

Mailing Date: FEB 28 2014

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 13-0969
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W02-458712
v.	:	
	:	
JO-LAT, INC.	:	PLCB LID No.: 46074
T/A PUZZLES PUB	:	
528 SANDERSON ST.	:	
THROOP, PA 18512-1244	:	PLCB License No.: R-AP-SS-6972

ADJUDICATION

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: Craig A. Strong, Esquire

LICENSEE: Laura Tomasovitch, Corporate Officer and Stockholder

BACKGROUND:

This proceeding arises out of a citation, containing one count, that was issued on May 8, 2013, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Jo-Lat, Inc. (Licensee).

The citation charges Licensee with a violation of Section 493(34) of the Liquor Code [47 P.S. §4-493(34)]. The charge is that Licensee, by your servants, agents, or employees, used, or permitted to be used on the inside of your licensed premises, a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard beyond the licensee's property line, on March 23, 2013.

I presided at an evidentiary hearing on January 9, 2014 at 100 Lackawanna Avenue, Scranton, Pennsylvania.

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

FINDINGS OF FACT:

1. The Bureau began its investigation on March 18, 2013 and completed it on April 7, 2013. (N.T. 11)
2. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on April 16, 2013. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 10)
3. On March 23, 2013, at 11:25 p.m., a Bureau Enforcement Officer arrived at the licensed premises and heard amplified music escaping the premises as far away as 234 feet. (N.T. 13)

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 ADJUDICATION HISTORY:

Licensee has been licensed since July 10, 2000, and has the following Adjudication history:

In Re Citation No.: 03-1518. Fine \$50.00.

Failed to display on the licensed premises documentary evidence that the premises meets all sanitary requirements for a public eating place on August 12, 2003.

In Re Citation No.: 05-0416. Fine \$350.00.

Possessed or operated gambling devices or permitted gambling on the licensed premises (tickets) on February 5, 2005.

In Re Citation No.: 10-1240. Fine \$75.00.

Sold alcoholic beverages on credit in contravention of the Liquor Code and Title 40 of the Pennsylvania Code on May 2, 22 and 25, 2010.

In Re Citation No.: 10-2315. Fine \$1,400.00.

1. Sales on Sunday between 2:00 a.m. and 11:00 a.m. on September 5, 2010.
2. Sales between 2:00 a.m. and 7:00 a.m. on September 25, 2010.
3. Failed to require patrons to vacate the premises not later than one-half hour after the required time on September 5 and 25, 2010.
4. Permitted patrons to possess or remove alcoholic beverages after 2:30 a.m. on September 5 and 25, 2010.

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 \$250.00 fine.

ORDER:

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 12TH day of February, 2014.

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. 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