

Mailing Date: MAY 06 2013

[Appeal](#)

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

PENNSYLVANIA STATE POLICE	:	In Re Citation No.: 12-1391
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W05-449136
v.	:	
	:	
SLOVAK-AMERICAN CITIZENS	:	PLCB LID No.: 1511
CLUB OF DUNLO	:	
243 HUFF ST.	:	
PO BOX 205	:	PLCB License No.: C-3124
DUNLO, PA 15930-0205 :	:	

ADJUDICATION

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: Emily L. Gustave, Esquire

LICENSEE: Ex Parte

BACKGROUND:

This proceeding arises out of a citation, containing one count, that was issued on September 24, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Slovak-American Citizens Club of Dunlo (Licensee).

The citation charges Licensee with a violation of Section 102 of the Liquor Code [47 P.S. §1-102]. The charge is that Licensee, by your servants, agents, or employees, failed to hold regular meetings, during the period January 1, 2012 through August 19, 2012.

I presided at an evidentiary hearing on April 3, 2013 at 180 Charlotte Drive, Altoona, Pennsylvania.

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

FINDINGS OF FACT:

1. The Office of Administrative Law Judge sent a notice of hearing to Licensee at the address of record on February 12, 2013, by certified mail, return receipt requested. The notice was received and signed for on February 14, 2013.

2. The Bureau began its investigation on July 22, 2012 and completed it on August 22, 2012. (N.T. 8)

3. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on September 5, 2012. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 6)

4. Licensee failed to comply with by-laws regarding the timing of member meetings during the period charged.

CONCLUSIONS OF LAW:

I sustain the violation as charged.

PRIOR RECORD:

Licensee has been licensed since May 11, 1937, and has had six prior Adjudications since July 1, 1987, the date the Office of Administrative Law Judge was established.

In Re Citation No.: 97-1349. Fine \$225.00.

Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on your licensed premises (machines) on April 24, 1997.

In Re Citation No.: 04-0484. Fine \$700.00.

Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on your licensed premises (machines) on February 10, 2004.

In Re Citation No.: 05-2150. Fine \$900.00.

1. Sales to nonmembers on May 8, 2005.
2. Possessed or operated gambling devices or permitted gambling on your licensed premises (machine) on September 21, 2005.

In Re Citation No.: 08-2915. Fine \$700.00.

1. Failed to maintain complete and truthful records covering the operation of Small Games of Chance for a period of 2 years immediately preceding October 15, 2008.
2. Funds derived from the operation of games of chance were used for purposes other than those authorized by law on October 15, 2008.
3. Possessed or operated gambling devices or permitted gambling on your licensed premises (sign-up book and tickets) from March 12 through October 5, 2008.

In Re Citation No.: 10-2131. Fine \$600.00

1. Failed to maintain complete and truthful records covering the operation of Small Games of Chance for a period of 2 years immediately preceding August 7, 2010.
2. Awarded more than \$5,000.00 in cash or merchandise in any 7-day period during the periods January 3 through 9,

February 7 through 13, March 21 through 27 and March 28 through April 3, 2010.

3. Failed to maintain records in conformity with the Liquor Code and Title 40 of the Pennsylvania Code during the period January 1 through August 7, 2010.

In Re Citation No.: 12-0404. 2 days suspension.

Sales to nonmembers on November 25, December 10, 22, 2011 and January 18, 2012.

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)

This thin record points to the conclusion that Licensee may no longer be a legitimate club because Licensee has been unable to encourage its members to attend meetings to the point where a quorum cannot be established. For now, there is insufficient evidence for me to draw that conclusion. As Licensee did not come to the hearing and has otherwise disobeyed process, I impose a \$1,000.00 fine.

ORDER:

In Re Citation No.: 12-1391; Licensee, Slovak-American Citizens Club of Dunlo; PLCB LID No.: 1511; PLCB License No.: C-3124

Imposition of Fine

Licensee must pay a \$1,000.00 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 2ND day of May, 2013.

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

Slovak-American Citizens Club of Dunlo
In Re Citation No.: 12-1391