

Mailing Date: OCT 26 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-0516
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-347658
v.	:	
	:	LID - 3831
THE TAURAS CLUB	:	
104-106 W. MARKET ST.	:	
SCRANTON, PA 18508-1948	:	
	:	
	:	
	:	
LACKAWANNA COUNTY	:	
LICENSE NO. CC-5148	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Craig A. Strong, Esquire
Pennsylvania State Police
8320 Schantz Road, Second Floor
Breinigsville, PA 18031

For Licensee
Charles Witaconis, Esquire
321 Madison Avenue
Scranton, PA 18510

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on March 19, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against The Taurus Club (Licensee), License Number CC-5148.

The citation¹ charges Licensee with a violation of Section 5513 of the Crimes Code [18 Pa. C.S. §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 February 4, 2007, 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.

An evidentiary hearing was conducted on October 2, 2007 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, 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 January 30, 2007 and completed it on February 4, 2007. (N.T. 5)

2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on February 12, 2007. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 7)

3. On the date charged, a Bureau Enforcement Officer arrived at the licensed premises at 2:25 p.m. He first attempted to make a nonmember purchase of alcoholic beverages in an undercover capacity. He was challenged as to membership and was denied service. The Officer identified himself and subsequently conducted an administrative inspection. The Officer discovered two slips of paper (Commonwealth Exhibit No. C-3) evidencing payouts. Licensee’s Manager, Mr. Anthony Kubilus explained how the game for which Commonwealth Exhibit No. C-3 which represents payouts was played. (N.T. 13-14)

1. Commonwealth Exhibit No. C-2, N.T. 7.

CONCLUSIONS OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since July 18, 1956, and has had seven prior violations since July 1, 1987, the date of establishment of the Office of Administrative Law Judge, (Commonwealth Exhibit No. C-4, N.T. 20):

Adjudication No. 88-1039. Fine \$200.00.
Sales to nonmembers without prior arrangement.

Adjudication No. 92-2505. Fine \$200.00.
1. Failed to adhere to by-laws.
2. Failed to maintain records in conformity with Title 40 of the Pennsylvania Code.

Adjudication No. 93-2110. Fine \$250.00.
Sales to nonmembers without prior arrangement.

Adjudication No. 95-2643. Fine \$250.00.
Failed to maintain records in conformity with Title 40 of the Pennsylvania Code.

Adjudication No. 97-1023. Fine \$700.00.
1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on a licensed premises (machines).
2. Sales to nonmembers without prior arrangement.

Adjudication No. 04-0308. Fine \$400.00.

Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on your licensed premises (sports pool).
February 1, 2004.

Adjudication No. 04-1754. Fine \$1,200.00 and 5 days suspension.

1. Sales to nonmembers.
September 15, 2004.
2. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on your licensed premises (machines).
September 22, 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 this case.

I find this case to evidence an exceedingly minor infraction. I impose a \$50.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$50.00 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.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 19th day of October, 2007.

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.

Detach Here and Return Stub with Payment

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, PA 17110-9661

Citation No. 07-0516