



The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, Massachusetts 02114

Deborah B. Goldberg
Treasurer and Receiver General

Kim J. Gainsboro, Esq.
Chairman

NOTICE OF SUSPENSION

January 20, 2017

**GREENFIELD LODGE #997 LOYAL ORDER OF MOOSE
20 SCHOOL ST.
GREENFIELD, MA 01301
LICENSE#: 047000024
VIOLATION DATE: 08/11/2016
HEARD: 12/07/2016**

After a hearing on December 7, 2016, the Commission finds Greenfield Lodge #997 Loyal Order of 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. 23K §37 Unlawful conduct or operation of game or gaming device in violation of chapter;
- 3) 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.
- 4) 204 CMR 2.05(2) Permitting an Illegality on the licensed premises, to wit: M.G.L. c. 94 § 186-Falling Below the Standard of Purity (2 Counts).

Therefore the Commission **suspends the license for twenty (20) days of which twelve (12) days will be served and eight (8) 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, and all gaming materials.**

The suspension shall commence on Wednesday, March 15, 2017 and terminate on Sunday, March 26, 2017. The license will be delivered to the Local Licensing Board or its designee on Wednesday, March 15, 2017 at 9:00 A.M. It will be returned to the Licensee Monday, March 27, 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



Kim S. Gainsboro
Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Joseph DiCiccio, Investigator
Jan Kujawski, Investigator
Administration, File



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Department of the State Treasurer
Alcoholic Beverages Control Commission
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DECISION

GREENFIELD LODGE #997 LOYAL ORDER OF MOOSE
20 SCHOOL ST.
GREENFIELD, MA 01301
LICENSE#: 047000024
VIOLATION DATE: 08/11/2016
HEARD: 12/07/2016

Greenfield Lodge #997 Loyal Order of Moose (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 Wednesday, December 7, 2016, 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. 23K §37 Unlawful conduct or operation of game or gaming device in violation of chapter;
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- 4) 204 CMR 2.05(2) Permitting an Illegality on the licensed premises, to wit: M.G.L. c. 94 § 186-Falling Below the Standard of Purity (2 Counts).

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

The following documents are in evidence:

1. Investigator Di Cicco's Investigative Report;
2. Licensee's Stipulation of Facts;
3. Photos of Gaming Devices (10 pages);
4. Photos of Cash Box and Payout Envelopes (5 pages);
5. Photos of Pull Tabs and Cash Box (2 pages);
6. Photos of Jokers Wild Cork Board (2 pages);
7. Photos of 2 Square Charts with Names (1 page);

8. Photos of Bottles of Liquor (2 pages); and
9. Photos of Financial Records (7 pages).

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, August 11, 2016, at approximately 3:10 p.m., Investigators Kujawski and Di Cicco ("Investigators") investigated Greenfield Lodge #997 Loyal Order of Moose to determine the manner in which their business was being conducted.
2. As Investigators entered the licensed premises they observed four electronic video gaming devices across from the bar. The devices were labeled as #1, #3, #5 and #6. (Exhibit 3)
3. Investigators made observations about the characteristics of these devices which, based on their training and experience, indicated these electronic video devices were being used for illegal gambling:
 - Each accepted U. S. Currency in bills ranging from \$1, \$5, \$10, \$20;
 - Each had the capability to place a bet and double up a bet;
 - Each has a "knock-off" mechanism to reset the credits to zero.
4. Investigators spoke to the bartender on duty, Jonathan Hardy, who informed them that the club does pay out on the machines. Mr. Hardy showed Investigators four payout envelopes which were located near a cash box behind the bar. The envelopes had names on them: Melanie, which contained one \$10 bill; Tony M, which contained five \$20 bills; Alidrey which contained five \$20 bills and one \$5 bill; and Will C. Hardy which contained five \$10 bills. (Exhibit 4)
5. Hardy stated that the bartender would leave this information in the nightly deposit and the next day, small envelopes with the player's winnings would be left for the bartender so the players could pick up their winnings.
6. Mr. Hardy stated that when a player wants to cash out, the bartender on duty would examine the machine and write down the person's name, machine number, and number of points displayed on the screen. The bartender, using a piece of metal touched to two bolts on the outside of the machine, reset the credits back to zero.
7. Investigator Di Cicco inserted one U.S. dollar into each of the four electronic video devices and received twenty credits for each dollar, which indicated that the value of one credit or point was five cents. Investigator Di Cicco had the option to choose the size of his bet and also could double his bet on each device.
8. Mr. Hardy showed Investigators how he reset all the electronic video gaming devices by placing a piece of metal against two bolts located on the outside of each machine. When Hardy reset each device, Investigators heard an internal ticking noise, which based on their

training and experience, Investigators recognized this noise as consistent with the internal dial meters inside the electronic video gaming devices.

