

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

Steven Grossman
Treasurer and Receiver General

Kim S. Gainsboro, Esq.
Chairman

DECISION

PLYMOUTH LODGE NO. 2485, LOYAL ORDER OF MOOSE, INC.
601 STATE RD
PLYMOUTH, MA 02360
LICENSE#: 098400120
VIOLATION DATE: 03/20/2013
HEARD: 08/27/2013

Plymouth Lodge No. 2485, Loyal Order Of Moose, Inc. (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, August 27, 2013, regarding an alleged violation of 204 CMR 2.05 (1)-Permitting Gambling on Licensed Premises. Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Velez's Investigative Report.

The following documents are in evidence:

1. Investigator Velez's Investigative Report dated March 20, 2013; and
2. Licensee's Stipulation of Facts.
 - A. Binder with Attachments A-L about the Plymouth Lodge 2485 Loyal Order of Moose; and
 - B. IRS 501 (c)(8) Tax-Exempt Status Corporate Papers.

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

FACTS

1. On Wednesday, March 20, 2013, at approximately 12:45 p.m., Investigators Teehan, Doyle, and Velez investigated the business operation of Plymouth Lodge No. 2485, Loyal Order Of Moose, Inc. to determine the manner in which their business was being conducted.
2. Upon entering the premises, investigators identified themselves to the bartender on duty.
3. Investigators then spoke to the manager of the licensed premises, Francis Kuhn.
4. Investigators observed six automatic amusement devices in a separate room near the bar. The devices were labeled:
 - a. High Speed Bonus (#1)
 - b. Cherry Master (#2)
 - c. [no name] (#3)
 - d. New Cherry '96 (#4)
 - e. Crazy Bugs II (#5) and
 - f. [no name] (no number).

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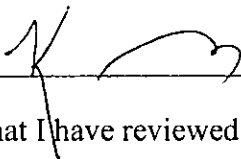
5. Investigators observed five terminals near the bar which were electronically hard-wired to five of the six automatic amusement devices. The sixth machine was not hard-wired to a terminal.
6. Investigators conducted an inspection of the bar and observed a white envelope in plain view.
7. Terminal 1 consisted of one button. When the button (knock off switch) is pressed, the credits on the electronic video device are cleared and reset. The terminal displayed credits in: 260762 and credits out: 417598.
8. Terminal 2 consisted of one button. When the button (knock off switch) is pressed, the credits on the electronic video device are cleared and reset. The terminal displayed credits in: 607007 and credits out: 692654.
9. Terminal 3 consisted of one button. When the button (knock off switch) is pressed, the credits on the electronic video device are cleared and reset. The terminal displayed credits in: 511684 and credits out: 549670.
10. Terminal 4 consisted of one button. When the button (knock off switch) is pressed, the credits on the electronic video device are cleared and reset. The terminal displayed credits in: 358906 and credits out: 188866.
11. Terminal 5 consisted of one button. When the button (knock off switch) is pressed, the credits on the electronic video device are cleared and reset. The terminal displayed credits in: 910210 and credits out: 646658.
12. Investigators made the following observations that based on their training and experience, indicated that these electronic devices were being utilized for gambling devices:
 - Each machine had markings that indicated “for amusement only.”
 - Each machine indicated that it accepted US currency in the following denominations of \$1, \$5, \$10, \$20, and \$100.
 - After inserting US currency into a device, a player selected the number of credits (the amount to bet). The device “registered” the bet by displaying the number of credits selected.
13. Investigator Teehan placed a dollar bill into device #1 and proceeded to register a bet. Investigator Velez then pressed the terminal #1 button (knock off switch) at which time Investigator Teehan observed the credits reset.
14. Mr. Kuhn stated to investigators that the club does pay off in winnings on the electronic video devices, for which members receive moose bucks.
15. Members fill out a slip labeled “Video game amusement only. No cash prizes” which lists machine # and number of credits toward gift card of choice.
16. Mr. Kuhn stated that members can spend the moose bucks only in the licensed premises to buy shirts or drinks.
17. Mr. Kuhn stated that Able Vending owns the machines and net revenue is split 60/40 with the club.
18. Investigators informed Mr. Kuhn that a violation report would be submitted to the Chief Investigator for further review.

CONCLUSION

Based on the evidence, the Commission finds the licensee violated 204 CMR 2.05 (1)-Permitting Gambling on Licensed Premises. Therefore, the Commission **suspends the license for six (6) days of which six (6) 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 device or video poker machine.**

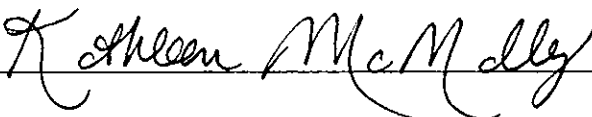
ALCOHOLIC BEVERAGES CONTROL COMMISSION

Kim S. Gainsboro, Chairman



I, the undersigned, hereby certify that I have reviewed the hearing record and concur with the above decision.

Kathleen McNally, Commissioner



DATE: August 28, 2013

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.

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