

Mailing Date: DEC 03 2014

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

PENNSYLVANIA STATE POLICE,	:	
BUREAU OF LIQUOR CONTROL	:	In Re Citation No.: 14-0334
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W03-465749
v.	:	
	:	PLCB LID No.: 2542
DEL-PHIA ATHLETIC ASSOCIATION, INC.	:	
991 EDISON ST. REAR	:	PLCB License No.: C-5542
YORK, PA 17403-1715	:	
	:	SGOC License No.: 13032
YORK COUNTY	:	

ADJUDICATION

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: John H. Pietrzak, Esquire

LICENSEE: Ex Parte

BACKGROUND:

This proceeding arises out of a citation, containing one count, that was issued on March 6, 2014, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Del-Phia Athletic Association, Inc. (Licensee).

Local Option Small Games of Chance Act Violation

The citation charges Licensee with a violation of Section 328.503 of the Local Option Small Games of Chance Act [10 P.S. §328.503] and Section 901 of the Department of Revenue Regulations [61 Pa. Code §901]. The charge is that Licensee, by your servants, agents, or employees, failed to maintain complete and truthful records covering the operation of the licensed business for a period of two (2) years immediately preceding November 7, 2013, concerning the Local Option Small Games of Chance Act.

I presided at an evidentiary hearing on October 14, 2014 at 2221 Paxton Church Road, Harrisburg, Pennsylvania.

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

FINDINGS OF FACT:

Local Option Small Games of Chance Act Violation

1. The Office of Administrative Law Judge sent a notice of hearing on August 25, 2014, by certified mail, return receipt requested. The notice was received and signed for on August 27, 2014.

2. The Bureau began its investigation on August 8, 2013 and completed it on January 9, 2014. (N.T. 10)

3. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on January 30, 2014. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 8)

4. On November 7, 2013, a Bureau Enforcement went to the licensed premises to complete an administrative inspection and examine records at a time when the premises was open, in operation, and after receiving consent. Licensee's Small Games of Chance records failed to comply with 61 Pa. Code 901.464(1) through (9). (N.T. 15-21)

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 February 2, 1959, and has had one prior Adjudication since July 1, 1987, the date the Office of Administrative Law Judge was established.

In Re Citation No.: 10-0481. Fine \$300.00.

Failed to maintain complete and truthful records covering the operation of small games of chance for a period of 2 years immediately preceding February 24, 2010.

PENALTY ASSESSMENT CRITERIA:

Mandatory Requirement(s)

Local Option Small Games of Chance Act

The Local Option Small Games of Chance Act provides that a club licensee is subject to a penalty of up to \$800.00 for a first violation. In addition, the ALJ may suspend or revoke the SGOc license, as well as any Special Permit attendant thereto.

Discretionary Component(s)

I impose a \$800.00 fine assuming that Licensee will correct these record keeping deficiencies. Should another inspection reveal that Licensee is not current with Small Games of Chance record keeping requirements, I will have no choice but to suspend the Small Games of Chance Permit for a lengthy interval.

ORDER:

Imposition of Fine

Licensee must pay a \$800.00 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, in combination with the Local Option Small Games of Chance Act, require that I suspend or revoke the club liquor license. Additionally, I may also suspend the Small Games of Chance license.

Retaining Jurisdiction

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 14TH day of November, 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 – 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.