



L. & J.'S SPORTS BAR, INC.  
T/A THE GOAL POST  
IN RE CITATION NO. 14-0500

Count three of the citation charges Licensee with violation of the Liquor Code at 47 P.S. §4-471 and the CIAA at 35 P.S. §637.2, alleging that on January 6, 2014, Licensee, by its servants, agents or employees, permitted an individual under eighteen years of age to be in a portion of the licensed premises where smoking was permitted.

Licensee has executed a Statement of Admission, Waiver and Authorization in which Licensee: admits to the violations charged in the citation, agrees that the Bureau complied with the applicable investigatory and notice requirements of the Liquor Code, authorizes the Administrative Law Judge to enter an Adjudication without a hearing based on a summary of facts as provided by the Bureau and prior citation history, and waives the right to appeal this Adjudication.

Based upon the admissions of Licensee, the summary of facts provided by the Bureau, Pennsylvania Liquor Control Board (Board) records, and unobjected-to correspondence from Licensee, I make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

Count 1

1. In 2013, the Bureau charged Licensee at Citation No. 13-0735C for serving alcohol to a minor. Licensee admitted the violation and, along with the Bureau, recommended a penalty of \$1,250.00 and RAMP certification. On August 23, 2013, I found Licensee in violation of the Liquor Code for serving alcohol to a minor. I adopted the parties' recommendation and imposed a fine of \$1,250.00 and ordered Licensee to become RAMP certified within 90 days, by November 21, 2013.
2. RAMP certification requires completion of five steps: owner/manager training, server/seller training, new employee orientation, display of required RAMP signage, and an affidavit request for RAMP certification. Among other things required for completion of these steps, licensees must maintain an alcohol Service Staff Roster and a New Employee Orientation Form.
3. On August 23, 2013, the Board sent Licensee a letter informing it of the RAMP certification components and notifying it of the November 21 deadline for certification.
4. Forty-five days later, on October 7, 2013, the Board sent Licensee a second letter reminding it that only 45 days remained to obtain timely RAMP certification.
5. By November 22, 2013, Licensee was not RAMP certified.
6. On January 6, 2014, 45 days after Licensee was already past the deadline for RAMP certification required by my August 23, 2013, order, a Liquor Enforcement Officer

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visited the licensed premises and spoke with Licensee's corporate officer and manager, Denene Weimer.

7. Ms. Weimer admitted to the Enforcement Officer that Licensee had not completed RAMP certification pursuant to my order at 13-0735C. Specifically, although Licensee was displaying proper RAMP signage, 50% of its servers had not completed seller/server training, and Licensee had not submitted an affidavit request for RAMP certification. In addition, Ms. Weimer could not produce necessary documentation for RAMP certification including the alcohol Service Staff Roster or the New Employee Orientation Form. There is no explanation in the record for Licensee's failure to secure RAMP certification.
8. After the Officer's conversation with Ms. Weimer, the Bureau sent Licensee a Notice of Violation letter on February 22, 2014.
9. On April 2, 2014, the Bureau sent the present Citation to Licensee officially charging Licensee with the violations it has admitted here.
10. On May 8, 2014, Licensee's attorney entered his appearance in this case.
11. On June 3, 2014, the Bureau filed its pre-hearing memorandum alerting Licensee to the specific facts it would attempt to prove and the evidence it was prepared to offer at a hearing.
12. On June 4, 2014, the Chief Administrative Law Judge wrote to Licensee's counsel notifying him that Licensee is required to file its pre-hearing memorandum by June 25, 2014.
13. On July 23, 2014, I notified the parties I was assigned to adjudicate this matter and reminded Licensee it had failed to file its pre-hearing memorandum and directed it to submit the document by September 3, 2014.
14. On July 30, 2014, the Office of Administrative Law Judge sent Licensee's counsel the Citation Hearing Notice, thereby scheduling this matter for a hearing on September 17, 2014.
15. Licensee completed RAMP certification on August 11, 2014.
16. Three days later, Licensee formally sought to waive the charges against it.
17. Board records reveal that Ms. Weimer became Licensee's Board-approved manager on November 7, 2002. Licensee's sole owner at the time was Ms. Weimer's mother, Daralou Palo. On April 23, 2003, Daralou Palo died. Ownership of Licensee passed to James Palo, Ms. Weimer's father. On November 18, 2004, Mr. Palo became the sole owner and corporate president. Ms. Weimer took the additional titles of

corporate vice president and treasurer. Her sister, Cheryl Fraij, became corporate secretary. Ms. Weimer has been running Licensee for years because her father and sister have suffered debilitating illnesses.

