

Mailing Date: FEB 02 2015

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 14-0798
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W02-475173
v.	:	
	:	
KIDDER TOWNSHIP VOLUNTEER	:	PLCB LID No.: 4086
FIRE COMPANY NO. 1	:	
RD 1	:	
WHITE HAVEN, PA 18661-9801	:	PLCB License No.: CC-5760
	:	
CARBON 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 one count, that was issued on April 28, 2014, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Kidder Township Volunteer Fire Company No. 1 (Licensee).

The citation charges Licensee with a violation of Section 471.1(g) of the Liquor Code [47 P.S. §4-471.1(g)]. The charge is that Licensee, by your servants, agents, or employees, failed to have your Board-approved manager complete RAMP training within 180 days of the Board's approval of the appointment, during the period February 9 through March 5, 2014.

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 Office of Administrative Law Judge sent a notice of hearing on October 23, 2014, by certified mail, return receipt requested. The notice was received and signed for on October 28, 2014.

2. The Bureau began its investigation on March 3, 2014 and completed it on April 1, 2014. (Judge's Exhibit No. J-1)

3. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on April 4, 2014. The notice alleged the violation as charged in the citation. (Judge's Exhibit No. J-1, N.T. 4)

4. During the period charged, Licensee failed to have the Board approved manager complete RAMP training within 180 days of appointment. (N.T. 3-4)

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 July 17, 1987, and has the following Adjudication history:

In Re Citation No.: 91-2264. Fine \$450.00.

1. Sales to nonmembers without prior arrangement on August 5, 1991.
2. Sold malt or brewed beverages for consumption off premises on August 5, 1991.

3. Sold alcoholic beverages after your Catering Club liquor license expired on July 31, 1991 and had not been renewed on August 5, 1991.

In Re Citation No.: 00-0519. Fine \$450.00.

Possessed or operated gambling devices or permitted gambling on your licensed premises (sports pool) on March 5, 2000.

In Re Citation No.: 09-0933. Fine \$350.00.

1. Failed to maintain records in conformity with the Liquor Code and Title 40 of the Pennsylvania Code during the period October 1, 2008 through March 25, 2009.
2. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of 2 years immediately preceding March 25, 2009.
3. Failed to maintain a photo static or certified copy of the Charter on the licensed premises on March 25, 2009.

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)

Licensee's President called on the day of the hearing to advise that no one would come to the hearing as Licensee was on call the evening before to assist with bad weather problems.

The President further acknowledged the violation was caused by his predecessor who was removed for various unlawful activities. The President first requested a continuance but when I explained that I took no negative inference from no one coming to the hearing and that the President admitted to the violation, he then had no objection to an ex parte hearing. In fact, it is rare indeed for an organization's leader to be transferred from one telephone call to another until I was located. Therefore, I impose a \$75.00 fine.

ORDER:

Imposition of Fine

Licensee must pay a \$75.00 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 13TH day of January, 2015.



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.