 Count).

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

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman



Kathleen McNally, Commissioner



Dated: May 5, 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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