

Code §5.32(c)]. The charge is that Licensee, by your servants, agents, or employees, permitted a minor under eighteen (18) years of age to perform in your licensed premises, during the period June 2010 through December 29, 2010.

The second count charges Licensee with a violation of Section 491(10) of the Liquor Code [47 P.S. §4-491(10)]. The charge is that Licensee, by your servants, agents, or employees, fortified, adulterated and/or contaminated liquor, on December 8, 2010.

The third count charges Licensee with violations of Section 493(12) of the Liquor Code [47 P.S. §4-493(12)]. The charge is that Licensee, by your servants, agents, or employees, failed to keep records on the licensed premises, on December 8 and 22, 2010.

The fourth count charges Licensee with violations of Section 493(12) of the Liquor Code [47 P.S. §4-493(12)]. The charge is that Licensee, by your servants, agents, or employees, failed to maintain complete and truthful records covering the operation of the licensed business for a period of two (2) years immediately preceding December 8, 2010.

I presided at an evidentiary hearing on October 24, 2011 at the Hampton Inn, 180 Charlotte Drive, Altoona, Pennsylvania.

The matter was submitted by way of agreement of facts.

Therefore, I make the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT:

1. The Bureau began its investigation on November 18, 2010 and completed it on February 3, 2011. (N.T. 34)

2. The Bureau sent a notice of the alleged violations to Licensee at the licensed premises by certified mail, return receipt requested on, February 25, 2011. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 34)

Count No. 1

3. During the period charged, Licensee permitted a fifteen year old to play the piano. On some occasions he was there with a parent. (N.T. 6-14)

Count No. 2

4. On the dates charged, a Bureau Enforcement Officer discovered four bottles of liquor at the subject premises which contained fruit flies. (N.T. 26-29)

Count No. 3

5. During an inspection of Licensee's records on December 22, 2010, at the licensed premises, Mr. Charrie produced records for the Officer to review. Not all records were available as some were at Mr. Charrie's home. (N.T. 27-28)

Count No. 4

6. During the period charged, Licensee's records were deficient as Licensee did not record tips that the fifteen year old received for playing the piano. (N.T. 29-30)

CONCLUSIONS OF LAW:

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

DISCUSSION:

Mr. Charrie argued, because the fifteen year old received no compensation, the practice was lawful. I explained that Mr. Charrie's perception of the law is inaccurate as the relevant Liquor Code provision prohibits any underage person from performing, whether employed, or whether receiving compensation or not.

ADJUDICATION HISTORY:

Licensee has been licensed since May 7, 2010, and has no prior Adjudications.

PENALTY ASSESSMENT CRITERIA:

Mandatory Requirement(s)

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 the violations found herein.

Discretionary Component(s)

The licensed premises is a finely restored Bed and Breakfast. Consequently, it is not as if the fifteen year old played the piano in a licensed establishment full of customers who are marginally sober. Furthermore, the aspiring pianist's parents were Mr. Charrie's friends. They entrusted their son's care to Mr. Charrie.

I impose:

Count No. 1 - \$50.00

Count No. 2 - \$100.00

Count Nos. 3 and 4 - \$100.00

ORDER:

Imposition of Fine

Licensee must pay a \$250.00 fine within 20 days of the mailing date of this Adjudication. The mailing date is located on this Adjudication's first page, upper left corner. If Licensee fails to comply, the Liquor Code requires that I suspend or revoke the license.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 23RD day of February, 2012.



Felix Thau, A.L.J.

General Information

This Adjudication is a legal document. It affects your rights, privileges, and obligations. The information which follows is a general guide. Therefore, you may want to consult with an attorney.

Applying for Reconsideration

If you want the Administrative Law Judge to reconsider this Adjudication, you must submit a written application and a nonrefundable \$25.00 filing fee. Both must be received by the Office of Administrative Law Judge, (PLCB - Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661) within fifteen days of this Adjudication's mailing date. Your application must describe the reasons for reconsideration. The full requirements for reconsideration can be found in Title 1 Pa. Code §35.241.

Appeal Rights

If you wish to appeal this Adjudication, you must file an appeal within thirty days of the mailing date of this Adjudication by contacting the Office of Chief Counsel of the Pennsylvania Liquor Control Board (717-783-9454). For further information, visit www.lcb.state.pa.us. The full requirements for an appeal can be found in 47 P.S. §4-471.

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