

The first count charges Licensee with a violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)]. The charge is that Licensee, by your servants, agents, or employees, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one (1) minor, twenty (20) years of age, on March 29, 2011.

The second count charges Licensee with a violation of Section 471 of the Liquor Code [47 P.S. §4-471] and Section 637.6(a)(2) of the Clean Indoor Air Act [35 P.S. §637.6(a)(2)]. The charge is that Licensee, by your servants, agents, or employees, smoked and/or permitted smoking in a public place where smoking was prohibited, on March 29 and 30, 2011¹.

I presided at an evidentiary hearing on January 20, 2012 at the Hampton Inn, 180 Charlotte Drive, Altoona, Pennsylvania.

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

FINDINGS OF FACT:

1. The Bureau began its investigation on January 31, 2001 and completed it on May 13, 2011. (N.T. 8)
2. The Bureau sent a notice of the alleged violations to Licensee at the licensed premises by certified mail, return receipt requested on, May 23, 2011. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, C-2; N.T. 8)

Count No. 1

3. On the date charged, a contingent of Bureau Enforcement Officers conducted an administrative inspection of the premises at a time when it was open and in operation, selling alcoholic beverages. They discovered one, twenty year old who purchased and consumed beer. She entered the premises through the back door. The minor was not questioned as to age. (N.T. 33-35)

CONCLUSIONS OF LAW:

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

¹ By Order of January 13, 2012, upon the Bureau's Motion to Amend Citation, I granted the Motion by withdrawing Count No. 2.

ADJUDICATION HISTORY:

Licensee has been licensed since August 31, 1994, and has the following Adjudication history:

Docket No. 96-1635. Fine \$1,000.00.

Sales to a minor on December 2, 1995.

Docket No. 03-0117. Fine \$100.00.

Permitted a nonlicensee sponsor to award prizes on August 1, 2002.

Docket No. 04-0974. Fine \$500.00.

Discounted the price of alcoholic beverages for a period or periods other than a consecutive period of time not to exceed 2 hours in a business day on May 15, 2004.

Docket No. 05-1258X. Fine \$250.00.

Issued worthless checks in payment for malt or brewed beverages on March 12, 30, April 20 and May 4, 2005.

Docket No. 06-0244. Fine \$350.00.

Used loudspeakers or devices whereby music could be heard outside on October 8 and 9, 2005.

Docket No. 07-2417. Fine \$1,400.00 and R.A.M.P. training mandated.

Sales to a minor on August 11, 2007.

Docket No. 08-1229. Fine \$400.00.

Issued worthless checks in payment for malt or brewed beverages on December 15, 20, 22, 28 and 29, 2007.

Docket No. 08-2020X. Fine \$200.00.

Issued worthless checks in payment for malt or brewed beverages on June 9 and 26, 2008.

Docket No. 09-2866X. Fine \$300.00.

Issued worthless checks in payment for malt or brewed beverages on September 18, 24, October 7 and 14, 2009.

Docket No. 10-0271. Fine \$400.00.

Issued worthless checks in payment for malt or brewed beverages on October 27, November 11, 17 and December 9, 2009.

Docket No. 10-1970. Fine \$400.00.

Used loudspeakers or devices whereby the sound of music could be heard outside on January 16, April 24 and July 2, 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 \$1,000.00, or more than \$5,000.00, or both for the violation found herein.

Discretionary Component(s)

I impose a \$1,400.00 fine.

I further order Licensee to become compliant with the Responsible Alcohol Management Program (RAMP).

ORDER:

Imposition of Fine

Licensee must pay a \$1,400.00 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.

RAMP Compliance

I order Licensee to comply with Liquor Code Section 471.1, pertaining to responsible alcohol management, for one year from the date of Bureau of Alcohol Education (BAE) certification.

Licensee must contact the BAE, Pennsylvania Liquor Control Board: toll free telephone No.: 1-866-275-8237; web site: www.lcb@pa.gov; email address: LBEducation@pa.gov within thirty days of the mailing date of this Adjudication to effect full RAMP compliance. Licensee has ninety days from the mailing date of this Adjudication to be fully certified by the BAE.

Failure to comply may cause the Bureau to issue a citation alleging Licensee's noncompliance. Alternatively, the Bureau may request a modification of the penalty imposed in this Adjudication.

Retaining Jurisdiction

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 14TH 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. 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