18. Board records further reveal that Ms. Weimer has previously received RAMP training. She is Licensee's only corporate officer who ever received owner/manager training, which she initially completed December 14, 2010.

### Counts 2 and 3

19. During the Officer's January 6, 2014, visit to the licensed premises, the Officer noted that Licensee displayed a CIAA-exception certificate which informs patrons that smoking is permitted in the licensed premises. One patron was smoking a cigarette at the bar when the Officer entered.
20. However, Licensee did not post CIAA signage outside the premises alerting potential patrons that smoking was permitted inside.
21. Licensee knew or should have known that the CIAA required it to display exterior signage and that it was not displaying such signage. Licensee did not take steps to post the required exterior signage.
22. Additionally, Ms. Weimer had a female child behind the bar with her during the Officer's inspection. The child was Ms. Weimer's 10-year-old granddaughter.
23. Licensee knew or should have known the CIAA does not permit children under 18 in any portion of the licensed premises where smoking is permitted, but took no steps to prevent the child from entering.

### CONCLUSION OF LAW:

Counts one through three: Sustained as charged.

### DISCUSSION:

The sole question for discussion in this case is the nature of the penalty to be imposed in light of the record and Licensee's arguments for mitigation. The Liquor Code permits me to consider Licensee's record of prior violations in formulating a penalty. (Liquor Code, 47 P.S. §4-471) Here, Licensee has an especially bad history of prior violations. It is extensive, repetitious, and comprised of many of the most serious violations. Focusing only on the last ten years,<sup>1</sup> Licensee has repeatedly operated gambling machines on the premises in violation of

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<sup>1</sup> The Liquor Code permits an Administrative Law Judge to consider any prior violation, regardless of how long ago it occurred. However, as a practical matter, the Administrative Law Judges do not consider violations that pre-date

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criminal laws, violated three ALJ orders,<sup>2</sup> permitted minors to frequent, and served both minors and a visibly intoxicated person. In addition, Licensee knowingly violated the CIAA on multiple occasions.<sup>3</sup> Now Licensee admits violating its fourth ALJ order and committing additional violations of the CIAA.

I am struck by the apparent lack of concern shown by Licensee in response to being cited again for failing to comply with an ALJ order. Recall that Licensee was required to be RAMP certified by November 21, 2013. Before that date, Licensee received two reminders to complete certification. After the 90 day deadline, Licensee took another 264 days to complete certification.<sup>4</sup> The record reveals that in that time period Licensee also received six letters concerning this violation (which included the Citation itself) and Licensee's attorney's entry of appearance. (Findings of Fact Nos. 8-14) I am left to wonder why Licensee was not prompted by these proceedings to act more quickly to comply with the ALJ order.

In fact, this case gives rise to serious questions about Licensee's qualifications to operate a licensed establishment. For this reason, and others, I initially rejected Licensee's Waiver and told the parties I felt a hearing would be informative. I noted that because Licensee had never participated in a hearing for any of its 14 prior citations it may not appreciate the severity of its circumstances. However, less than a week before the scheduled hearing, Licensee and the Bureau again requested I permit Licensee to waive the charges rather than proceed to a hearing. I told the parties that I continued to believe a hearing would be beneficial, but if Licensee nonetheless felt a Waiver was in its interest, I would permit Licensee to waive the citation. Licensee chose to waive.

Now, I am asked to consider several points of mitigation submitted by Licensee in its letter dated September 16, 2014. First, Licensee notes it is solely owned by Mr. Palo, who is in the process of transferring the license to a company wholly owned by Ms. Weimer. Second, Licensee suggests that most of its violations occurred before Ms. Weimer became active in day-to-day operations. Third, Ms. Weimer's role as vice president and treasurer was mostly a convenience to Mr. Palo, who had experienced administrative complications during the transfer of the license from his wife's estate, and for continuity in the event anything happened to Mr.

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the creation of our office in 1987. I have considered Licensee's entire violation history, but for purposes of brevity and relevance I have focused on the most recent ten-year period in this discussion.

<sup>2</sup> Licensee's prior history, at first glance, reveals Licensee failed to comply with a suspension order (violation found at 05-0983), and a RAMP certification order (violation found at 11-0498). But a closer look reveals Licensee has two prior violations for failure to comply with a RAMP certification order. The first arose from Citation 09-2292, where Licensee admitted serving minors and permitting minors to frequent. Judge Skwaryk ordered RAMP certification by October 7, 2010, which Licensee did not complete until May 25, 2011. The second arose from another Judge Skwaryk RAMP certification order at Citation 10-1016. The deadline for RAMP certification in that case was January 27, 2011. Licensee was found in violation of Judge Skwaryk's orders issued in 09-2292 and 10-1016 when, at 11-0498, Judge Skwaryk found Licensee was not RAMP certified during the period October 8, 2010 to March 4, 2011, a time period capturing both missed RAMP certification deadlines. Hence, Licensee has violated two previous RAMP certification orders and one suspension order.

