

Mailing Date: DEC 30 2014

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 14-0329
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W02-471668
v.	:	
	:	
LIAMS, INC.	:	PLCB LID No.: 56325
T/A LIAM'S PLACE	:	
760 N. WASHINGTON ST.	:	
WILKES-BARRE, PA 18702	:	PLCB License No.: R-AP-SS-2393
	:	
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 three counts, that was issued on February 28, 2014, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Liams, Inc. (Licensee).

The first count 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 December 12, 2013.

The second count 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 December 12, 2013.

The third count charges Licensee with a violation of Section 5.23(c) of the Liquor Control Board Regulations [40 Pa. Code §5.23(c)]. The charge is that Licensee, by your servants, agents, or employees, failed to notify the Board within fifteen (15) days of a change of manager, during the period February 1 through December 13, 2013.

I presided at an evidentiary hearing on October 29, 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 September 12, 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 December 12, 2013 and completed it on January 22, 2014. (Commonwealth Exhibit No. C-1, N.T. 5-6)

3. The Bureau sent a notice of the alleged violations to Licensee at the licensed premises by certified mail, return receipt requested, on February 12, 2014. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 6)

**Count No. 1**

4. During an administrative inspection of the licensed premises on December 12, 2013, a Bureau Enforcement Officer found two video gaming devices that were set up for play. Licensee's bartender admitted to payouts being made on the video gaming devices by Kingston Amusements, the owner of the machines. (N.T. 12-17, 27-30)

Count No. 2

5. On December 12, 2013, three Bureau Enforcement Officers arrived in the area of the licensed premises. The Officers heard music emanating from the licensed premises. A Officer walked approximately 100 feet from Licensee's property line and could still hear music emanating from the licensed premises. (N.T. 7-11)

Count No. 3

6. Licensee installed a new Manager. During the period charged, Licensee failed to submit the required documents to the Pennsylvania Liquor Control Board to register the change. (N.T. 20-24)

**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 violations as charged.

**PRIOR ADJUDICATION HISTORY:**

Licensee has been licensed since April 11, 2006, and has the following Adjudication history:

In Re Citation No.: 07-0030C. Fine \$1,250.00 and RAMP training mandated.

Sales to a minor on December 3, 2006.

In Re Citation No.: 07-1564. Fine \$150.00.

Operated the licensed establishment without a valid health permit or license on April 30, 2007.

In Re Citation No.: 08-1632. Fine \$250.00.

Not a bona fide restaurant in that food items, eating utensils and dishes were insufficient on May 31, 2008.

**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)***

As Licensee has failed to obey process, to appear, or to offer any mitigation, I impose:

Count No. 1 - \$1,000.00 fine.

Count No. 2 - \$1,000.00 fine.

Count No. 3 - \$1,000.00 fine.

**ORDER:**

***Imposition of Fine***

Licensee must pay a \$3,000.00 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 15<sup>TH</sup> day of December, 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](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**

---

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](http://www.lcb.state.pa.us) scroll over LEGAL and then click on Office of ALJ for instructions..