

Mailing Date:

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

PENNSYLVANIA STATE :  
POLICE, BUREAU OF : Citation No. 09-0726  
LIQUOR CONTROL ENFORCEMENT :  
 : Incident No. W09-390543  
v. :  
 : LID - 12176  
THOMAS A GREEN and LINDA A GREEN :  
T/A LAST CHANCE SALOON :  
417 SPRUCE STEET :  
TAMAQUA PA 18252-1812 :  
 :  
SCHUYLKILL COUNTY :  
LICENSE NO. R-AP-6272 :

JUDGE SHENKLE  
BLCE COUNSEL: Roy Harkavy, Esq.  
LICENSEES: no appearance

**ADJUDICATION**

**BACKGROUND:**

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on April 1, 2009. There are two counts in the citation.

The first count alleges that Licensees violated §471 of the Liquor Code, 47 P.S. §4-471, and §637.6(a)(2) of the Clean Indoor Air Act, 35 P.S. §637.6(a)(2), on March 4, 2009, by permitting smoking in a public place where smoking is prohibited.

The second count alleges that Licensees violated §471 of the Liquor Code, 47 P.S. §4-471, and §637.6(a)(1) of the Clean Indoor Air Act, 35 P.S. §637.6(a)(1), on March 4, 2009, by failing to post signage as required.

At the hearing scheduled for August 25, 2009, in Allentown, Pennsylvania, there was no appearance for the Licensees; therefore, the case was heard *ex parte*.

**FINDINGS OF FACT:**

1. The Bureau investigated Licensees during the period March 4 through March 10, 2009, and sent written notice of the results of its investigation to the licensed premises by certified mail on March 19, 2009 (N.T. 5-6, Exhibit C-1).

2. A copy of the citation was mailed to Licensees on April 1, 2009. (N.T. 6, Exhibit C-2).

3. A Notice of Hearing was mailed to the licensed establishment by the Office of Administrative Law Judge, Harrisburg, PA, by certified and first class mail on July 9, 2009.

4. On March 4, 2009, a liquor enforcement officer visited the licensed premises and saw patrons smoking. There were no "no smoking" signs posted. License was not exempt from the Clean Indoor Air Act on this date (N.T. 5-7, Exhibit C-3).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since November 18, 1987, 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 in the \$50.00 to \$1,000.00 range, or both, for violations of this type. The two counts are merged for penalty purposes.

ORDER

THEREFORE, it is hereby ORDERED that Licensees, Thomas A. Green and Linda A. Green, t/a Last Chance Saloon, License No. R-AP-6272, shall pay a fine of two hundred dollars (\$200.00) within 20 days of the mailing date of this order. In the event the fine is not paid within 20 days, Licensees' license will be suspended or revoked. Jurisdiction is retained.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

  
\_\_\_\_\_  
David L. Shenkle, J.

jb

**NOTICE: MOTIONS FOR RECONSIDERATION CANNOT BE ACTED UPON UNLESS THEY ARE IN WRITING AND RECEIVED BY THE OFFICE OF ADMINISTRATIVE LAW JUDGE WITHIN 15 DAYS AFTER THE MAILING DATE OF THIS ORDER, ACCOMPANIED BY A \$25.00 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