<sup>3</sup> Violations may only be found in cases arising under the CIAA if the licensee knew or should have known of the offending activity and took inadequate steps to prevent it. *PLCB v. TLK*, 544 A.2d 931 (Pa. 1988).

<sup>4</sup> Licensee's record of previous delayed compliance with ALJ orders is similarly striking: at 09-2292 Licensee remained in violation of the order for 230 days, and at 10-1016 Licensee remained in violation for 118 days.

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Palo. And fourth, Mr. Palo and Ms. Fraij are being supported by what Licensee characterizes as the “minimal profits” accruing to the business. This support is critical because both have suffered debilitating health issues which I understand keep them from employment. Thus, Licensee contends that an onerous penalty will fail to punish or deter the “right” person, Mr. Palo, and it may endanger the source of financial support for multiple families.

I do not agree with Licensee’s suggestion that I am at risk of punishing the wrong person. The record establishes that Ms. Weimer, the intended future owner of the license, played a critical role in the day-to-day operations of Licensee as early as 2002, when she became the Board-approved manager. Almost immediately, Daralou Palo filed a resolution with the Board authorizing Ms. Weimer to speak on Licensee’s behalf on official Board matters. To date, only Mr. Palo and Ms. Weimer are listed in Board records as possessing authority to speak for Licensee.

Additionally, since becoming manager, Ms. Weimer appears to have played a role in day-to-day management that is at least equal to that played by Mr. Palo or Ms. Fraij. For example, both Ms. Weimer and Mr. Palo have executed prior Waivers for Licensee,<sup>5</sup> and both are repeatedly mentioned by the Bureau in investigations.<sup>6</sup> Yet, only Ms. Weimer has corresponded with this court (below), and Ms. Weimer is also the only corporate officer who has ever received owner/manager RAMP training. In contrast, Mr. Palo has never corresponded with this court, and RAMP records for him indicate he received only server/seller RAMP training.

Furthermore, the record does not support Licensee’s contention that Mr. Palo ran the establishment until recently. Licensee did not offer dates that Ms. Weimer took over the establishment, thus complicating the question Licensee asks me to consider: who was in charge during Licensee’s most significant offenses. (This is a topic I could have fully explored if there had been a hearing.) However, Board records suggest that Ms. Weimer has run the establishment since 2010. In particular, I could find no evidence that Mr. Palo has participated in management affairs with the Board after March 27, 2010, when he executed a corporate resolution that he filed with the Board. In addition, in Citation 11-0498 (failure to comply with an ALJ order), the Bureau’s pre-hearing memorandum suggests that at that time it was Ms. Weimer who was actively running the establishment.<sup>7</sup> That citation was issued in 2011 for violations that occurred in 2010. In its pre-hearing memorandum the Bureau specifically describes holding a conversation with Ms. Weimer about the violation, not Mr. Palo. Ms. Weimer further exhibited her authority over the establishment by designating an employee to answer additional questions for the Bureau without evidence she secured Mr. Palo’s instructions. Finally, it was Ms. Weimer, not Mr. Palo, who wrote to Judge Skwaryk to inform him about Licensee’s efforts to complete RAMP certification and requesting consideration of a recommended penalty. Therefore, based on the record, I conclude that Ms. Weimer has been

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<sup>5</sup> Ms. Weimer: 10-2734 and 11-0498; Mr. Palo: 04-1193. All others are signed by Counsel.

<sup>6</sup> Citation Nos. 04-1193, 05-1295, 09-2292, 10-2734, 11-0498. Ms. Fraij, in contrast, is only specifically identified in 09-2292.

<sup>7</sup> I note that Licensee admitted to the facts presented in the Bureau’s pre-hearing memorandum by waiving the charges in 11-0498.

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running Licensee since at least March of 2010, and was in charge when Licensee failed to comply with two ALJ orders to secure RAMP certification.

Thus, I cannot agree with Licensee's suggestion that I am at risk of punishing the wrong person. Given the continuity of management anticipated upon the transfer of this license, I am comfortable that the right party is being punished and that the punishment will have a possible deterrent effect upon Ms. Weimer's future operations.

Next, I am sympathetic to Licensee's request that I consider the potential impact of a penalty on multiple families. Without any financial data from Licensee regarding revenues, though, I am left to guess how much of a penalty Licensee can bear. Licensee suggests it can withstand the impact of the Bureau's recommendation for a \$1,000.00 fine and a two-day suspension. However, I find that recommendation inadequate.

