

Mailing Date: MAY 28 2015

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 14-1055
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W07-460922
v.	:	
	:	
BUFFALO LODGE AMVETS	:	PLCB LID No.: 52284
POST 200 VETERANS CLUB	:	
1100 STONEBURG RD.	:	
PO BOX 335	:	PLCB License No.: CC-6391
ROSSITER, PA 15772-0335	:	
	:	
INDIANA COUNTY	:	SGOC License No.: 20131066

**ADJUDICATION**

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: Nadia L. Vargo, Esquire

LICENSEE: Ex Parte

**BACKGROUND:**

This proceeding arises out of a citation, containing six counts, that was issued on May 30, 2014, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Buffalo Lodge Amvets Post 200 Veterans Club (Licensee).

***First Cause of Action: Local Option Small Games of Chance Act Violations***

The first count charges Licensee with violations of Section 901.783 of the Department of Revenue Regulations [61 Pa. Code §901.783]. The charge is that Licensee, by your servants, agents, or employees, failed to operate Small Games of Chance in conformity with the Small Games of Chance Act and Title 61 of the Pennsylvania Code, on June 8 and July 15, 2013.

The second count 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 July 15, 2013, concerning the Local Option Small Games of Chance Act.

The third count charges Licensee with a violation of Section 328.307(d.1) of the Local Option Small Games of Chance Act [10 P.S. §328.307(d.1)]. The charge is that Licensee, by your servants, agents, or employees, failed to maintain proceeds from games of chance in a bank account separate from all other funds, during the period June 8, 2012 through July 15, 2013.

***Second Cause of Action: Liquor Code Violations***

The fourth count charges Licensee with a violation of Section 493(12) of the Liquor Code [47 P.S. §4-493(12)] and Sections 5.71, 5.72, 5.74 and 5.83 of the Liquor Control Board Regulations [40 Pa. Code §§5.71, 5.72, 5.74 and 5.83]. The charge is that Licensee, by your servants, agents, or employees, failed to maintain records in conformity with the provisions of the Liquor Code and Title 40 of the Pennsylvania Code, during the period June 8, 2012 through July 15, 2013.

The fifth count charges Licensee with a violation of Section 102 of the Liquor Code [47 P.S. §1-102]. The charge is that Licensee, by your servants, agents, or employees, failed to conduct business through officers regularly elected, during the period May 2011 through July 15, 2013.

The sixth count charges Licensee with a violation of Section 471 of the Liquor Code [47 P.S. §4-471] and Section 328.307(d.1) of the Local Option Small Games of Chance Act [10 P.S. §328.307(d.1)]. The charge is that Licensee, by your servants, agents, or employees, failed to maintain proceeds from games of chance in a bank account separate from all other funds, during the period June 8, 2012 through July 15, 2013.

I presided at an evidentiary hearing on April 8, 2015 at 180 Charlotte Drive, Altoona, 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 February 18, 2015, 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 April 23, 2013 and completed it on July 30, 2013. (N.T. 14)

3. The Bureau sent a notice of the alleged violations to Licensee at the licensed premises by certified mail, return receipt requested, on August 6, 2013. The notice alleged the violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 15)

***First Cause of Action: Local Option Small Games of Chance Act Violations***

**Count No. 1**

4. On the dates charged, Licensee operated a daily drawing but did not post the rules for the drawing. (N.T. 20-22)

**Count No. 2**

5. For the two years immediately preceding July 15, 2013, Licensee maintained records limited to the amount of money Licensee was profiting on ticket sales, strip ticket sales and the cost of strip tickets. (N.T. 24)

**Count No. 3**

6. During the period charged, Licensee co-mingled funds dedicated and derived from Small Games of Chance with its regular banking system. (N.T. 25)

***Second Cause of Action: Liquor Code Violations***

**Count No. 4**

7. During the period charged, Licensee failed to maintain an inactive membership file. There was no financial report attached to meeting minutes. (N.T. 26-27)

Count No. 5

8. During the period charged, Licensee was operated by Paul Zinzella and Zeb Zinzella. The organization did not elect officers annually. (N.T. 27-30)

Count No. 6

9. During the period charged, Licensee co-mingled funds dedicated and derived from Small Games of Chance with its regular banking system. (N.T. 25)

**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 February 25, 2004, and has no prior Adjudications.

**PENALTY ASSESSMENT CRITERIA:**

***Mandatory Requirement(s)***

First Cause of Action: Local Option Small Games of Chance Act, Count Nos. 1, 2 and 3

The Local Option Small Games of Chance Act [10 P.S. 328.702 and 328.706] provides that a club licensee is subject to a penalty of up to \$800.00 for a first violation, up to \$1,000.00 for a second violation, and up to \$2,000.00 for a third violation, or suspension, or revocation of the SGOC license.

Second Cause of Action: Liquor Code, Count Nos. 4, 5 and 6

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)***

This record renders it abundantly clear that the club was not *bona fide*. It appears as if the license was purchased for private gain.

Therefore, I impose:

*Local Option Small Games of Chance Act*

Count Nos. 1, 2 and 3 – Revocation of Small Games of Chance license for each count.

*Liquor Code*

Count Nos. 4, 5 and 6 – Revocation of liquor license for each count.

**ORDER:**

***Imposition of Revocation***

I revoke the license and any permit or other authority issued by the Pennsylvania Liquor Control Board attendant to the license, effective, Monday, July 6, 2015.

I revoke the SGOC license effective, Monday, July 6, 2015. The Office of Administrative Law Judge will send a copy of this Adjudication to the Indiana County Treasurer to implement and record the SGOC revocation.

***Retaining Jurisdiction***

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 26<sup>TH</sup> day of May, 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](http://www.lcb.state.pa.us). The full requirements for an appeal can be found in 47 P.S. §4-471.