



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

NOTICE OF SUSPENSION

May 7, 2013

WAREHAM LODGE OF ELKS, #1548
2855 CRANBERRY HWY
WAREHAM, MA 02538
LICENSE#: 132800006
VIOLATION DATE: 12/06/2012
HEARD: 04/30/2013

After a hearing on April 30, 2013, the Commission finds Wareham Lodge of Elks, #1548 in violation of 204 CMR 2.05 (2): Permitting an Illegality on the licensed premises, to wit: M.G.L. c. 140 §177A Failure to have automatic amusement devices in open view at all time while in operation.

The Commission **suspends the licensee's license for a total of two (2) days to be served. The suspension shall commence on Wednesday, June 26, 2013 and terminate on Thursday, June 27, 2013.** The license will be delivered to the Local Licensing Board or its designee on Wednesday, June 26, 2013, at 9:00 A.M. It will be returned to the licensee Friday, June 28, 2013.

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. All checks must be certified and accompanied by the enclosed form, which must be signed by 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

cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Jamie Binienda, Investigator
Mark Kenny, Investigator
✓ File



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DECISION

WAREHAM LODGE OF ELKS, #1548
2855 CRANBERRY HWY
WAREHAM, MA 02538
LICENSE#: 132800006
VIOLATION DATE: 12/06/2012
HEARD: 04/30/2013

Wareham Lodge of Elks, #1548 (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, April 30, 2013, regarding an alleged violation of 204 CMR 2.05 (2): Permitting an Illegality on the licensed premises, to wit: M.G.L. c. 140 §177A Failure to have automatic amusement devices in open view at all time while in operation. Prior to the commencement of the hearing, the licensee stipulated to the violation alleged in Investigator Binienda's Report

The following documents are in evidence:

1. Licensee's Stipulation of Facts;
2. Investigator Binienda's Investigative Report dated December 6, 2012;
3. Photograph of Amusement Devices; and
4. Photograph of Amusement Devices.

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

FACTS

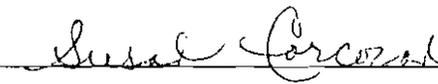
1. On Thursday, December 6, 2012, at approximately 7:30 p.m., Investigators Kenny and Binienda investigated the business operation of Wareham Lodge of Elks, #1548 to determine the manner in which their business was being conducted, and in response to a complaint filed with this Commission.
2. Investigators identified themselves to the Exalter of the Elks, Bob Hurley, and informed Mr. Hurley of the complaint alleging automatic amusement devices located in a private room.
3. Investigators asked where the automatic amusement devices were located.
4. Mr. Hurley escorted them to a back room, all by itself and separated from the bar area. The back room was not in public view.
5. Investigators observed the back room was locked and one needed a key card to enter the room.
6. Investigators entered the back room and observed four (4) automatic amusement devices inside it. All four (4) machines were turned on and were operational.

7. Investigators spoke with Mark Stafford and Jack Nevil. Both men stated that they are on the Board of Trustees for the establishment.
8. Investigators informed Mr. Stafford and Mr. Nevil of the complaint, and that the automatic amusement devices must be in plain view.
9. Investigators informed Mr. Hurley, Stafford, and Nevil that a report would be filed with the Chief Investigator for further action.
10. The machines were permanently removed from the licensed premises three days after the incident.

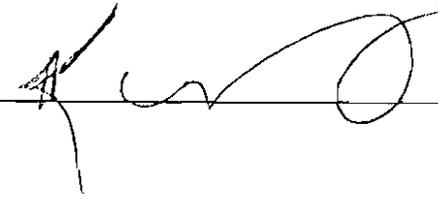
CONCLUSION

Based on the evidence, the Commission finds the licensee violated of 204 CMR 2.05 (2): Permitting an Illegality on the licensed premises, to wit: M.G.L. Ch. 140 §177A Failure to have automatic amusement devices in open view at all time while in operation. 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.**

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Susan Corcoran, Commissioner 

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

Kim S. Gainsboro, Chairman 

DATE: May 7, 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
Jamie Binienda, Investigator
Mark Kenny, Investigator
Licensee's Mailing Address: P.O. Box 566, East Wareham, MA 02538-0566
Administration
File