



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

August 9, 2016

LOYAL ORDER OF MOOSE, INC. D/B/A NEW BEDFORD LODGE #914
119 ROCKDALE AVE.
NEW BEDFORD, MA 02740
LICENSE#: 077800132
VIOLATION DATE: 02/26/2016
HEARD: 07/26/2016

After a hearing on July 26, 2016, the Commission finds Loyal Order of Moose, Inc. d/b/a New Bedford Lodge #914 violated:

- 1) 204 CMR 2.05(1) - Permitting Gambling (1 Count);
- 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 a period of five (5) days of which two (2) days will be served, and three (3) day 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 device or video poker machine.**

The suspension shall commence on Wednesday, October 5, 2016 and terminate on Thursday, October 6, 2016. The license will be delivered to the Local Licensing Board or its designee on Wednesday, October 5, 2016 at 9:00 A.M. It will be returned to the licensee Friday, October 7, 2016.

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
Dennis Keefe, Investigator
Mark Kenny, Investigator
Michael Teehan, Investigator
Administration, File



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DECISION

LOYAL ORDER OF MOOSE, INC. D/B/A NEW BEDFORD LODGE #914
119 ROCKDALE AVE.
NEW BEDFORD, MA 02740
LICENSE#: 077800132
VIOLATION DATE: 02/26/2016
HEARD: 07/26/2016

Loyal Order of Moose, Inc. d/b/a New Bedford Lodge #914 (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, July 26, 2016, regarding alleged violations of:

- 1) 204 CMR 2.05(1) - Permitting Gambling (1 Count);
- 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 violation alleged in Investigator Keefe's report.

The following documents are in evidence:

1. Investigator Keefe's Investigative Report dated February 26, 2016;
2. Licensee's Stipulation of Facts;
3. Receipt; and
4. Photo of Note on Machine #1.

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

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

FACTS

1. On Friday, February 26, 2016, at approximately 1:00 p.m., Investigators Kenny, Teehan and Keefe ("Investigators") investigated the business operation of Loyal Order of Moose,

Inc. d/b/a New Bedford Lodge #914 to determine the manner in which their business was being conducted.

2. Upon entering the club, Investigators identified themselves to a female bartender and advised her they would conduct an inspection of the licensed premises.
3. In the back room of the establishment, Investigators observed one electronic device, and asked the female bartender for information about it. The bartender said she could call a gentleman, who knew about the electronic devices, to speak with Investigators.
4. Shortly thereafter, Darold Johnson called via telephone and spoke with Investigators. Mr. Johnson identified himself as the manager of record. Mr. Johnson stated the club does pay out cash to patrons who win on the electronic devices.
5. Investigators asked who owned the electronic devices. Mr. Johnson stated the devices are owned by Bill's Amusement out of Rhode Island and their contact was a man named John who comes every Monday between 8 – 9 a.m. Mr. Johnson stated that the club gets 60% of the cash earnings, and Bill's Amusement gets 40%. The average weekly split for the club is between \$300 – \$400.
6. Johnson explained if a patron wins on the electronic devices, he goes to the bartender and makes her aware of the winnings. On an envelope, the bartender lists the patron's name and puts the payout slip inside it. The envelope with the slip is then placed in a mail drop slit in the doorway of a private office.
7. Mr. Johnson collects the envelopes in the office and keeps track of the information and who gets paid out. Each \$1.00 is equal to 4 points, which is 25 cents per point. Customers are not always paid out of the same day of their winnings.
8. Investigators observed a piece of paper taped to a device which stated: "Machine #1, .25; Mark your slip #1 so we know what machine you won on."
9. Investigators played the electronic devices. They placed money into the device which registered the amount. They placed a bet, which deducted credits from the device. After losing the initial bet, Investigators cashed out by printing the receipt. The printing of the receipt acted as a "knockoff" mechanism and reset the device back to zero.
10. Based on their training and experience, Investigators determined the electronic devices were being used for gambling.
11. Investigators spoke with Robert Vessette, who identified himself as the club president. Mr. Vessette stated that he wasn't aware of how the day to day gambling worked but he was aware the club paid out on the electronic devices. Mr. Vessette further stated that he would remove the electronic devices from the licensed premises.
12. Investigators informed Mr. Johnson and Mr. Vessette of the violation and that a report would be filed with the Chief Investigator for review.

CONCLUSION

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

- 1) 204 CMR 2.05(1) - Permitting Gambling (1 Count);
- 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)

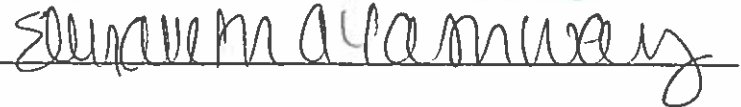
Therefore the Commission **suspends the license for a period of five (5) days of which two (2) days will be served, and three (3) day will be held in abeyance for a period of two (2) years provided no further violations of Chapter 138 or Commission Regulations occur. In addition, the Licensee must not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

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kathleen McNally, Commissioner



Elizabeth A. Lashway, Commissioner



Dated: August 9, 2016

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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