

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.: 11-1824
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W03-429281
v.	:	
	:	
SOUTH POINT, LLC	:	PLCB LID No.: 57918
T/A SOUTH POINT	:	
523 SOUTH 19 TH STREET	:	
HARRISBURG, PA 17104-2307	:	PLCB License No.: R-AP-4876

ADJUDICATION

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: John H. Pietrzak, Esquire

LICENSEE: Linda Cammack, Sole Member

BACKGROUND:

This proceeding arises out of a citation, containing one count, that was issued on November 3, 2011, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against South Point, LLC (Licensee).

The citation 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 April 11, 21, May 20, July 1 and 22, 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 Bureau began its investigation on April 8, 2011 and completed it on September 12, 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. 10)
3. On the dates charged, a Bureau Enforcement Officer conducted undercover visits to the premises, observing that patrons and employees smoked cigarettes. (N.T. 13-19)

CONCLUSIONS OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since October 1, 2007, 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)

Licensee explains that her mother passed away which left her with operating the business. The license was placed in safekeeping. Licensee was not familiar with all of the requirements.

Accordingly, I impose a \$200.00 fine.

ORDER:

In Re Citation No.: 11-1824; Licensee, South Point, LLC; PLCB LID No.: 57918;
PLCB License No.: R-AP-4876

Imposition of Fine

Licensee must pay a \$200.00 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 28TH day of June, 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. 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.** 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