

Mailing Date: FEB 06 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-0770
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-367736
v.	:	
	:	LID - 2620
MIDDLETOWN MEMORIAL POST	:	
1620 V.F.W.	:	
218 PIKE ST.	:	
MIDDLETOWN, PA 17057-1013	:	
	:	
	:	
DAUPHIN COUNTY	:	
LICENSE NO. C-5813	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Andrew Lovette, Esquire

For Licensee
NO APPEARANCE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on May 8, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against MIDDLETOWN MEMORIAL POST 1620 V.F.W., License Number C-5813 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 471(d) of the Liquor Code [47 P.S. §4-471(d)] in that from December 31, 2007 through February 21, 2008, Licensee failed to comply with the order of the Administrative Law Judge at Citation No. 06-2069 mandating responsible alcohol management training.

The investigation which gave rise to the citation began on January 11, 2008 and was completed on February 28, 2008; and notice of the violation was sent to Licensee by Certified Mail on March 27, 2008. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on November 18, 2008 in the Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. No one appeared at the hearing on behalf of Licensee. A citation hearing notice was sent to Licensee(s) at its address of record, 218 Pike Street, Middletown, PA 17057-1013 by certified mail, return receipt requested and by first class mail on October 2, 2008. The notice set forth the date and time of the hearing as November 18, 2008 at 10:30 a.m., and the place of hearing as Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. On October 1, 2007 the Office of Administrative Law Judge issued an Adjudication at Citation No. 06-2069.
2. Part of the order in the aforementioned Adjudication required Licensee to obtain RAMP certification within 90 days of the mailing date of the Adjudication (December 31, 2007) (N.T. 9-10 and Exhibit C-5).
3. On January 25, 2008 an officer of the Bureau arrived at the licensed premises at 3:15 p.m. The officer ultimately spoke with Mr. Wolfe, manager of Licensee club. At that time, he determined that Licensee had not completed the owner/manager part of RAMP certification (N.T. 8).
4. Licensee became RAMP certified on July 9, 2008 (N.T. 10 and Exhibit C-6).

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

PRIOR RECORD:

Licensee has been licensed since November 17, 1978, and has had four prior violation(s) since July 1, 1987, the date of establishment of the Office of Administrative Law Judge:

Citation No. 02-2200. Fine \$600.00.

1. Sales to nonmembers.
2. Possessed or operated gambling devices or paraphernalia or permitted gambling or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on the licensed premises (sports pool). On 32 dates between February 17 to October 18, 2002.

Citation No. 06-2069. Fine \$2,600.00 and RAMP training mandated.

1. Failed to hold regular meetings. September 6, October 4, November 1, December 6, 2005, January 3, February 7, March 7 and April 4, 2006.
2. Failed to adhere to bylaws. September 6, October 4, November 1, December 6, 2005, January 3, February 7, March 7, April 4 and June 5, 2006.
3. Failed to maintain records in conformity with Title 40 of the Pennsylvania Code. May 4 and June 5, 2006.
4. 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. May 4 and June 5, 2006.
5. Improper admission of members. May 4, 2006.
6. Offered and/or awarded more than \$5,000.00 in cash or merchandise in any seven day period. January 2 through 8, 2006.
7. Sales to visibly intoxicated persons. July 6 and 7, 2006.

Citation No. 07-1341. Fine \$1,850.00.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling on the licensed premises (tickets, sign up books and sports pool). March 3 through April 9, 2007.
2. Failed to maintain complete and truthful records covering the operation of small games of chance for a period of 2 years. March 20, 2007.
3. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of 2 years. April 27, 2007.
4. Failed to keep records on the licensed premises. April 4, 12 and 25, 2007.
5. Failed to maintain records in conformity with Title 40 of the Pennsylvania Code. April 12, 2007.

Citation No. 07-3070. Fine \$2,750.00 and 5 days suspension

1. Improper admission of members. October 29, 2007.
2. Failed to maintain complete and truthful records covering the operation of small games of chance for a period of two years. November 14, 2007.
3. Offered and/or awarded more than \$5,000.00 in cash or merchandise in any 7-day period. June 4-10, July 2-8 and August 6-12, 2007.

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.

This office takes notice that Licensee became RAMP certified effective July 9, 2008.

Under the circumstances of this case, the penalty imposed shall be a fine of \$250.00.

ORDER

THEREFORE, it is hereby ordered that Licensee MIDDLETOWN MEMORIAL POST 1620 V.F.W., 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.

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

Dated this 30TH day of January, 2009.



Daniel T. Flaherty, Jr., J.

an

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.

Detach here and submit stub with payment

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

Citation No. 08-0770
Middletown Memorial Post
1620 V.F.W.