

Mailing Date: NOV 13 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-0875
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-349903
v.	:	
	:	LID - 48038
HAMILTON-MYERS POST NO. 6070	:	
VETERANS OF FOREIGN WARS	:	
HOME ASSOCIATION	:	
1 GREEN SPRING RD.	:	
PO BOX 101	:	
NEWVILLE, PA 17241-0101	:	
	:	
CUMBERLAND COUNTY	:	
LICENSE NO. CC-6288	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Andrew J. Lovette, Esquire
Pennsylvania State Police
3655 Vartan Way
Harrisburg, PA 17110

For Licensee
Beatrice L. Laughman
Manager

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on April 26, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Hamilton-Myers Post No. 6070 Veterans of Foreign Wars Home Association (Licensee), License Number CC-6288.

The citation¹ 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 Licensee, by servants, agents or employees, failed to maintain complete and truthful records covering the operation of the licensed business for a period of two (2) years immediately preceding April 2, 2007, concerning the Local Option Small Games of Chance Act.

An evidentiary hearing was conducted on October 9, 2007 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. Licensee was represented by its Manager, Ms. Beatrice L. Laughman.

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 March 9, 2007 and completed it on April 2, 2007. (N.T. 8)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on April 10, 2007. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. B-1, N.T. 8)
3. During an administrative inspection of the premises on April 2, 2007, a Bureau Enforcement Officer discovered Licensee was not maintaining seven day totals for prizes.

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.

1. Commonwealth Exhibit No. B-2, N.T. 8.

PRIOR RECORD:

Licensee has been licensed since November 28, 2001, and has had one prior violation (Commonwealth Exhibit No. B-3, N.T. 18):

Adjudication No. 04-0512. Fine \$2,200.00.

1. Sales to a visibly intoxicated person.
September 19, 2003.
2. Failed to maintain complete and truthful records covering the operation of the Local Option Small Games of Chance Act.
February 4, 2004.
3. Offered and/or awarded more than \$5,000.00 in cash or merchandise in any 7-day period.
January 26 through 31, 2004.
4. Failed to clean coils, tap rods and connections at least once every 7 days.
December 22, 2003 through February 2, 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 impose a \$350.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$350.00 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 1st 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

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

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