

Mailing Date: JUL 28 2014

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 13-2340
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W02-468807
v.	:	
	:	
R. BAR, INC.	:	PLCB LID No.: 10632
T/A SHOOTERS	:	
272 SCOTT ST.	:	
WILKES-BARRE, PA 18702-5519	:	PLCB License No.: R-AP-SS-2692

**ADJUDICATION**

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: Craig A. Strong, Esquire

LICENSEE: Robert C. Wallace, Sole Corporate Officer and Manager

**BACKGROUND:**

This proceeding arises out of a citation, containing one count, that was issued on December 6, 2013, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against R. Bar, Inc. (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 October 9, 2013.

I presided at an evidentiary hearing on June 5, 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 October 9, 2013 and completed it on October 28, 2013. (N.T. 7)

2. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on October 30, 2013. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 6)

3. On October 9, 2013, an undercover Bureau Enforcement Officer entered the premises at 7:15 p.m. The bartender was smoking a cigarette. There were six ashtrays on the bar. Licensee maintained a "No Smoking" sign on the entrance door to the kitchen. (N.T. 8-14)

4. Licensee's exception to permit smoking on the premises expired on August 30, 2010. (N.T. 28)

**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 June 10, 1986, and has had seven prior Adjudications since July 1, 1987, the date the Office of Administrative Law Judge was established.

In Re Citation No.: 87-2897. Fine \$1,150.00.  
Sales between 2:00 a.m. and 7:00 a.m.

In Re Citation No.: 88-1366. Fine \$450.00 and 5 days suspension.  
1. Sales to a visibly intoxicated person.

2. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on the licensed premises (poker machine).

In Re Citation No.: 90-2552. Fine \$2,000.00 and 7 days suspension.

Sales between 2:00 a.m. and 7:00 a.m. on August 11, 1990.

In Re Citation No.: 92-0296. Fine \$125.00.

Used loudspeakers or devices whereby music could be heard outside on December 14, 1991 and January 12, 1992.

In Re Citation No.: 92-0498. Fine \$250.00.

Used loudspeakers or devices whereby music could be heard outside on February 2, 1992.

In Re Citation No.: 92-1315. Fine \$250.00.

Used loudspeakers or devices whereby music could be heard outside on May 16, 1992.

In Re Citation No.: 04-1146. Fine \$350.00.

Used loudspeakers or devices whereby the sound of music could be heard outside on June 18 and 19, 2004.

**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 \$500.00 fine.

**ORDER:**

***Imposition of Fine***

Licensee must pay a \$500.00 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 14<sup>TH</sup> day of July, 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](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 – Note Citation Number on Check**

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The fine must be paid by cashier's check, money order, or a check drawn on the business or trust account of an attorney licensed in Pennsylvania. **Personal and business checks are NOT acceptable unless bank certified.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail it, along with any required documentation to:

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

**Credit/debit cards may be used:** visit [www.lcb.state.pa.us](http://www.lcb.state.pa.us) scroll over LEGAL and then click on Office of ALJ for instructions..