

Mailing Date: FEB 27 2013

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 12-1086
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W02-447936
v.	:	
	:	
WISE GUYS BAR AND GRILL, LLC	:	PLCB LID No.: 66154
T/A WISE GUYS BAR AND GRILL	:	
65 CONNELL ST.	:	
OLD FORGE, PA 18518-1466	:	PLCB License No.: R-AP-SS-10600

**ADJUDICATION**

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: Craig A. Strong, Esquire

LICENSEE: Amil Bertocki, Sole Corporate Officer, Stockholder, and Manager

**BACKGROUND:**

This proceeding arises out of a citation, containing one count, that was issued on July 20, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Wise Guys Bar and Grill, LLC (Licensee).

The citation charges Licensee with a violation of Section 493(28) of the Liquor Code [47 P.S. §4-493(28)]. The charge is that, Licensee's member/stockholder/president/secretary/treasurer, Amil Bertocki, consumed alcoholic beverages while tending bar or otherwise serving alcoholic beverages, on June 29, 2012.

I presided at an evidentiary hearing on January 31, 2013 at 100 Lackawanna Avenue, Scranton, Pennsylvania. The matter was submitted by way of agreement of facts.

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

**FINDINGS OF FACT:**

1. The Bureau began its investigation on June 18, 2012 and completed it on July 2, 2012. (N.T. 15)
2. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on July 5, 2012. The notice was subsequently sent out by first class mail on July 23, 2012. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 8)
3. A Bureau Enforcement Officer entered the premises at 11:50 p.m., June 28, 2012 in an undercover capacity. Mr. Bertocki was tending bar. He permitted a patron to mix drinks behind the bar. Mr. Bertocki consumed one of those alcoholic beverages. (N.T. 16-19)

**CONCLUSIONS OF LAW:**

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

**PRIOR RECORD:**

Licensee has been licensed since March 27, 2012, 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)***

Mr. Bertocki now understands he may not consume alcoholic beverages while tending bar. Mr. Bertocki further agrees, it is imprudent for him to consume alcoholic beverages even if not technically on duty as he may be called upon in an emergency and will be impaired.

I adopt the jointly recommended penalty of a \$250.00 fine.

**ORDER:**

In Re Citation No.: 12-1086; Licensee, Wise Guys Bar and Grill, LLC;  
PLCB LID No.: 66154; PLCB License No.: R-AP-SS-10600

***Imposition of Fine***

Licensee must pay a \$250.00 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 20<sup>TH</sup> day of February, 2013.



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

-----  
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