

Mailing Date: FEB 16 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-1532
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-315839
v.	:	
	:	LID - 461
ROYAL MENS CLUB OF	:	
LEBANON PENNSYLVANIA, INC.	:	
45 N. 9 <sup>TH</sup> ST.	:	
LEBANON, PA 17042-4902	:	
	:	
LEBANON COUNTY	:	
LICENSE NO. CC-20	:	

**BEFORE:** JUDGE THAU

APPEARANCES:

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

For Licensee  
Ex-Parte

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on June 15, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Royal Mens Club of Lebanon Pennsylvania, Inc. (Licensee), License Number CC-20.

This citation<sup>1</sup> contains five counts.

The first count charges Licensee with violations of Section 493(26) of the Liquor Code [47 P.S. §4-493(26)]. The charge is that Licensee, by servants, agents or employes, issued checks or drafts dated June 17 and 21, 2005, in payment for purchases of malt or brewed beverages, when Licensee had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

The second count charges Licensee with violations 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 November 18, 2005, and divers occasions in the past year, 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.

The third count charges Licensee with violations of Sections 5512 and/or 5513 of the Crimes Code [18 Pa. C.S. §5512 and/or §5513] which is incorporated by reference in Liquor Code Section 471 [47 P.S. §4-471] as “other sufficient cause.” The charge is that on November 18, 2005, March 10, 2006, and divers other occasions in the past year, Licensee, by servants, agents or employes, possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on its licensed premises.

The fourth 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 June 12 through 18 and September 11 through 17, 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 fifth count charges Licensee with violations of section 102 of the Liquor Code [47 P.S. §1-102]. The charge is that on March 13, 2006, and divers other occasions in the past year, Licensee, by servants, agents or employes, failed to fulfill charter purposes.

An evidentiary hearing was conducted on January 9, 2007 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. Licensee did not appear personally or have any representation.

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1. Commonwealth Exhibit No. C-3, N.T. 16.

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

FINDINGS OF FACT:

1. A citation hearing notice was mailed by the Office of Administrative Law Judge on November 22, 2006 to Licensee by both certified receipt-return mail and first-class mail to the licensed premises. The notice notified Licensee of the date, time and place of the hearing. The Notice, sent by certified mail, was returned as being marked unclaimed. (N.T. 4)

2. On November 22, 2006, I issued a Pre-Hearing Order by first class mail to Licensee at the licensed premises, directing Licensee to submit its pre-hearing memorandum. That Order reiterated the date, time and place of hearing. (N.T. 4)

3. The Bureau began its investigation on August 4, 2005 and completed it on June 2, 2006. (N.T. 8)

4. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on June 9, 2006. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 16)

Count No. 1:

5. On September 19, 2005, a Bureau Enforcement Officer met with Licensee's Treasurer who admitted to the Officer that Licensee issued checks for the purchase of beer which were dishonored due to insufficient funds as charged in Count No. 1. (N.T. 11-16)

Count No. 2:

6. On November 18, 2005, a Bureau Enforcement Officer reviewed Licensee's Small Games of Chance records. Licensee was operating both a daily and a weekly drawing book but those records were lacking in what was required. Licensee had no records with respect to punchboards. Specifically, Licensee was not keeping independent and itemized records on individual prizes awarded in excess of \$100.00. (N.T. 18-19)

Count No. 3:

7. The Officer also found what were called "generic" games. All the games pursuant to the Small Games of Chance license must have a name and a form number as well as serial numbers. The Officer returned to the premises on March 10, 2006, finding the same conditions present. (N.T. 20-23)

Count No. 4:

8. For the seven day period June 12 through June 18, 2005, Licensee awarded \$5,855.00 in prizes. The compable figure for the seven day period for September 11 through September 17, 2005, was \$7,525.00. (N.T. 25)

Count No. 5:

9. Licensee's Charter indicates Licensee is not permitted to serve alcoholic beverages. (N.T. 26-29)

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, 3, 4 and 5 are **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since January 1, 1934, and has had seven prior violation(s) since July 1, 1987, the date of establishment of the Office of Administrative Law Judge:

Adjudication No. 94-3081. Fine \$150.00.

Sales to nonmembers.

Adjudication No. 97-2289. Fine \$2,000.00.

1. Permitted lewd, immoral or improper entertainment. July 11, 1997.
2. Permitted entertainers to contact or associate with patrons for a lewd, immoral, improper or unlawful purpose. July 11, 1997.
3. Sales to nonmembers without prior arrangement. July 11 and 12, 1997.
4. Improper admission of members. August 12, 1997.

Adjudication No. 99-1751. Fine \$250.00.

Sales to nonmembers.

August 6, 1999.

Adjudication No. 02-0168. Fine \$1,500.00.

1. Sales to nonmembers.  
June 9, 2001.
2. Improper admission of members.  
October 21, 2001.
3. Sales to a visibly intoxicated person.  
October 21, 2001.

Adjudication No. 02-1257. Fine \$1,250.00 and 2 days suspension.

1. Sales to nonmembers.  
January 18, 2002.
2. Possessed or operated gambling devices or paraphernalia  
or permitted gambling or lotteries, poolselling and/or  
bookmaking on your licensed premises (machines and tickets).  
May 3, 2002.
3. Possessed or operated gambling devices or paraphernalia  
or permitted gambling or lotteries on a licensed premises  
during a period when your Small Games of Chance license  
expired (tickets).  
April 15 through May 3, 2002.

Adjudication No. 03-0933. Fine \$500.00.

1. Failed to maintain complete and truthful records for  
a period of 2 years concerning the Local Option  
Small Games of Chance Act  
April 24, 2003.
2. Offered and/or awarded more than \$5,000.00 in  
cash or merchandise in any seven-day period.  
March 2 through 8, 2003.

Adjudication No. 05-1247. Fine \$1,600.00. Revocation of License for failure to pay fine.

1. Offered and/or awarded more than \$5,000.00 in cash or merchandise in any seven-day period. On 8 periods from December 26, 2004 through February 19, 2005.
2. Failed to maintain records in conformity with Title 40 of the Pennsylvania Code. April 29, 2005.
3. Failed to maintain complete and truthful records for a period of 2 years concerning the Local Option Small Games of Chance Act. April 29, 2005.
4. Organization not operated for the mutual benefit of the entire membership. April 29, 2005.
5. Furnished an unlimited or indefinite amount of free alcoholic beverages to club officials and/or off-duty employees. April 29, 2005.

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, 3, 4 and 5 in this case.

I impose:

- Count No. 1 – Revocation of license.
- Count No. 2 – Revocation of license.
- Count No. 3 – Revocation of license.
- Count No. 4 – Revocation of license.
- Count No. 5 – Revocation of license.

ORDER:

**Imposition of Revocation**

THEREFORE, it is hereby ordered that Catering Club liquor license No. CC-20, issued to Royal Mens Club of Lebanon Pennsylvania, Inc., be **REVOKED**, effective at 7:00 a.m., on the mailing date of this Adjudication. Any Wholesale Liquor Purchase Permit Card or discount card issued in connection with the aforementioned license is hereby **CANCELLED**.

As Licensee's liquor license has already been revoked, there is no license to be returned. Accordingly, the Bureau of Licensing of the Pennsylvania Liquor Control Board is hereby directed to mark its records accordingly, that this license is revoked effective at 7:00 a.m., on the mailing date of this Adjudication.

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 7<sup>th</sup> day of February, 2007.

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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.**