

Mailing Date: AUG 31 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-0931
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-388139
v.	:	
	:	LID - 55162
GONK & SIGG, LLC	:	
T/A SIDE STREET TAVERN	:	
124 DINGMANS CT.	:	
DINGMANS FERRY, PA 18328-9122	:	
	:	
PIKE COUNTY	:	
LICENSE NO. R-AP-SS-1415	:	
	:	

BEFORE: JUDGE THAU
BUREAU COUNSEL: Craig A. Strong, Esquire
LICENSEE: James Siggia – Member
Janet Siggia – Member and Manager

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on April 24, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Gonk & Sigg, LLC, t/a Side Street Tavern (Licensee), License Number R-AP-SS-1415.

This citation¹ contains three counts.

The first count charges Licensee with violations of Section 471 of the Liquor Code [47 P.S. §4-471] and Section 637.6(a)(2) of the Clean Indoor Air Act [35 P.S. §637.6(a)(2)]. The charge is that on January 31, February 26 and March 28, 2009, Licensee, by servants, agents or employes, permitted smoking in a public place where smoking is prohibited.²

1. Commonwealth Exhibit No. C-2, N.T. 24.

2. The Bureau motioned to withdraw Count No. 1. I granted said Motion.

The second count charges Licensee with violations of Section 471 of the Liquor Code [47 P.S. §4-471] and Section 637.6(a)(1) of the Clean Indoor Air Act [35 P.S. §637.6(a)(1)]. The charge is that on January 31, February 26 and March 28, 2009, Licensee, by servants, agents or employes, failed to post signage as required by the Clean Indoor Air Act.³

The third count charges Licensee with a violation of Section 5.32(a) of the Pennsylvania Liquor Control Board Regulations [40 Pa. Code §5.32(a)]. The charge is that on March 28, 2009, Licensee, by servants, agents or employes, used, or permitted to be used on the inside of its licensed premises, a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

An evidentiary hearing was conducted on July 31, 2009 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee was represented by its Members, James and Janet Siggia.

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 January 27, 2009 and completed it on March 30, 2009. (N.T. 22)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on April 7, 2009. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 24)

3. The Bureau motioned to Withdraw Count No. 2. I granted said Motion.

Count No. 3:

3. On March 28, 2009, at 9:45 p.m., a Bureau Enforcement Officer exited his vehicle which was in the parking lot of the premises. He heard music emanating from the premises from an open door. The Officer heard the music approximately 600 feet away from the premises. The music was very loud. The Officer heard vocals and music. The Officer entered the premises at 9:50 p.m. There was a live band playing. The band's music was amplified. The Officer departed the premises at 11:25 p.m. and again heard music emanating from the premises. (N.T. 22-32)

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 the Bureau.

Count No. 2:

3. **Withdrawn** by the Bureau.

Count No. 3:

4. **Sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since October 1, 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 Count No. 3 in this case.

Licensee explains the premises is in a rural area. Licensee will be taking measures to ensure that no further violations occur. As the premises is in a rural area and no one was disturbed, I impose the minimum allowable fine of \$50.00.

Count No. 1 – Withdrawn.
Count No. 2 – Withdrawn.
Count No. 3 - \$50.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$50.00 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.

Withdrawal of Count Nos. 1 and 2:

NOW THEREFORE, it is ordered that Count Nos. 1 and 2 of Citation No. 09-0931, issued against Gonk & Sigg, LLC, t/a Side Street Tavern, are DISMISSED.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 25TH day of August, 2009.



Felix Thau, A.L.J.

pm

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

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. 09-0931
GONK & SIGG, LLC