

Mailing Date: AUG 02 2011

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

PENNSYLVANIA STATE :
POLICE, BUREAU OF : Citation No. 11-0037
LIQUOR CONTROL ENFORCEMENT :
 : Incident No. W01-417620
 :
 v. :
 : LID - 2565
 :
 ROOSEVELT CLUB :
 STORE E 16 B BASEMENT :
 WOODLYN SHOPPING CENTER :
 WOODLYN PA 19094-2005 :
 :
 DELAWARE COUNTY :
 LICENSE NO. CC-5614 :

JUDGE SHENKLE
BLCE COUNSEL: Erik S. Shmukler, Esq.
LICENSEE COUNSEL: John J. McCreesh, III, Esq.

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on January 19, 2011. There are two counts in the citation.

The first count alleges that Licensee violated §§401(b) and 406(a)(1) of the Liquor Code, 47 P.S. §§4-401(b) and 4-406(a)(1), on November 13 and December 5, 2010, by selling alcoholic beverages to nonmembers.

The second count alleges that Licensee violated §5.75(1) of the Liquor Control Board Regulations, 40 Pa. Code §5.75(1), on December 4, 2010, by failing to maintain a photostatic or certified copy of the charter on the licensed premises.

A hearing was held on June 21, 2011, in Plymouth Meeting, Pennsylvania. The parties stipulated to the timely service of the notice letter and citation.

FINDINGS OF FACT:

1. On November 13, 2010, a liquor enforcement officer arrived at the licensed premises at 1:00 a.m. She paid a \$15 cover charge and was admitted into the club. She ordered a drink containing rum from a bartender, who prepared it for her and charged \$5. There were more than 100 patrons in the premises. The officer left at 2:30 a.m. She has never been a member of this club, and no one in the club challenged her membership (N.T. 22-24).

2. On December 4, 2010, a liquor enforcement officer met with club officers as part of a routine inspection. The only deficiency noted in the inspection was that the club did not have a copy of its charter. An officer of the club said that it had been destroyed in a flood approximately ten years ago. A copy has

been obtained since then from the court house. There were no catering records for either of the dates of sales to nonmembers alleged in the citation (N.T. 11-12, 17, 30).

3. On December 5, 2010, a liquor enforcement officer arrived at the licensed premises at 1:35 a.m. She paid a \$10 cover charge and was admitted into the club. She ordered a drink containing rum from a bartender, who prepared it for her and charged \$5. She also purchased a "Jell-O Shot" (containing alcohol) for \$5 from a woman who was walking around the premises selling them. There were about 80 patrons in the premises. The officer left at 2:55 a.m. She has never been a member of this club, and no one in the club challenged her membership (N.T. 24-26).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since November 5, 1962, and has had prior violations since July 1, 1987, the date of establishment of the Office of Administrative Law Judge, as follows:

Citation No. 91-0302. \$600.00 fine and five day suspension.

1. Admitted members improperly.
2. Sales to nonmembers.
3. Sales after hours.

Citation No. 91-1353. \$750.00 fine and 2 day suspension.

1. Interfered with a liquor enforcement officer in performance of duty.
2. Refused enforcement officers the right to inspect the licensed premises when it was open for business or when guests or members were in the portion where alcoholic beverages are sold.
3. Failed to require patrons to vacate by the required time.
4. Permitted patrons to possess and/or remove alcoholic beverages from that part of the premises habitually used for the service of alcoholic beverages after 3:30 a.m.

Citation No. 91-1896. \$600.00 fine and 4 day suspension.

1. Sales after hours.
2. Failed to require patrons to vacate by the required time.
3. Permitted patrons to possess and/or remove alcoholic beverages from that part of the premises habitually used for the service of alcoholic beverages after 3:30 a.m.

Citation Nos. 94-0823 & 94-1819 (consolidated) - \$750 fine and 10 days suspension.

1. Sales to nonmembers without prior arrangement.
2. Discounted alcoholic beverages otherwise than for one 2 hour period in a day.
3. Discounted alcoholic beverages between 12:00 midnight and 3:00 a.m.
4. Served an unlimited or indefinite amount of alcoholic beverages for a fixed price.
5. Engaged in unlawful sex discrimination.
6. Sales between 3:00 a.m. and 7:00 a.m.
7. Sales to minors.

Citation No. 02-0128. \$350.00 fine.

1. Admitted members improperly. September 22, 2001.
2. Failed to maintain records. From August 14 through December 11, 2001.

Citation No. 07-1807. \$1,000.00 fine.

1. Sales between 3:00 a.m. and 7:00 a.m. June 16, 2007.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine in the \$50.00 to \$1,000.00 range, or both, for violations of this type. Penalties are assessed as follows:

Count 1 – a fine of \$500.00.

Count 2 – a fine of \$100.00.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Roosevelt Club, License No. CC-5614, shall pay a fine of six hundred dollars (\$600.00) within 20 days of the mailing date of this order. In the event the fine is not paid within 20 days, Licensee's license will be suspended or revoked. Jurisdiction is retained.

Dated this 27TH day of JULY, 2011.



David L. Shenkle, J.

jb

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.

WHETHER OR NOT RECONSIDERATION HAS BEEN REQUESTED, AGGRIEVED PERSONS MAY APPEAL TO THE PLCB, NORTHWEST OFFICE BUILDING, HARRISBURG, PA 17124 WITHIN 30 DAYS AFTER THE MAILING DATE OF THIS ORDER.

THE PLCB CHIEF COUNSEL'S TELEPHONE NUMBER IS 717-783-9454.

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