

*Commonwealth of Massachusetts  
Department of the State Treasurer  
Alcoholic Beverages Control Commission  
239 Causeway Street  
Boston, MA 02114  
Telephone: 617-727-3040  
Facsimile: 617-727-1510*

**Jean M. Lorizio, Esq.**  
*Chairman*

**NOTICE OF SUSPENSION**

February 22, 2017

**CAPE ANN LODGE #1471 D/B/A LOYAL ORDER OF THE MOOSE  
262 MAIN STREET  
GLOUCESTER, MA 01930  
LICENSE#: 045000030  
VIOLATION DATE: 10/18/2016  
HEARD: 02/21/2017**

After a hearing on February 21, 2017, the Commission finds Cape Ann Lodge #1471 d/b/a Loyal Order of the Moose 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 (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.

**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, April 19, 2017 and terminate on Thursday, April 20, 2017. The license will be delivered to the Local Licensing Board or its designee on Wednesday, April 19, 2017 at 9:00 A.M. It will be returned to the Licensee Friday, April 21, 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.

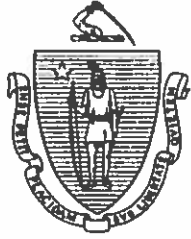
**ALCOHOLIC BEVERAGES CONTROL COMMISSION**



Jean M. Lorizio  
Chairman

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cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Nicholas Velez, Investigator  
Michael Teehan, Investigator  
Administration, File



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## **DECISION**

**CAPE ANN LODGE #1471 D/B/A LOYAL ORDER OF THE MOOSE  
262 MAIN STREET  
GLOUCESTER, MA 01930  
LICENSE#: 045000030  
VIOLATION DATE: 10/18/2016  
HEARD: 02/21/2017**

Cape Ann Lodge #1471 d/b/a Loyal Order of the Moose (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, February 21, 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 (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.

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

The following documents are in evidence:

1. Investigator Velez's Investigative Report;
2. Picture of Machine #1;
3. Picture of Game Analysis for Device #1;
4. Picture of Internal Meters for Device #1;
5. Picture of Machine #2;
6. Picture of Internal Meters for Device #2;
7. Picture of Machine #3;
8. Picture of Game Analysis for Device #3;
9. Picture of Internal Meters for Device #3; and
10. 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 Tuesday, October 18, 2016, at approximately 11:15 a.m., Investigators Teehan and Velez (“Investigators”) investigated Cape Ann Lodge #1471 d/b/a Loyal Order of the Moose to determine the manner in which their business was being conducted.
2. Prior to the ABCC investigation, Massachusetts State Police had been on the premises conducting their own investigation.
3. Investigators entered the licensed premises and identified themselves to the manager on duty, Kenneth Sarofeen.
4. Investigators observed a closed door in the rear of the premises. Investigators opened the door which revealed a staircase up to the third floor. Upon climbing up the stairs, Investigators observed a room with three automatic amusement devices which were labeled as: Champion Poker (device #1); Crazy bugs II (device #2); and unnamed device #3.
5. Investigators observed the following characteristics which, based on their training and experience, indicated these electronic devices were being used as gambling devices:
  - Each device had marking which indicated, “for amusement only”;
  - 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 the capability to double the bet using a double-up button;
  - Each had a “knock off” mechanism, a print ticket button, which when pressed reset the credits to zero.
6. Investigators conducted an internal audit and accessed the game analysis of device #1, Champion Poker. The total wins were 2430; total plays were 5303; and the win rate was 45%. The double win total was 260004; double bet total 26578, and win rate was 97%. The meter in showed 952926 and meter out displayed 458705.
7. Investigators conducted an internal audit of device #2, Crazy bugs II. The meter in showed 138219 and meter out displayed 001500.
8. Investigators conducted an internal audit and accessed the game analysis of device #3. The coin in showed 139328; total plays were 728447; total wins were 681131. The meter in showed 138219 and meter out displayed 090328.
9. Investigators informed Mr. Sarofeen of the violation and that a report would be submitted to the Chief Investigator for review.
10. Investigators later spoke to Massachusetts State Trooper Tom Murphy. Trooper Murphy stated the manager Kenneth Sarofeen had made statements about how an individual is paid for winnings on the amusement devices. Mr. Sarofeen stated to Trooper Murphy that when a member wins on the device, he takes the printed ticket receipt to the bartender on duty. The bartender adds the initials of the winner to the receipt. At the end of the night, the bartender gives all the ticket receipts to the manager. The manager then pays the winning

member(s) in cash, placing the money in an envelope behind the bar so the member may pick up his winnings the next time at the club.

### CONCLUSION

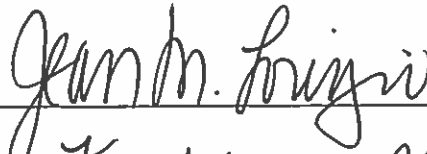
Based on the evidence, the Commission finds the Licensee violated:

- 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 (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.

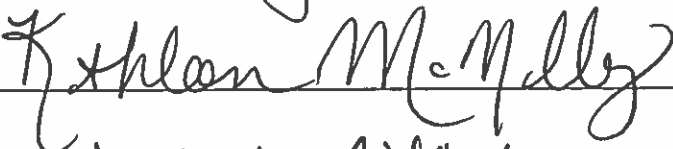
Therefore, the Commission **suspends the license for five (5) days of which two (2) days will be served and three (3) days will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur. In addition, the Licensee must not possess in or on the licensed premises any automatic amusement devices or video poker machines.**

### ALCOHOLIC BEVERAGES CONTROL COMMISSION

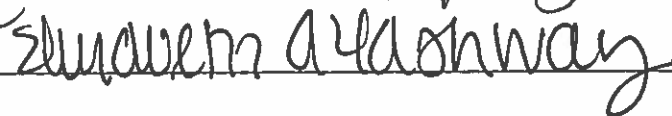
Jean M. Lorizio, Chairman



Kathleen McNally, Commissioner



Elizabeth A. Lashway, Commissioner



Dated: February 22, 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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