

Mailing Date: NOV 20 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-0790
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-348291
v.	:	
	:	LID - 3950
JAMES A. DANNER VETERANS	:	
OF FOREIGN WARS POST 537	:	
HOME ASSOCIATION	:	
1095 PINES RD.	:	
ETTERS, PA 17319-9661	:	
	:	
YORK COUNTY	:	
LICENSE NO. CC-5482	:	

**BEFORE:** JUDGE THAU

APPEARANCES:

For Bureau of Enforcement  
Thomas M. Ballaron, Esquire  
Pennsylvania State Police  
3655 Vartan Way  
Harrisburg, PA 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 April 19, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against James A. Danner Veterans of Foreign Wars Post 537 Home Association (Licensee), License Number CC-5482.

The citation<sup>1</sup> 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 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 immediately preceding March 5, 2007, concerning the Local Option Small Games of Chance Act.

An evidentiary hearing was conducted on October 15, 2007 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 February 8, 2007 and completed it on March 7, 2007. (N.T. 6)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on March 22, 2007. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 6)
3. On March 5, 2007, a Bureau Enforcement Officer entered the licensed premises and conducted an administrative inspection. In reviewing Licensee's Small Games of Chance records, the Officer found payout totals were not being kept as required by regulation.
4. The new leaders are determined to abide by the law.

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.

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1. Commonwealth Exhibit No. C-2, N.T. 6.

PRIOR RECORD:

Licensee has been licensed since February 20, 1958, and has had five prior violations since July 1, 1987, the date of establishment of the Office of Administrative Law Judge, (Commonwealth Exhibit No. C-3):

Adjudication No. 00-0420. Fine \$250.00.  
Sales to nonmembers.  
January 10, 2000.

Adjudication No. 00-1687. Fine \$350.00.  
Sales to nonmembers.  
August 4, 2000.

Adjudication No. 01-0987. Fine \$100.00.  
Failed to adhere to by-laws.  
February 14, 2001.

Adjudication No. 04-1975. Fine \$1,100.00.

1. Failed to adhere to by-laws.  
October 13, 2004.
2. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of 2 years concerning the Local Option Small Games of Chance Act.  
October 13, 2004.
3. Offered and/or awarded more than \$5,000.00 in cash or merchandise in any 7 day period.  
October 3 through 9, 2004.
4. Failed to maintain records in conformity with Title 40 of the Pennsylvania Code.  
October 13, 2004.

Adjudication No. 05-0982. Fine \$2,500.00 and 14 days suspension.

1. Sold and/or served an unlimited or indefinite amount of alcoholic beverages for a fixed price. March 26, 2005.
2. Sales to nonmembers. March 26, 2005.
3. Failed to maintain complete and truthful records for a period of 2 years concerning the Local Option Small Games of Chance Act. October 1, 2004 through April 19, 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.

As Licensee's newly elected leadership will be closely monitoring the club's adherence to the Local Small Games of Chance Act, I impose a \$250.00 fine.

ORDER:

**Imposition of Fine**

THEREFORE, it is hereby ordered that Licensee pay a fine of \$250.00 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 7<sup>th</sup> day of November, 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

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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. 07-0790