

Mailing Date: OCT 23 2014

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 13-2450
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W02-461979
v.	:	
	:	
TALES, LLC	:	PLCB LID No.: 65672
338 BUCK BLVD.	:	
WHITE HAVEN, PA 18661-2222	:	
	:	PLCB License No.: R-AP-SS-EHF-3051
LUZERNE COUNTY	:	

ADJUDICATION

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: Craig A. Strong, Esquire

LICENSEE: Ex Parte

BACKGROUND:

This proceeding arises out of a citation, containing two counts, that was issued on February 7, 2014, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Tales, LLC (Licensee).

The first count 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 28, 2013.

The second count charges Licensee with a violation of Section 471 of the Liquor Code [47 P.S. §4-471] and Section 637.6(a)(1) of the Clean Indoor Air Act [35 P.S. §637.6(a)(1)]. The charge is that Licensee, by your servants, agents, or employees, failed to post signage as required by the Clean Indoor Air Act, on September 28 and November 9, 2013.

I presided at an evidentiary hearing on September 16, 2014 at 100 Lackawanna Avenue, Scranton, 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 on July 29, 2014, by certified mail, return receipt requested and first class mail. The certified mail notice was returned unclaimed. The first class notice was not returned.

2. The Bureau began its investigation on May 28, 2013 and completed it on November 9, 2013. (N.T. 6)

3. The Bureau sent a notice of the alleged violations to Licensee at the licensed premises by certified mail, return receipt requested, on November 18, 2013. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 7-8)

Count No. 1

4. On the date charged, Licensee openly and notoriously permitted smoking on the licensed premises.

Count No. 2

5. On the two dates charged, Licensee failed to post “No Smoking” signage.

CONCLUSION(S) OF LAW:

I sustain the violations as charged.

PRIOR ADJUDICATION HISTORY:

Licensee has been licensed since March 6, 2012, and has the following Adjudication history:

In Re Citation No.: 13-0355. Fine \$250.00.

Failed to notify the Board within 15 days of a change of manager during the period September 15 through December 3, 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 violations found herein.

Discretionary Component(s)

I impose a \$350.00 fine for Count Nos. 1 and 2 merged.

ORDER:

Imposition of Fine

Licensee must pay a \$350.00 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 15TH day of October, 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 – Note Citation Number on Check

The fine must be paid by cashier's check, money order, or an attorney's check who is licensed to practice law 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 scroll over LEGAL and then click on Office of ALJ for instructions..