

Mailing Date: SEP 13 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-0179
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-316268
v.	:	
	:	LID - 3924
HOME ASSOCIATION V.F.W.	:	
GETTYSBURG POST NO. 15, INC.	:	
369 E. MIDDLE ST.	:	
GETTYSBURG, PA 17325-1925	:	
	:	
ADAMS COUNTY	:	
LICENSE NO. CC-5407	:	

BEFORE: JUDGE THAU

APPEARANCES:

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

For Licensee
Barbara Jo Entwistle, Esq.
66 West Middle Street
Gettysburg, PA 17325

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on February 2, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Home Association V.F.W. Gettysburg Post No. 15, Inc. (Licensee), License Number CC-5407.

This citation¹ contains three 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 period November 21 through 27, 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 Section 471 of the Liquor Code [47 P.S. §4-471] and Section 901 of the Department of Revenue Regulations [61 Pa. Code §901]. The charge is that during the period January 5 through November 3, 2005, Licensee, has violated the Local Small Games of Chance Act, in that funds derived from the operations of games of chance were used for purposes other than those authorized by law.

The third count charges Licensee with a violation of Sections 471 and 493(12) of the Liquor Code [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 December 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 August 1, 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 August 10, 2005 and completed it on December 20, 2005. (N.T. 10)

2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on January 13, 2006. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 9)

Count No. 1:

3. For the seven day period ending November 27, 2005, Licensee awarded \$21,886.00 in cash or merchandise pursuant to its Small Games of Chance license. (N.T. 19-20)

1. Commonwealth Exhibit No. C-2, N.T. 9.

Count No. 2:

4. During the period charged, Licensee received gross revenue of approximately \$250,000.00. Licensee spent approximately \$60,000.00 pursuant to the Small Games of Chance Act. Licensee was the recipient of a net gain of approximately \$191,000.00. Licensee provided specific documentation demonstrating that \$13,000.00 was spent on specific charitable contributions, leaving approximately \$178,000.00 unaccounted for. Those funds were used for operational expenses rather than charitable purposes. (N.T. 22-24)

Count No. 3:

5. On the date charged, a Bureau Enforcement Officer verified Licensee failed to record the names of patrons who won more than \$100.00 in Small Games of Chance. (N.T. 20)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. Count Nos. 1, 2 and 3 are **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since July 15, 1954, and has had no prior violations.

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, 2 and 3 in this case.

As Licensee is committed to ensuring that no further violations of these types occur, I impose:

- Count No. 1 – \$250.00 fine.
- Count No. 2 – \$125.00 fine.
- Count No. 3 – \$125.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$500.00 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 31st day of August, 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.