9. Investigators asked Mr. Hardy who owned the machines and who was in charge of them. Hardy stated he did not know who owned the machines.
10. While behind the bar, Investigators observed an open cash box with an envelope marked "Pull Tabs Night." Next to the cash box and envelope were a stack of pull tabs. Investigators observed hundreds more pull tabs located behind the bar in a large plastic container.
11. Investigators also observed a cork board on the wall with numerous playing cards and numbers pinned upon it. The board was named Jokers Wild. A paper was attached to the cork board with the following information: week#31, number 336, name: Mike Koncal, card 49, In the Pot \$2,263, Joker \$1,132, Winner. Taped to a mirror behind the bar were two pieces of white paper, each paper with 100 small boxes, containing various numbers. One paper had written across it, "Winner: Ron Geynor." The other paper had "Richard B. Cummings" written across it.
12. During the course of their investigation, David Vassar identified himself as the manager of record for the license. Mr. Vassar denied any knowledge about the electronic video gaming devices or how records were kept about the devices.
13. Mr. Vassar informed Investigators that the club administrator, Jim MacKenzie handled things in the bar area. Vassar contacted Mr. MacKenzie who spoke by telephone to Investigators. Mr. MacKenzie stated he was at home and would not come to the club to discuss this issue. MacKenzie did not offer any information relative to the investigation.
14. While behind the bar, Investigators observed two bottle of alcoholic beverages containing dead insects. One was a bottle of Amore Amaretto and the other was a bottle Sloe Gin. Investigators showed the bottles with the dead insects to Mr. Vassar and Mr. Hardy.
15. During the investigation another man, John Andrews identified himself as the Governor of the club. Mr. Andrews and Mr. Vassar both denied any knowledge of the electronic gaming devices, how or where records for the devices were kept. Both men stated that Jim MacKenzie was the person to speak to about the devices.
16. A review of the Massachusetts Secretary of State, corporations division, revealed Andrews listed at the President of the club.
17. Mr. Vassar and Andrews entered the club's office along with Investigators. Both men claimed they did not know where the financial records of the club were kept. Andrews showed Investigators profit and loss statements for January 2016. Investigators located other documents which detailed some of the club's finances.
18. Investigator Di Cicco contacted Chris Boutwell, the club's secretary via telephone. Boutwell stated that he handled the club's books but he was not sure about the electronic gaming devices. Boutwell referred Investigators to the club administrator, Jim MacKenzie.
19. Boutwell, Vassar, and Andrews all stated that the electronic gaming devices were owned by Dugas Vending. They believed this to be true because Dugas Vending handled the juke box and other amusements for the club.

20. Boutwell stated to Investigator Di Cicco that money earned from the electronic gaming devices or video poker machines was listed as Vending on the profit and loss statements
21. A document labeled "Greenfield Moose Family Center 997 Sales by Item Summary January 2016" indicated the amount \$4,558.00 for Vending. Among the other financial documents discovered in the office were a ledger labeled "08-07-16 to 08-13-16." Within the ledger was a section labeled "Receipts" under which were listed "...pull tab \$856." In addition, another section of the ledger was labeled "Payouts."
22. Investigators informed Mr. Vassar and Andrews 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. 23K §37 Unlawful conduct or operation of game or gaming device in violation of chapter;
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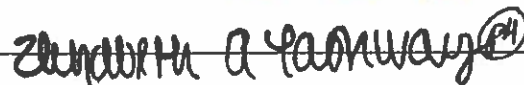
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ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



Elizabeth A. Lashway, Commissioner



Dated: January 20, 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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