

This citation¹ contains two counts.

The first count charges Licensee with violations of Section 404 of the Liquor Code [47 P.S. §4-404]. The charge is that during the period May 17, 2007 through July 16, 2008, Licensee's licensed joint venture was not the only one pecuniarily interested in the operation of the licensed business.²

The second count charges Licensee with a violation of Section 473 of the Liquor Code [47 P.S. §4-473]. The charge is that Licensee, by servants, agents or employees, refused and/or failed to provide the Board with information regarding the involvement of Samm Hotel in the operation of its licensed premises from May 17, 2007 to July 16, 2008.

An evidentiary hearing was conducted on May 5, 2009 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 March 31, 2008 and completed it on July 16, 2008. (N.T. 6)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on July 29, 2008, as amended. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 5)
3. On the date charged, there was a lease involved for the hotel and the restaurant which was not reported to the Pennsylvania Liquor Control Board. On March 24, 2009, the Pennsylvania Liquor Control Board was apprised of the lease arrangement. The failure to report the leasing arrangement to the Pennsylvania Liquor Control Board was inadvertent and based on advice Licensee received which was inaccurate. (N.T. 8-20)

1. Commonwealth Exhibit No. C-2, N.T. 5.

2. By Order dated March 3, 2009, Chief Administrative Law Judge Maunus granted the Bureau's Motion to Withdraw Count No. 1 of the Citation.

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.

Count No. 1:

2. **Withdrawn by Order dated March 3, 2009.**

Count No. 2:

3. Licensee, by servants, agents or employes, failed to provide the Board with information regarding the involvement of Samm Hotel in the operation of its licensed premises from May 17, 2007 to July 16, 2008.

PRIOR RECORD:

Licensee has been licensed since November 21, 2005, and has had no prior violations.

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.

In as much as the violation was inadvertent, I impose a \$100.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$100.00 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 Count No. 1 of the Citation was WITHDRAWN by Order dated March 3, 2009.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 27th day of May, 2009.



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. 08-1881
3A ENTERPRISE / KIM JOINT VENTURE