

Mailing Date: MAY 28 2013

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

|                            |   |                                 |
|----------------------------|---|---------------------------------|
| PENNSYLVANIA STATE POLICE, | : | In Re Citation No.: 12-1575     |
| BUREAU OF LIQUOR CONTROL   | : |                                 |
| ENFORCEMENT (BLCE)         | : |                                 |
|                            | : | BLCE Incident No.: W02-450736   |
| v.                         | : |                                 |
|                            | : |                                 |
| NEIL G. ZOLA               | : | PLCB LID No.: 58532             |
| T/A ZOLAS LAMP POST        | : |                                 |
| HARLEIGH TERRACE           | : |                                 |
| BOX 49 RTE. 940            | : | PLCB License No.: R-AP-SS-17802 |
| HARLEIGH, PA 18225         | : |                                 |

**ADJUDICATION**

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: Craig A. Strong, Esquire

LICENSEE: Neil G. Zola

**BACKGROUND:**

This proceeding arises out of a citation, containing one count, that was issued on November 9, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Neil G. Zola (Licensee).

The citation charges Licensee with a violation 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 is prohibited, on September 14, 2012.

I presided at an evidentiary hearing on April 25, 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 September 4, 2012 and completed it on October 1, 2012. (N.T. 5)
2. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on October 15, 2012. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 4)
3. On the date charged, Licensee permitted patrons to smoke on the licensed premises. Licensee thought he was operating legally but failed to verify whether his assumption was accurate. (N.T. 8-11)

**CONCLUSION(S) 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 July 27, 2007, 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 adopt the Bureau's recommended penalty of a \$200.00 fine.

**ORDER:**

In Re Citation No.: 12-1575; Licensee, Neil G. Zola; PLCB LID No.: 58532;  
PLCB License No.: R-AP-SS-17802

***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 22<sup>ND</sup> day of May, 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

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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