

Mailing Date: MAY 22 2012

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

PENNSYLVANIA STATE POLICE,	:	
BUREAU OF LIQUOR CONTROL	:	Docket No.: 11-1821
ENFORCEMENT (BLCE)	:	
	:	
v.	:	BLCE Incident No.: W02-433958
	:	
ARTHUR GARRIS JR.	:	
SHIRLEY MAE GARRIS	:	PLCB LID No.: 61068
RR 3, BOX 5058	:	
BUSHKILL, PA 18324-9723 <sup>1</sup>	:	
	:	PLCB License No.: R-AP-SS-EHF-19761
	:	
	:	
PIKE COUNTY	:	

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: Craig A. Strong, Esquire

LICENSEE: Arthur Garris, Jr., Partner

**ADJUDICATION**

**BACKGROUND:**

This proceeding arises out of a citation, containing two counts, that was issued on October 31, 2011, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Arthur Garris, Jr., Shirley Mae Garris (Licensee).

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<sup>1</sup> The United States Postal Service has assigned a new mailing address to the licensed premises. The new mailing address is 5504 Bushkill Falls Road, Bushkill, PA 18324. This Adjudication will be mailed to that address rather than the address listed with the Pennsylvania Liquor Control Board.

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) visibly intoxicated patron, on July 23, 2011.

The second count charges Licensee with a violation of Section 471 of the Liquor Code [47 P.S. §4-471]. 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 August 7, 2011.

I presided at an evidentiary hearing on March 30, 2012 at 100 Lackawanna Avenue, Scranton, Pennsylvania.

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

FINDINGS OF FACT:

1. The Bureau began its investigation on July 22, 2011 and completed it on September 16, 2011. (N.T. 13)

2. The Bureau sent a notice of the alleged violations to Licensee at the licensed premises by certified mail, return receipt requested on, September 27, 2011. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 14)

Count No. 1

3. Two Bureau Enforcement Officers arrived at the premises in an undercover capacity on July 23, 2011, at 10:30 p.m. (N.T. 15-16)

4. One of the Officers noted that there was a patron approximately three to four feet away who the Officer suspected of being visibly intoxicated. The patron's eyes were glassy and speech slurred. When he spoke, it was slow, slurred, stammered, and deliberate. When he left his position at the bar, the patron stammered and swayed. He almost fell on the floor several times. The patron's mannerisms were clumsy and uncoordinated when he handled his cell phone, keys, or cigarettes. He had difficulty lighting a cigarette as he attempted to place a flame against the cigarette's end. (N.T. 16-19)

5. At 11:10 p.m., the patron finished his beer. He placed the empty mug on the edge of the bar. The bartender took the mug, filled it with draft beer and served it to the patron. (N.T. 21-23)

Count No. 2

6. On August 7, 2011, Licensee permitted customers to engage in a Texas Hold'em tournament. Customers had to pay to enter the tournament. As the games went on, participants were eliminated. (N.T. 27-33)

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.

DISCUSSION:

Count No. 2

Texas Hold'em tournaments, or every card tournament for that matter, are illegal as I concluded in BLCE v. The Italian Citizens Enjoyment Club, Docket No. 06-0665. The Adjudication may be accessed online through the following link: [www.lcbapps.lcb.state.pa.us/webapp/Legal/PublicAdjudicationDisplay.asp?adjudication\\_year=2006&adjudication\\_sequence=0665&appeal=n](http://www.lcbapps.lcb.state.pa.us/webapp/Legal/PublicAdjudicationDisplay.asp?adjudication_year=2006&adjudication_sequence=0665&appeal=n)

ADJUDICATION HISTORY:

Licensee has been licensed since January 20, 2009, and has no prior Adjudications.

PENALTY ASSESSMENT CRITERIA:

**Mandatory Requirement(s)**

Count No. 1

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.

Further, Liquor Code Section 471.1 [47 P.S. §4-471.1], relating to responsible alcohol management, mandates that Licensee participate in the Pennsylvania Liquor Control Board's Responsible Alcohol Management Program (RAMP), since this is Licensee's first violation as herein found.

Count No. 2

Liquor Code Section 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 violation found herein.

**Discretionary Component(s)**

I impose:

Count No. 1 - \$1,250.00 fine. I further order Licensee to become compliant with the Responsible Alcohol Management Program (RAMP).

Count No. 2 - \$100.00 fine.

ORDER:

**Imposition of Fine**

Licensee must pay a \$1,350.00 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.

### **Mandatory 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](http://www.lcb@pa.gov); email address: [LBEducation@pa.gov](mailto: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 16<sup>TH</sup> day of May, 2012.



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