



The first count charges Licensee with a violation of Section 437 of the Liquor Code [47 P.S. §4-437] and Section 5.41 of the Liquor Control Board Regulations [40 Pa. Code §5.41]. The charge is that Licensee, by your servants, agents, or employees, operated your licensed establishment without a valid health permit or license, which expired on February 4, 2011, during the period February 5 through March 5, 2011.

The second count charges Licensee with violations of Section 471 of the Liquor Code [47 P.S. §4-471] and Section 637.6(a)(1) of the Clean Indoor Air Act [35 P.S. §637.6(a)(1)]. The charge is that Licensee, by your servants, agents, or employees, failed to post signage as required by the Clean Indoor Air Act, on March 5, April 9, 12 and 18, 2011.

The third count charges Licensee with violations of Section 404 of the Liquor Code [47 P.S. §4-404]. The charge is that Licensee, by your servants, agents, or employees, failed to adhere to the conditions of the agreement entered into with the Board placing additional restrictions upon the subject license, on April 9 and 12, 2011.

I presided at an evidentiary hearing on December 12, 2011 at the Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania.

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

FINDINGS OF FACT:

1. The Bureau began its investigation on March 5, 2011 and completed it on April 18, 2011. (N.T. 11)
2. The Bureau sent a notice of the alleged violations to Licensee at the licensed premises by certified mail, return receipt requested on, May 13, 2011. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 8)
3. On March 5, 2011, three Bureau Enforcement Officers entered the premises at 10:30 p.m. to conduct an administrative inspection at a time when the premises was open and in operation selling alcoholic beverages. The Officer was accompanied by Lancaster City Police and Dauphin County Probation and Parole Officers. (N.T. 12-19)

Count No. 1

4. Licensee was operating during the period charged without a valid health permit which expired on February 4, 2011. (N.T. 24-33)

Count No. 2

5. The entire licensed premises is exempt from the smoking ban. Licensee had no sign indicating that smoking was permitted in the premises. (N.T. 22)

Count No. 3

6. On April 9, 2011, a Bureau Enforcement Officer entered the premises at 10:30 p.m. in an undercover capacity. The Officer entered without being screened by a metal device. (N.T. 40-44)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.

Count Nos. 1 and 2

2. The violations are sustained as charged.

Count No. 3

3. On April 9, 2011, Licensee failed to comply with the Conditional Licensing Agreement (CLA), Paragraph 6.c. requiring that all patrons be “wanded” for weapons upon entry to the premises.

DISCUSSION:

Ms. Tsoflias was under the incorrect assumption that Licensee had ninety days from the effective date of the CLA to comply. She fulfilled all obligations of the CLA within that interval.

ADJUDICATION HISTORY:

Licensee has been licensed since February 12, 2009, and has the following Adjudication history:

Docket No. 09-2557. Fine \$450.00.

1. Permitted smoking in a public place where smoking was prohibited on June 6, 19, 20, July 4, 5, August 21, 22 and September 16, 2009.
2. Failed to post signage required by the Clean Indoor Air Act on June 6, 19, 20, July 4, 5, August 21, 22 and September 16, 2009.

Docket No. 10-0763C. Fine \$1,250.00 and R.A.M.P. training mandated.

Sales to minors on September 19, October 7, 2009 and February 18, 2010.

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)**

After the conclusion of taking testimony, I engaged Ms. Tsoflias in a colloquy. It was evident that she was going through a very difficult time. It was also evident that she had made any number of assumptions without verification. I believe Ms. Tsoflias now has a better understanding of the dangers attendant to operating by assumption. Accordingly I impose the following fines:

Count No. 1 - \$125.00

Count No. 2 - \$175.00

Count No. 3 - \$150.00

ORDER:

**Imposition of Fine**

Licensee must pay a \$450.00 fine within twenty 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**

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 13<sup>TH</sup> day of March, 2012.

A handwritten signature in cursive script that reads "Felix Thau". The signature is written in black ink and is positioned above a horizontal line.

Felix Thau, A.L.J.

bc

### **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](http://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

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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