

Mailing Date: JUN 22 2006

[Appeal](#)

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ADMINISTRATIVE LAW JUDGE
FOR
PENNSYLVANIA LIQUOR CONTROL BOARD

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 05-1806
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-307363
	:	
v.	:	LID - 3820
	:	
VETS CANTEEN ASSN.	:	
130 W. KING ST.	:	
SHIPPENSBURG, PA 17257-1128 :	:	
	:	
	:	
CUMBERLAND COUNTY	:	
LICENSE NO. CC-5110	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Thomas M. Ballaron, Esquire
Pennsylvania State Police
3655 Vartan Way
Harrisburg, Pennsylvania 17110

For Licensee
Karl E. Rominger, Esquire
155 South Hanover Street
Carlisle, PA 17013

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on September 15, 2005, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Vets Canteen Assn. (Licensee), License Number CC-5110.

This citation¹ contains two counts.

The first count charges Licensee with violations of Section 471 of the Liquor Code [47 P.S. §4-471] and Section 315(b) of the Local Option Small Games of Chance Act [10 P.S. §315(b)]. The charge is that during the periods April 3 through 9, April 10 through 16, April 17 through 23, April 24 through 30, May 1 through 7, May 29 through June 4, June 5 through 11, June 12 through 18, June 19 through 25, June 26 through July 2, July 3 through 9, July 10 through 16, July 17 through 23 and July 24 through 30, 2005, Licensee, by servants, agents or employes, offered and/or awarded more than \$5,000.00 in cash or merchandise in any seven-day period.

The second count charges Licensee with violations of Sections 471 and 493(12) [47 P.S. §4-471 and §4-493(12)], Section 311 of the Local Option Small Games of Chance Act [10 P.S. §311] and Section 901 of the Department of Revenue Regulations [61 Pa. Code §901]. The charge is that on May 13 and August 5, 2005, Licensee, by servants, agents or employes, failed to maintain complete and truthful records covering the operation of the licensed business for a period of two (2) years concerning the Local Option Small Games of Chance Act.

An evidentiary hearing was conducted on May 16, 2006 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. The Bureau began its investigation on March 9, 2005 and completed it on August 9, 2005. (N.T. 6)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on August 24, 2005. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 5)

1. Commonwealth Exhibit No. C-2, N.T. 5.

Count No. 1:

3. For the seven-day periods listed in Count No. 1, Licensee awarded prizes in excess of \$5,000.00, as follows: Week ending April 9, 2005 - \$48,208.00; Week ending April 16, 2005 - \$39,785.00; Week ending April 23, 2005 - \$44,000.00; Week ending April 30, 2005 - \$47,000.00; Week ending May 7, 2006 - \$40,000.00; Week ending June 4, 2005 - \$43,000.00; Week ending June 11, 2005 - \$40,000.00; Week ending June 18, 2006 - \$32,000.00; Week ending June 25, 2005 - \$42,000.00; Week ending July 2, 2005 - \$45,000.00; Week ending July 9, 2005 - \$48,000.00; Week ending July 16, 2005 - \$39,000.00; Week ending July 23, 2005 - \$45,000.00; Week ending July 30, 2005 - \$38,000.00. (N.T. 6-8)

Count No. 2:

4. On the dates charged, Licensee maintained a ticket dispensing machine. Licensee was not maintaining required records with respect to that device. (N.T. 11-12)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. Count Nos. 1 and 2 are **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since August 10, 1949, and has had three prior violation(s) since July 1, 1987, the date of establishment of the Office of Administrative Law Judge (Commonwealth Exhibit No. C-3, N.T. 13):

Adjudication No. 89-0381. Fine \$500.00 and 20 days suspension.
Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on the licensed premises (tickets and punchboards).

Adjudication No. 94-0938. Fine \$400.00.
Sales to nonmembers without prior arrangement.
March 16, 1994.

Adjudication No. 04-2066. Fine \$900.00.

1. Failed to maintain complete and truthful records for a period of 2 years concerning the Local Option Small Games of Chance Act. November 10, 2004.
2. Offered and/or awarded more than \$5,000.00 in cash or merchandise in any 7 day period. October 31 through November 6, 2004.
3. Offered and/or gave alcoholic beverages as a prize.
October 6, 2004.

PENALTY:

Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or a fine of not less than \$50.00 or more than \$1,000.00 or both for violations of the type found in Count Nos. 1 and 2 in this case.

As Licensee has voluntarily agreed to cease operating pursuant to its Small Games of Chance License for a period of 28 days, beginning August 1, 2006 and terminating close of business August 28, 2006, I will impose fines without suspension.

Count No. 1 – \$900.00 fine.

Count No. 2 – \$100.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,000.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee's license shall be suspended or revoked.

The fine must be paid by Treasurer's Check, Cashier's Check, Certified Check or Money Order.

Personal checks, which include business-use personal checks, are not acceptable.

Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail to:

PLCB - Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg, Pennsylvania 17110-9661

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 13th day of June, 2006.

Felix Thau, A.L.J.

pm

MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER TO THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE FILING FEE.