

Mailing Date: DEC 02 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-1055
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-388698
v.	:	
	:	LID - 37229
RISKY BUSINESS, INC.	:	
T/A WHISKEY BUSINESS	:	
87 WOOD ST.	:	
WILKES-BARRE, PA 18702-3611	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-SS-10742	:	

**BEFORE:** JUDGE THAU  
**BUREAU COUNSEL:** Craig A. Strong, Esquire  
**LICENSEE:** Kenneth Owens – Sole Corporate Officer – Pro Se

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on May 8, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Risky Business, Inc., t/a Whiskey Business (Licensee), License Number R-AP-SS-10742.

The citation<sup>1</sup> charges Licensee with a violation of Section 493(12) of the Liquor Code [47 P.S. §4-493(12)]. The charge is that on April 8, 2009, Licensee, by servants, agents or employes, failed to keep records on the licensed premises.

An evidentiary hearing was conducted on November 4, 2009 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee was represented by its Sole Corporate Officer, Mr. K.O.

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

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 February 3, 2009 and completed it on April 14, 2009. (N.T. 10)

2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on April 20, 2009. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 7)

3. On April 8, 2009, at approximately 3:20 p.m., a Bureau Enforcement Officer arrived at the premises to conduct an administrative inspection. The Officer found one issue that being the records were not kept on the premises. The individual with whom the Officer spoke could not find the records. The individual identified himself as the Assistant Manager. The "Assistant Manager" telephoned someone. The Officer made arrangements to come back on April 14, 2009. (N.T. 11-14)

4. The Officer returned on April 14, 2009. The records were available for the Officer. The Officer found they were in appropriate condition. (N.T. 14-15)

5. The records were at the licensed premises on April 8, 2009. The "Assistant Manager" did not know where they were. (N.T. 23-24)

CONCLUSIONS OF LAW:

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

2. The Bureau has **failed** to prove that on April 8, 2009, Licensee, by servants, agents or employes, failed to keep records on the licensed premises.

DISCUSSION:

As the records were on the premises on April 8, 2009, I dismiss the charge.

ORDER:

NOW THEREFORE, it is ordered that Citation No. 09-1055 issued against Risky Business, Inc., t/a Whiskey Business, is DISMISSED.

Dated this 23<sup>RD</sup> day of November, 2009.

A handwritten signature in cursive script that reads "Felix Thau". The signature is written in black ink and is positioned above a horizontal line.

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.**