

Mailing Date: JUL 17 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-1193
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W06-392345
	:	
POST 617 AMERICAN LEGION, INC.	:	
901 S. MARKET ST.	:	LID- 52289
SOUTH WILLIAMSPORT PA 17702-7654	:	
	:	
	:	
	:	
LYCOMING COUNTY	:	
LICENSE NO. CC-6409	:	

ADJUDICATION

**BEFORE: JUDGE FLAHERTY
BUREAU COUNSEL PATTERSON
LICENSEE: PRO SE**

BACKGROUND:

This proceeding arises out of a citation that was issued on May 21, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against POST 617 AMERICAN LEGION, INC., License Number CC-6409 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 471 of the Liquor Code [47 P.S. §4-471] and Section 637.6(a)(2) of the Clean Indoor Air Act [637.6(a)(2)] in that on April 16, 2009, Licensee, by its servants, agents or employees, permitted smoking in a public place where smoking is prohibited.

Licensee has executed a Statement of Waiver, Admission and Authorization in which Licensee: admits to the violation(s) charged in the citation and that the Bureau complied with the applicable investigatory and notice requirements of the Liquor Code, authorizes the Administrative Law Judge to enter an Adjudication without a hearing based on a summary of facts as provided by the Bureau and prior citation history, and waives the right to appeal this Adjudication.

Based upon the admission(s) of Licensee and the summary of facts provided by the Bureau, I make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

On April 16, 2009, an officer of the Bureau entered the licensed premises and observed 30 patrons present, and approximately one-half of them were smoking. The officer then purchased a package which allowed him to play several games of bingo. He was also handed a card labeled "Private Bingo Member", and was told that after signing the card, he was considered to be a private Bingo member and was permitted to smoke during the event. The officer played several games of bingo and observed that at least one-half of the players were smoking. The officer then attempted to order a beer and was told that during Bingo, the club did not sell alcohol because it was open to the public.

CONCLUSION(S) OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since May 13, 2004, and has had no prior violations. Licensee is, therefore, entitled to be treated as a first time offender.

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.

Under the circumstances of this case, the penalty imposed shall be a fine of \$100.00.

ORDER

THEREFORE, it is hereby ordered that Licensee POST 617 AMERICAN LEGION, INC., 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.

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

Dated this 9th day of July, 2009.



Daniel T. Flaherty, Jr., J.

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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 Return 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. 09-1193
Post 617 American Legion, Inc.