

Mailing Date: MAR 31 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-2210X
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-417771
v.	:	
	:	LID - 2442
CHARLES E. WILLIAMS	:	
POST NO. 794	:	
HOME ASSOCIATION	:	
117-119 E. PRINCESS ST.	:	
YORK, PA 17403-5543	:	
	:	
YORK COUNTY	:	
LICENSE NO. C-5297	:	

BEFORE: JUDGE THAU

BUREAU COUNSEL: Thomas M. Ballaron, Esquire

LICENSEE: Kit Watson – Adjutant for the Department of Pennsylvania American Legion
Joe Mincer - Manager

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on October 21, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Charles E. Williams Post No. 794 Home Association (Licensee), License Number C-5297.

The citation¹ charges Licensee with violations of Section 493(26) of the Liquor Code [47 P.S. §4-493(26)]. The charge is that Licensee, by servants, agents or employes, issued checks or drafts dated July 30, 2010 and August 13, 2010, in payment for purchases of malt or brewed beverages, when Licensee had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

1. Commonwealth Exhibit No. C-2, N.T. 6.

An evidentiary hearing was conducted on February 23, 2011 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered. The matter was submitted by way of agreement of fact.

FINDINGS OF FACT:

1. The Bureau began its investigation on August 18, 2010 and completed it on September 15, 2010. (N.T. 6)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on September 21, 2010. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 6)
3. On the dates charged, Licensee issued two checks totaling \$200.29 to Brewery Products Co., for the purchase of beer which were dishonored due to insufficient funds. Both checks were not made good within ten days.

CONCLUSIONS OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since June 18, 1956, and has had ten prior violations since July 1, 1987, the date of establishment of the Office of Administrative Law Judge:

Adjudication No. 94-1010. Fine \$3,200.00 and 7 days suspension.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on the licensed premises.
2. Sales to nonmembers.
3. Sales to a minor.
4. Minors frequenting.

Adjudication No. 94-2241. Fine \$200.00 and 1 day suspension.

Organization not operated for the mutual benefit of the entire membership.

Adjudication No. 96-0756. Fine \$1,000.00 and 21 days suspension.

1. Failed to adhere to bylaws.
2. Failed to hold regular meetings.
3. Failed to maintain complete and truthful records in covering the operation of the licensed business for a period of 2 years.
4. Failed to maintain records in conformity with Title 40 of the Pennsylvania Code.

Adjudication No. 96-2221. Fine \$300.00 and 7 days suspension.

1. Operated a club not in conformity with the Liquor Code definition of "club."
2. Failed to maintain records in conformity with Title 40 of the Pennsylvania Code.
3. Failed to adhere to bylaws.
4. Failed to conduct business through officers regularly elected.
5. Organization not operated for the mutual benefit of the entire membership.
6. Club officers and trustees are not elected in accordance with the Liquor Code.
7. Licensee was not the only one pecuniarily interested in the operation of the licensed business.

Adjudication No. 02-0521. Fine \$1,600.00 and 7 days suspension.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on the licensed premises (machines and sports pool).
2. Sales to nonmembers.
3. Failed to require patrons to vacate the premises not later than one-half hour after the required time.
4. Permitted patrons to possess and/or remove alcoholic beverages after 3:30 a.m.

Adjudication No. 04-2324. Fine \$1,200.00.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries when the small games of chance license expired (tickets).
October 14, 2004.
2. Failed to hold regular meetings.
December 2003, June 2004, July 2004, August 2004 and September 2004.
3. Failed to adhere to bylaws.
October 27, 2004.
4. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on the licensed premises (machine).
October 14, 2004.

Adjudication No. 05-2828. Fine \$350.00.

Sales to nonmembers.
November 26, 2005.

Adjudication No. 06-2702. Fine \$2,500.00 and 3 days suspension.

1. Failed to clean coils at least once every 7 days.
August 2006 through October 6, 2006.
2. Failed to maintain coil cleaning records.
October 6, 2006.
3. Refilled liquor bottles.
October 6, 2006.
4. Possessed or operated gambling devices or permitted gambling on the licensed premises (sports pools).
October 6, 2006.

Adjudication No. 08-0308. Fine \$500.00.

Failed to maintain complete and truthful records covering the operation of small games of chance for a period of 2 years.
January 24, 2008.

Adjudication No. 10-1372. Fine \$1,500.00.

1. Failed to maintain complete and truthful records covering the operation of Small Games of Chance for a period of 2 years.
May 21 2010.
2. Failed to maintain records in conformity with the Liquor Code and Title 40 of the Pennsylvania Code.
May 14, 2010.

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.

There is some question as to what penalty is appropriate since Licensee has no funds and may very well submit the license in for cancellation. Accordingly, I impose a \$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.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 10TH day of March, 2011.


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 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

Citation No. 10-2210X
CHARLES E. WILLIAMS POST NO. 794
HOME ASSOCIATION