

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.: 12-0398
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W02-437057
v.	:	
	:	
VETERANS CLUB OF THE	:	PLCB LID No.: 3761
SHOPA-DAVEY HOME ASSN.	:	
OF BLAKELY PA	:	
123 ELETRIC ST.	:	PLCB License No.: CC-4847
PECKVILLE, PA 18452-2109	:	

ADJUDICATION

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: Craig A. Strong, Esquire

FOR LICENSEE: Joseph R. Rydzewski, Esquire

BACKGROUND:

This proceeding arises out of a citation, containing two counts, that was issued on March 14, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Veterans Club of the Shopa-Davey Home Assn. of Blakely PA (Licensee).

The first count charges Licensee with a violation of Section 471 of the Liquor Code [47 P.S. §4-471] and Section 5513 of the Crimes Code [18 Pa. C.S. §5513]. 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 October 5, 2011.

The second count charges Licensee with violations of Sections 491(1), 492(2) and 493(16) of the Liquor Code [47 P.S. §§4-491(1), 4-492(2) and 4-493(16)]. The charge is that Licensee, by your servants, agents, or employees, sold alcoholic beverages after your catering club liquor license expired on September 30, 2011, and had not been renewed and/or validated, on October 3 and 5, 2011.

I presided at an evidentiary hearing on July 31, 2012 at 100 Lackawanna Avenue, Scranton, 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 September 28, 2011 and completed it on February 16, 2012. (N.T. 6)

2. The Bureau sent a notice of the alleged violations to Licensee at the licensed premises by certified mail, return receipt requested, on February 22, 2012. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 5)

Count No. 1

3. On October 5, 2011, during an administrative inspection, one of Licensee's Officers admitted that Licensee was making payouts on gaming devices. (N.T. 7-9)

Count No. 2

4. On the two dates charged, Licensee was open and operating selling alcoholic beverages. Licensee's license expired on September 30, 2011. (N.T. 12-15)

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 April 9, 1948, and has had four prior Adjudications since July 1, 1987, the date the Office of Administrative Law Judge was established.

In Re Citation No.: 88-1017. Fine \$700.00.

1. Sales to nonmembers without prior arrangement.
2. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on a licensed premises (poker machine).

In Re Citation No.: 91-1095. Fine \$500.00.

Sales to nonmembers without prior arrangement on February 24 and March 17, 1991.

In Re Citation No.: 91-2070. Fine \$100.00 and 1 day suspension.

1. Sold alcoholic beverages off the licensed premises on July 21, 1991.
2. Stored alcoholic beverages on premises not covered by the license on July 21, 1991.
3. Sales to nonmembers without prior arrangement on July 21, 1991.

In Re Citation No.: 95-0756. Fine \$200.00.

Possessed or operated gambling devices or permitted gambling on the licensed premises (machine) on May 4, 13, June 8, 23, July 6, 13, 20 August 16, October 7, 16, November 8, December 14, 1994; January 13, February 18 and March 1, 1995.

PENALTY ASSESSMENT CRITERIA:

Mandatory Requirement(s)

Count No. 1

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.

Count No. 2

Liquor Code Section 471 [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 violations found herein.

Discretionary Component(s)

Licensee explains the individual in charge of renewing the license passed away. Licensee further indicates there will be no more unlawful gambling on the licensed premises.

Accordingly, I impose:

Count No. 1 - \$400.00 fine.

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

ORDER:

In Re Citation No.: 12-0398; Licensee, Veterans Club of the Shopa-Davey Home Assn. of Blakely PA; PLCB LID No.: 3761; PLCB License No.: CC-4847

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.

Retaining Jurisdiction

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 14TH day of September, 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