The facts in this case and the record, below, reveal that Licensee operates a troubled business with minimal regard for its obligations or the Commonwealth's oversight. Licensee exacerbated this matter by remaining in violation for 264 days before immediately seeking to waive the charges without any explanation for its behavior or demonstration of contrition. It is possible Licensee had reasons for its continued delay or regrets its lapse in oversight. (This is another point I would have explored had there been a hearing.) However, Licensee has offered no reasons or regrets and I cannot give it the benefit of the doubt without facts in the record. Thus, I am left with the impression that Licensee viewed my RAMP order as nothing more than an inconvenience that it ultimately addressed only to make it go away.

PRIOR RECORD:

Licensee has been licensed since November 8, 1993, and has had 14 prior violations:

IN RE:

Citation No. 94-1136. Fine \$450.00.

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

Citation No. 94-2292. Fine \$900.00.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on a licensed premises (machine).

Citation No. 96-2215. Fine \$1,000.00 and 3 days suspension.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on a licensed premises (machines and tickets).
2. Sold alcoholic beverages on credit in contravention of the provisions of the Liquor Code and Title 40 of the Pennsylvania Code.

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Citation No. 02-0979. Fine \$900.00.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on your licensed premises (machines).

Citation No. 04-1193. Fine \$1,500.00 and 10 days suspension.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on your licensed premises (machines, tickets and tip seals).
2. Failed to require patrons to vacate the premises not later than one-half hour after the required time.
3. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 a.m.
4. Unlawfully possessed liquor obtained from a source other than a Pennsylvania state store.

Citation No. 05-0983. Fine \$1,250.00 and 2 days suspension.

1. Failed to post in a conspicuous place on the outside of the licensed premises a notice of suspension.
2. Sales during a time when your restaurant liquor license was suspended.

Citation No. 05-1259. Fine \$1,200.00 and 20 days suspension.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on your licensed premises (machines and tip board).

Citation No. 06-2180. Fine \$250.00.

1. Used loudspeakers or devices whereby music could be heard outside.

Citation No. 09-2292. Fine \$1,850.00, 1 day's suspension and RAMP training mandated.

1. Minors frequenting.  
January 9, 16 and 17, 2009.
2. Sales to minors.  
January 9, 16 and 17, 2009.

Citation No. 10-1016. Fine \$1,250.00 and RAMP training mandated.

1. Sales to a visibly intoxicated person.  
April 25, 2010.

Citation No. 10-2734. Fine \$600.00.

1. Failed to post signage as required by the Clean Indoor Air Act.  
August 14, 15, September 12, 26 and November 24, 2010.
2. Smoked and/or permitted smoking in a public place where smoking was prohibited.  
August 14, 15, September 26 and November 14, 2010.

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3. Sold malt or brewed beverages in excess of 192 fluid ounces for consumption off premises.  
August 14, 2010.

Citation No. 11-0498. Fine \$650.00 and 1 day suspension with thereafter conditions.

1. Failed to comply with the order of the Administrative Law Judge mandating RAMP training.  
October 8, 2010 through March 4, 2011.
2. Smoked and/or permitted smoking in a public place where smoking was prohibited.  
February 3, 2011.

Citation No. 11-2177. Fine \$275.00.

1. Refilled liquor bottles.  
November 21, 2011.

Citation No. 13-0735C. Fine \$1,250.00 and RAMP certification mandated.

1. Sales to a minor.  
February 13, 2013.

PENALTY:

For violations of the type found in this case, the Liquor Code permits any of the following penalties: (1) a license revocation, (2) a fine in the range of \$50.00 to \$1,000.00 for each count, (3) a license suspension, or (4) any combination of a fine and suspension. (47 P.S. §4-471) In mitigation, some consideration shall be given to the fact that Licensee has admitted to the violations as charged in this citation, and has waived the right to a hearing and appeal. For these reasons I have decided not to revoke Licensee's license or to impose a suspension. Accordingly, I impose a penalty of \$1,000.00 for count one, \$1,000.00 for count two, and \$1,000.00 for count three.

ORDER:

THEREFORE, it is hereby ordered that L. & J.'s Sports Bar, Inc., t/a The Goal Post, License Number R-AP-SS-18595, pay a fine of \$3,000.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee's license shall be suspended or revoked.

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Jurisdiction is retained.

Dated this 14<sup>TH</sup> day of October, 2014.



Richard O'Neill Earley, J.

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NOTE: MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE FILING FEE.

**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 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

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