

I presided at an evidentiary hearing on December 11, 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 August 27, 2013 and completed it on March 2, 2014. (N.T. 8)
2. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on March 31, 2014. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 9)
3. On October 17, 2013, two Bureau Enforcement Officers conducted an administrative inspection of the licensed premises. Licensee maintained a video gaming device. Licensee's Sole Corporate Officer, Mr. Hiles, admitted that payoffs were made on the device. (N.T. 10-22)

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 January 20, 1988, and has the following Adjudication history:

In Re Citation No.: 89-1005. Fine \$300.00.

1. Permitted entertainment and/or dancing without an Amusement Permit.
2. Used loudspeakers or devices whereby music could be heard outside.

In Re Citation No.: 90-1561. Fine \$450.00 and 5 days suspension.

1. Sales between 2:00 a.m. and 7:00 a.m.

2. Permitted entertainment and/or dancing during prohibited hours.
3. Used loudspeakers or devices whereby music could be heard outside.

In Re Citation No.: 90-2537. Fine \$450.00.

Used loudspeakers or devices whereby music could be heard outside on October 19, 1990.

In Re Citation No.: 91-0736. Fine \$600.00.

Used loudspeakers or devices whereby music could be heard outside on October 20, 21, November 22, 23, 24, 25, December 1, 2, 7, 8, 9, 14, 15, 21, 22, 23, 28, 29, 1990; January 5, 6, 11, 12, 25, 26, 27, February 1, 2, 3, 8, 9 and 10, 1991.

In Re Citation No.: 91-1905. Fine \$250.00.

Used loudspeakers or devices whereby music could be heard outside on May 24, 25, 26, June 1, 2, 7, 8, 9, 14, 15, 16, 21, 22, 23, 28, 29 and 30, 1991.

In Re Citation No.: 91-3117. Fine \$250.00.

Used loudspeakers or devices whereby music could be heard outside on July 4, 5, 6, 11, 12, 13, 18, 19, 20, 25, 26, 27, August 1, 2, 3, 8, 9, 10, 16, 17, 22, 23, 24, 30, 31, September 6, 13, 20, 21, 27, 28, October 4, 11, 18, 25, 26, November 1, 8, 15 and 16, 1991.

In Re Citation No.: 92-1800. Fine \$750.00 and 6 days suspension.

Used loudspeakers or devices whereby music could be heard outside on July 24, 1992.

In Re Citation No.: 93-0896. Fine \$900.00 and 30 days suspension of Amusement Permit.

Used loudspeakers or devices whereby music could be heard outside on April 17, 1993.

In Re Citation No.: 93-1167. Fine \$500.00 and 7 days suspension.

Used loudspeakers or devices whereby music could be heard outside on May 15, 1993.

In Re Citation No.: 94-0385. Fine \$300.00 and 3 days suspension.
Used loudspeakers or devices whereby music could be heard outside on February 5, 1994.

In Re Citation No.: 95-0852. Fine \$1,000.00 and 183 days suspension of Amusement Permit.
Used loudspeakers or devices whereby music could be heard outside on March 25, 1995.

In Re Citation No.: 95-1400. Fine \$1,000.00.
Used loudspeakers or devices whereby music could be heard outside on May 20 and 21, 1995.

In Re Citation No.: 96-1240. Fine \$1,000.00 and 10 days suspension.
Used loudspeakers or devices whereby music could be heard outside on May 17, 1996.

In Re Citation No.: 96-1595. Fine \$1,000.00 and 5 days suspension.
Used loudspeakers or devices whereby music could be heard outside on June 29, 1996.

In Re Citation No.: 99-2196. Fine \$350.00.
Used loudspeakers or devices whereby music could be heard outside on December 10, 1999.

In Re Citation No.: 00-0375. 5 days suspension and 10 days suspension of Amusement Permit.
Used loudspeakers or devices whereby music could be heard outside on February 19, 2000.

In Re Citation No.: 00-0917. 10 days suspension and 30 days suspension of Amusement Permit.
Used loudspeakers or devices whereby music could be heard outside on May 6, 2000.

In Re Citation No.: 00-1328. Fine \$1,000.00, 10 days suspension and 180 days suspension of Amusement Permit.
Used loudspeakers or devices whereby music could be heard outside on July 23, 2000.

In Re Citation No.: 01-0299. Fine \$500.00
Used loudspeakers or devices whereby music could be heard outside on January 12, 2001.

In Re Citation No.: 01-0336. Fine \$500.00.

Used loudspeakers or devices whereby music could be heard outside on February 2, 2001.

In Re Citation No.: 09-1111. Fine \$750.00.

1. Possessed or operated gambling devices or permitted gambling on the licensed premises (machines) on April 15, 2009.
2. Permitted smoking in a public place where smoking was prohibited on April 15, 2009.
3. Failed to post signage as required by the Clean Indoor Air Act on April 15, 2009.

In Re Citation No.: 13-1400. Fine \$300.00.

Permitted smoking in a public place where smoking was prohibited on May 20, 2013.

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)

Given Licensee's scandalous prior Adjudication history, it is difficult for me to imagine that anything but a severe sanction will have any influence on how Licensee operates.

I impose a \$1,000.00 fine and a 15 days suspension.

ORDER:

Imposition of Fine

Licensee must pay a \$1,000.00 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.

Suspension Length and Date(s)

I suspend the license, as well as all other permits or licenses issued by the Pennsylvania Liquor Control Board attendant to the license, for 15 days, beginning Monday, April 6, 2015, 7:00 a.m., and ending Tuesday, April 21, 2015, 7:00 a.m.

Instructions to Post Notice of Suspension Placard

Licensee shall post a Notice of Suspension Placard (PLCB Form 1925) in a conspicuous place on the outside of the licensed premises, or in a window plainly visible from the outside of the licensed premises, on or before Monday, April 6, 2015, 7:00 a.m. The Suspension Placard may not be removed until Tuesday, April 21, 2015, 7:00 a.m.

Consequence of Failing to Comply With This Order

In addition to any other consequence at law, if Licensee does not comply with all conditions herein, the Bureau may issue an additional citation alleging Licensee has violated this Order. Alternatively, the Bureau may assert the same claim by requesting this Adjudication be reopened.

Retaining Jurisdiction

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 18TH day of February, 2015.

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..