

Mailing Date: JUL 05 2012

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 11-1679
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W03-432419
v.	:	
	:	
T-N-KEIFFER'S BRICKHOUSE LP	:	PLCB LID No.: 62115
3095 TURKEY VALLEY RD.	:	
MT. PLEASANT MILLS, PA 17853	:	
	:	PLCB License No.: R-AP-SS-21470

**ADJUDICATION**

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: John H. Pietrzak, Esquire

LICENSEE: Ex Parte

**BACKGROUND:**

This proceeding arises out of a citation, containing two counts, that was issued on September 29, 2011, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against T-N-Keiffer's Brickhouse LP (Licensee).

The first count charges Licensee with violations of Section 471 of the Liquor Code [47 P.S. §4-471] and Section 5514 of the Crimes Code [18 Pa. C.S. §5514]. The charge is that Licensee, by your servants, agents, or employees, possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on your licensed premises, on June 27 and 28, 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)(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 June 27 and 28, 2011.

I presided at an evidentiary hearing on May 14, 2012 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 Office of Administrative Law Judge mailed a notice of hearing on March 26, 2012, by certified mail, return receipt requested. The notice was returned unclaimed. (N.T. 5)
2. The Bureau began its investigation on June 21, 2011 and completed it on July 25, 2011. (N.T. 8; 18)
3. The Bureau sent a notice of the alleged violations to Licensee at the licensed premises by certified mail, return receipt requested, on August 19, 2011. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 5)

Count Nos. 1 and 2

4. A Bureau Enforcement Officer entered the premises on June 27, 2011, in an undercover capacity, at 1:40 p.m. There were a handful of patrons who were smoking. Licensee's Corporate President, Mr. Shaffer and Manager, Ms. Bailey were also smoking. Licensee's Clean Indoor Air Act (CIAA) exemption had expired. (N.T. 11-12)
5. Ms. Bailey announced that she was going to start another race. Ms. Bailey placed the names of patrons on a sheet of paper based on a drawing. (N.T. 12-15)
6. On June 28, 2011, a Bureau Enforcement Officer arrived at the premises at 4:30 p.m. to conduct an administrative inspection. Licensee was open and in operation selling alcoholic beverages. There were signs outside the premises indicating that smoking was permitted. Ms. Bailey was smoking cigarettes, as were several patrons. The Officer identified herself to Ms. Bailey. The Officer found a certificate issued by the Department of Health indicating that Licensee's exemption to the CIAA expired on February 28, 2011. (N.T. 18-21)

7. The Officer inspected the area behind the bar counter finding documentation of a NASCAR pool. (Commonwealth Exhibit No. C-5)

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. I sustain the violations as charged.

PRIOR RECORD:

Licensee has been licensed since September 15, 2009, 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)**

As Licensee has failed to obey process, I impose:

Count No. 1 - \$1,000.00 fine.

Count No. 2 - \$1,000.00 fine.

ORDER:

In Re Citation No.: 11-1679; Licensee, T-N-Keiffer's Brickhouse LP;  
PLCB LID No.: 62115; PLCB License No.: R-AP-SS-21470

### **Imposition of Fine**

Licensee must pay a \$2,000.00 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 28<sup>TH</sup> day of June, 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.** Make 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