

Mailing Date: JAN 26 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-1714
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W05-394189
v.	:	
	:	LID - 2083
AMERICAN LEGION HOME ASSN. OF	:	
DUNLO, PA	:	
125 LLOYD ST.	:	
BOX 266	:	
DUNLO, PA 15930	:	
	:	
CAMBRIA COUNTY	:	
LICENSE NO. C-4537	:	

**BEFORE:** JUDGE THAU  
**BUREAU COUNSEL:** Emily L. Gustave, Esquire  
**LICENSEE:** Gary Blough – Manager/Steward

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on July 20, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against American Legion Home Assn. of Dunlo, PA (Licensee), License Number C-4537.

This citation<sup>1</sup> contains two counts.

The first count charges Licensee with violations of Section 493(12) of the Liquor Code [47 P.S. §4-493(12)] and Sections 5.71, 5.72 and 5.74 of the Pennsylvania Liquor Control Board Regulations [40 Pa. Code §5.71, §5.72 and §5.74]. The charge is that during the period September 1, 2008 through June 22, 2009, Licensee, by servants, agents or employees, failed to maintain records in conformity with the provisions of the Liquor Code and Title 40 of the Pennsylvania Code.

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1. Commonwealth Exhibit No. C-2, N.T. 7.

The second count charges Licensee with violations of Section 471 of the Liquor Code [47 P.S. §4-471], Section 314 of the Local Option Small Games of Chance Act [10 P.S. §314] and Section 901 of the Department of Revenue Regulations [61 Pa. Code §901]. The charge is that during the period July 16, 2007 through June 22, 2009, Licensee violated the Local Option Small Games of Chance Act, in that funds derived from the operation of games of chance were used for purposes other than those authorized by law.

An evidentiary hearing was conducted on December 16, 2009 at the Hampton Inn, 180 Charlotte Drive, Altoona, Pennsylvania. Licensee was represented by its Manager/Steward, Mr. G.B.

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 May 8, 2009 and completed it on June 22, 2009. (N.T. 7)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on July 7, 2009. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 7)

Count No. 1:

3. During the period charged, Licensee failed to maintain records as required. Licensee's Secretary took records with him after the Secretary was removed from office. (N.T. 10-11)

Count No. 2:

4. During the period charged, Licensee was paying utility bills from funds derived from the Small Games of Chance. (N.T. 14)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. Count Nos. 1 and 2 are **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since October 22, 1947, and has had two prior violations since July 1, 1987, the date of establishment of the Office of Administrative Law Judge:

Adjudication No. 04-0783. Fine \$100.00.  
Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on your licensed premises (machine).  
March 4, 2004.

Adjudication No. 06-0875. Fine \$300.00.  
Failed to maintain complete and truthful records covering the operation of the licensed business for a period of 2 years.  
February 22, 2006.

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 Nos. 1 and 2 in this case.

As Licensee has cooperated and recognized its culpability and further has taken steps to correct the deficiency, I impose:

Count No. 1 - \$50.00 fine.  
Count No. 2 - \$50.00 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.

**Retaining Jurisdiction**

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 12<sup>TH</sup> day of January, 2010.



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

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The fine must be paid by cashier's check, certified check or money order. **Personal and business checks, are not acceptable unless bank certified.** 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

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DUNLO, PA