

Mailing Date: AUG 30 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-1698
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W03-333639
	:	
LOYAL ORDER OF MOOSE	:	
LODGE 842	:	LID- 2424
1100 SHELLER AVE.	:	
CHAMBERSBURG, PA 17201-2940	:	
	:	
	:	
FRANKLIN COUNTY	:	
LICENSE NO. C-5246	:	

**ADJUDICATION**

**BEFORE: JUDGE FLAHERTY**

**BACKGROUND:**

This proceeding arises out of a citation that was issued on July 20, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against LOYAL ORDER OF MOOSE LODGE 842, License Number C-5246 (hereinafter "Licensee").

The citation contains two counts.

The first count charges Licensee with violation 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)] in that during the period May 21 through May 27, 2006, Licensee, by its 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 violation of Section 5.74 of the Liquor Control Board Regulations [40 Pa. Code §5.74] in that on June 9, 2006 and divers occasions within the past year, Licensee, by its servants, agents or employes, failed to maintain records in conformity with Title 40 of the Pennsylvania Code.

Licensee has executed a Statement of Waiver, Admission and Authorization in which Licensee: admits to the violation(s) charged in the citation and that the Bureau complied with the applicable investigatory and notice requirements of the Liquor Code, authorizes the Administrative Law Judge to enter an Adjudication without a hearing based on a summary of facts as provided by the Bureau and prior citation history, and waives the right to appeal this Adjudication.

Based upon the admission(s) of Licensee and the summary of facts provided by the Bureau, I make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

COUNTS 1 AND 2

1. On June 6, 2006 an officer of the Bureau conducted a routine inspection of the licensed premises.

2. The officer reviewed Licensee's records and found that Licensee failed to include in the club minutes, copies of the premises' financial reports, dates of application of new members and any information pertaining to free parties given by Licensee.

3. The officer also reviewed Licensee's Small Games of Chance Records and found that during the period May 21, 2006 through May 27, 2006 Licensee's prize payouts were \$81,201.00.

CONCLUSIONS OF LAW:

Counts 1 and 2 of the citation are **sustained**.

PRIOR RECORD:

Licensee has been licensed since December 7, 1951, and has had seven prior violation(s) since July 1, 1987, the date of establishment of the Office of Administrative Law Judge:

Citation No. 87-3203. Fine \$350.00 and 10 days suspension.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling on the licensed premises (tickets, punchboards and machines).

Citation No. 87-3556. Fine \$700.00 and 20 days suspension.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on the licensed premises (tickets).

Citation No. 89-0049. Fine \$1,000.00 and 35 days suspension.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on the licensed premises (machine, tickets and punchboards).

Citation No. 97-1804. Fine \$250.00.

1. Employed a minor under 16 years of age.

Citation No. 03-1971. Fine \$400.00.

1. Failed to maintain complete and truthful records for a period of 2 years concerning the Local Option Small Games of Chance Act. October 3, 2003.
2. Offered and/or awarded more than \$5,000.00 in cash or merchandise in any 7 day period. September 5, 2003.

Citation No. 04-0971. Fine \$500.00.

1. Offered and/or awarded more than \$5,000.00 in cash or merchandise in any 7 day period. April 25 through May 1, 2004.

Citation No. 05-0631. Fine \$450.00.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on the licensed premises (horse races). January 14, 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 this case.

Counsel for the Bureau and Licensee have agreed to recommend a penalty in this case of a fine of \$1,300.00 and a five days suspension. Under the circumstances of this case, I find this recommendation to be acceptable.

Therefore, the penalty imposed shall be as follows:

- Count 1 - \$1,000.00 fine and 5 days suspension
- Count 2 - \$ 300.00 fine

ORDER

THEREFORE, it is hereby ordered that Licensee LOYAL ORDER OF MOOSE LODGE 842, pay a fine of \$1,300.00 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.

IT IS FURTHER ORDERED that the club liquor license of LOYAL ORDER OF MOOSE LODGE 842, License No. C-5246 be suspended for a period of five days **BEGINNING** at 7:00 a.m. on Monday, September 18, 2006 and **ENDING** at 7:00 a.m. on Saturday, September 23, 2006.

Licensee is directed on September 18, 2006 at 7:00 a.m. to place the enclosed placard of notice of suspension (identified as Form No. PLCB-1925 and as printed with red and black ink) in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises and to remove said license from the wall and place it in a secure location.

Licensee is advised if replacement placards are needed for any reason they are available at all Pennsylvania Liquor Stores/Wine & Spirits Shoppes.

The Bureau is directed to visit and monitor the aforementioned licensed premises for compliance with this Order.

Licensee is authorized on September 23, 2006 at 7:00 a.m. to remove the placard of suspension and return his license to its original wall location.

The fine must be paid by Treasurer's Check, Cashier's Check or Certified Check. **Personal checks, which includes business-use personal checks, are not acceptable.** Make check payable to the Commonwealth of Pennsylvania and mail to:

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

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 25<sup>th</sup> day of August, 2006.

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Daniel T. Flaherty, Jr., J.

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**MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN 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.**