

Mailing Date: MAY 08 2014

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

PENNSYLVANIA STATE POLICE, BUREAU OF LIQUOR CONTROL ENFORCEMENT (BLCE)	:	In Re Citation No.: 13-0846
	:	
	:	BLCE Incident No.: W07-451747
v.	:	
	:	
BILDON, LLC 109 E. MARKET ST. BLAIRSVILLE, PA 15717-1325	:	PLCB LID No.: 63304
	:	
	:	PLCB License No.: R-AP-SS-4567

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 April 22, 2013, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Bildon, LLC (Licensee).

The citation 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 January 29, 2013.

I presided at an evidentiary hearing on March 27, 2014 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 20, 2014, by certified mail, return receipt requested and first class mail. The certified mail notice was returned unclaimed, unable to forward. The first class notice was not returned.

2. The Bureau began its investigation on September 28, 2012 and completed it on March 4, 2013. (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 March 8, 2013. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 9)

4. Two Bureau Enforcement Officers conducted an administrative inspection of the licensed premises on January 29, 2013. Licensee's representative did not deny that payoffs were made on the two video gaming devices. The two devices were subsequently inspected and determined to be gambling devices *per se*. (N.T. 6-22)

CONCLUSION(S) OF LAW:

I sustain the violation as charged.

PRIOR ADJUDICATION HISTORY:

Licensee has been licensed since April 2, 2010, and has the following Adjudication history:

In Re Citation No.: 10-2119C. Fine \$1,250.00 and RAMP training mandated. Fine not paid and license suspended 1 day and thereafter until fine paid.

Sales to a minor on July 28, 2010.

In Re Citation No: 12-0273. Fine \$200.00.

Operated the licensed establishment without a valid health permit or license on January 18, 2012.

In Re Citation No: 12-1127. Fine \$350.00 and license suspended 1 day and thereafter until RAMP compliant.

Failed to comply with the order of the Administrative Law Judge mandating RAMP training during the period May 9 through June 30, 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)

I impose a \$550.00 fine.

ORDER:

Imposition of Fine

Licensee must pay a \$550.00 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 28TH day of April, 2014.



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. If you have not already done so, it may be prudent for you 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 a check drawn on the business or trust account of your attorney, who must be licensed in this Commonwealth, a treasurer's check, cashier's check, or money order. **Personal and business checks are not acceptable unless they are certified by your bank.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail, along with any required documentation (please use the Return Stub when mailing payment or write your citation number on the check).

PLCB-Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg, PA 17110-9661