

Mailing Date: SEP 24 2012

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 12-0002
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W03-439523
v.	:	
	:	
SASHA'S HIDEAWAY, INC.	:	PLCB LID No.: 48270
T/A BLUE MOOSE BAR & GRILLE	:	
6791 LINGLESTOWN RD.	:	
HARRISBURG, PA 17112-1320	:	PLCB License No.: R-AP-SS-19753

ADJUDICATION

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: John H. Pietrzak, Esquire

FOR LICENSEE: Steve C. Nicholas, Esquire

BACKGROUND:

This proceeding arises out of a citation, containing two counts, that was issued on January 12, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Sasha's Hideaway, Inc. (Licensee).

The first count charges Licensee with a violation of Section 5.23(a) of the Liquor Control Board Regulations [40 Pa. Code §5.23(a)]. The charge is that Licensee, by your servants, agents, or employees, failed to appoint a Board-approved full-time manager for the licensed premises, during the period October 27, 2010 through December 3, 2011.

The second count charges Licensee with a violation of Section 5.23(c) of the Liquor Control Board Regulations [40 Pa. Code §5.23(c)]. The charge is that Licensee, by your servants, agents, or employees, failed to notify the Board within fifteen (15) days of a change of manager, during the period November 11, 2010 through December 3, 2011.

I presided at an evidentiary hearing on July 23, 2012 at the Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania.

The matter was submitted by way of agreement of facts. Licensee agreed the Bureau complied with the applicable and investigatory requirements of the Liquor Code.

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

FINDINGS OF FACT:

1. The Bureau began its investigation on November 18, 2011 and completed it on December 20, 2011. (Commonwealth Exhibit No. C-1, N.T. 6)

2. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on December 30, 2011. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 6)

Count No. 2

3. During the period charged, Licensee failed to notify the Board of a change in Manager, although Licensee did appoint one.

CONCLUSIONS OF LAW:

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

Count No. 1

2. The violation is dismissed.

Count No. 2

3. I sustain the violation as charged.

DISCUSSION:

I dismiss Count No. 1, because Count No. 1 and Count No. 2 are mutually exclusive.

PRIOR RECORD:

Licensee has been licensed since August 16, 2001, and has no prior Adjudications.

PENALTY ASSESSMENT CRITERIA:

Mandatory Requirement(s)

Liquor Code Section 471 [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 violation found herein.

Discretionary Component(s)

I impose a \$100.00 fine.

ORDER:

In Re Citation No.: 12-0002; Licensee, Sasha's Hideaway, Inc.; PLCB LID No.: 48270;
PLCB License No.: R-AP-SS-19753

Imposition of Fine

Licensee must pay a \$100.00 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.

Dismissal

I dismiss Count No. 1.

Retaining Jurisdiction

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 14TH day of September, 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.** 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