

Mailing Date: NOV 24 2014

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 14-1188
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W03-478933
v.	:	
	:	
LIBERTY SOCIAL CLUB	:	PLCB LID No.: 2401
1041-43 N. GEORGE ST.	:	
NORTH YORK	:	
YORK, PA 17404	:	PLCB License No.: C-5190
	:	
YORK COUNTY	:	

ADJUDICATION

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: John H. Pietrzak, Esquire

LICENSEE: Thomas Feldpausch, Responsible Officer

BACKGROUND:

This proceeding arises out of a citation, containing one count, that was issued on June 19, 2014, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Liberty Social Club (Licensee).

The citation charges Licensee with a violation of Section 406(a)(1) of the Liquor Code [47 P.S. §4-406(a)(1)]. The charge is that Licensee, by your servants, agents, or employees, sold alcoholic beverages to nonmembers, on May 10, 2014.

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:

1. The Bureau began its investigation on May 10, 2014 and completed it on May 24, 2014. (N.T. 6)
2. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on June 3, 2014. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 6)
3. On May 10, 2014, at approximately 9:13 p.m., a Bureau Enforcement Officer entered the licensed premises in an undercover capacity. The Officer was approached by a bartender, who did not question his membership but, that he needed someone to sign him in. The Officer asked a member, who was signing in an individual, if he could sign him into the guest book also. The individual signed the Officer into the guest book. The Officer went to the bar counter and purchased a beer from a bartender. (N.T. 7-9)

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 May 31, 1951, and has had seven prior Adjudications since July 1, 1987, the date the Office of Administrative Law Judge was established.

In Re Citation No.: 88-1338. Fine \$650.00.

Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on the licensed premises.

In Re Citation No.: 89-1380. Fine \$850.00.

Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on the licensed premises.

In Re Citation No.: 02-2136. Fine \$100.00.

Employed a minor under 16 years of age on divers occasions from December 2001 through September 14, 2002.

In Re Citation No.: 05-2444. Fine \$1,300.00.

1. Sales to nonmembers on August 5, 2005.
2. The licensed club conducted drawings other than those authorized by law on August 5 and 31, 2005.
3. Offered and/or awarded more than \$5,000.00 in cash or merchandise in any 7-day period during the period August 13-19, 2005.

In Re Citation No.: 06-1640. Fine \$2,500.00.

1. Sales to nonmembers on December 9, 2005, January 6, February 1, 3, 15 and March 4, 2006.
2. Possessed or operated gambling devices or paraphernalia or permitted gambling on the licensed premises (punchboards) on April 26, 2006.
3. Failed to maintain complete and truthful records covering the operation of small games of chance for a period of 2 years on April 26 and May 8, 2006 and divers occasions during the previous year.
4. Offered and/or awarded more than \$5,000.00 in cash or merchandise in any 7-day period during the period April 2 through 8, 2006 and divers occasions during the previous year.

In Re Citation No.: 09-1940. Fine \$2,500.00 and 15 days suspension.

1. Failed to maintain complete and truthful records covering the operation of small games of chance for a period of 2 years immediately preceding April 20, 2009.
2. Offered and/or awarded more than \$5,000.00 in cash or merchandise in any 7-day period during the periods February 21 through 27, March 28 through April 3, April 4 through 10 and April 11 through 17, 2009.

3. Funds derived from the operation of games of chance were used for purposes other than those authorized by law during the period January 1 through March 31, 2009.

In Re Citation No.: 11-0907. Fine \$1,250.00 and 10 days suspension.

1. Awarded more than \$5,000.00 in cash or merchandise in any 7-day period during the periods January 1 through 7, January 8 through 14, January 15 through 21, January 22 through 28, January 29 through February 4 and February 5 through 11, 2011.
2. Failed to maintain records in conformity with the Liquor Code and Title 40 of the Pennsylvania Code during the period December 2009 through January 2011.

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)

I adopt the Bureau's recommended penalty of a \$650.00 fine as Licensee assures me steps will be taken to avoid repetition.

ORDER:

Imposition of Fine

Licensee must pay a \$650.00 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 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.