

Mailing Date: JUL 14 2016

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

PENNSYLVANIA STATE	:	In re Citation No. 15-1831
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W01-491442
	:	
v.	:	PLCB LID No. 3020
	:	
ITALIAN SOCIAL CLUB	:	PLCB License No. CC-749
130 E. PRESCOTT ALLEY	:	
PO BOX 130	:	
WEST CHESTER, PA 19380	:	Chester County

JUDGE SHENKLE  
BLCE COUNSEL: Erik S. Shmukler, Esq.  
LICENSEE: no appearance

**ADJUDICATION**

**BACKGROUND:**

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on October 20, 2015. There are five counts in the citation.

The first count alleges that Licensee violated the Liquor Control Board Regulations, 40 Pa. Code §5.81, on June 12, 2015, by failing to adhere to its by-laws.

The second count alleges that Licensee violated the Liquor Code, 47 P.S. §1-102, on May 13, 2015, by admitting members improperly.

The third count alleges that Licensee violated the Liquor Code, 47 P.S. §§4-401(b) and 4-406(a)(1), on March 21 and April 2, 2015, by selling alcoholic beverages to nonmembers.

The fourth count alleges that Licensee violated the Liquor Code, 47 P.S. §4-493(12), and a Liquor Control Board regulation, 40 Pa. Code §5.52, on June 12, 2015, by failing to maintain malt or brewed beverage dispensing system cleaning records.

The fifth count alleges that Licensee violated the Liquor Code, 47 P.S. §4-493(12), on June 3, 2015, by failing to keep records on the licensed premises.

At the hearing scheduled for May 24, 2016, in Plymouth Meeting, Pennsylvania, there was no appearance by or on behalf of the Licensee; therefore, the case was heard *ex parte*.

**FINDINGS OF FACT:**

1. The Bureau investigated Licensee during the period February 7 through September 1, 2015, and sent it written notice of the results on September 11, 2015 (N.T. 23-24, Exhibit B-1).

2. A copy of this citation was received by Licensee on November 6, 2015 (N.T. 25, Ex.B-2).
3. A Notice of Hearing was mailed to Licensee on April 5, 2016.
4. On Saturday, March 21, 2015, a liquor enforcement officer arrived at the licensed premises at 8:55 p.m. A man sitting behind a desk asked him if he was a member of the club. He said he was not. The man said that was fine, collected a \$5 cover charge, and told the officer he was free to enter. The officer approached a bartender and ordered a can of beer, which she served without a question as to his membership in the club. The officer has never been a member of this club. There was no indication in the premises that a catered event was being held (N.T. 5-7).
5. Although the license is held by Italian Social Club, signs at the premises say it is “Sprout Music Collective” and a web site by that name advertises the premises as a music venue (N.T. 7-8).
6. The officer returned to the premises at 11:03 p.m. on Thursday, April 2, 2015. He obtained entry by paying a \$5 cover charge, as before. When the man at the desk asked if he was a member, the officer asked if he could get a membership application to fill out. The officer kept the application, but did not fill it out at that time. He purchased beer, again without question (N.T. 8-10).
7. The officer returned to the premises at 7:15 p.m. on Wednesday, May 13, 2015. He told the woman at the desk that he wanted to become a member; she said that he would become one when he filled out an application and paid a \$20 membership fee. The officer did that. The woman entered his information into a computer and in about two minutes gave the officer a membership card. He then entered the club and purchased an alcoholic beverage (N.T. 10-13).
8. Liquor enforcement officers conducted a routine inspection at the club on June 3, 2015, and met with two club officials, one of them its manager and the other a person whose title was not known to either of them. The officers asked to see the club’s minute book. They said it was at their lawyer’s office; it was on tape and there was no written copy. They also did not have the club’s charter or its by-laws. The officers arranged to return to the club on June 12, 2015 (N.T. 16-17).
9. At the June 12 meeting the club’s officers did not have their minute book filled out. An enforcement officer asked a club officer how often they clean their taps. He said it was every 14 days. The officer told him it needed to be every seven days. The club officer then said “well, I get it cleaned every seven days.” There were no records to prove that any cleaning was done (N.T. 17-18).
10. The club’s by-laws require it to have a membership meeting on the first Thursday of every month. Licensee’s officers told the enforcement officers that they have meetings every couple of months, and not every month (N.T. 19-20, Exhibit B-5).
11. The club’s by-laws require it to have elected officers, consisting of a President, Vice President, Treasurer, Corresponding Secretary, Financial Secretary, and a Board of five trustees. The only position title Licensee’s officials could provide was that one of them was the “manager,” a position not mentioned in the by-laws. The officials could not name anyone else as the holder of an elected office in the club (N.T. 21-22, Exhibit B-5).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since January 1, 1934, and has had prior violations since July 1, 1987, the date of establishment of the Office of Administrative Law Judge, as follows:

In re Citation No. 01-1081. \$50.00 fine.

1. Purchased malt or brewed beverages in credit.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine in the \$50.00 to \$1,000.00 range, or both, for violations of this type.

The evidence in this case indicates that the "Italian Social Club" is no longer operating as a private club, as that term is defined in the law. Although somehow the people in possession of this establishment have gotten their hands on the club's 1912 charter, it does not appear that they are following any of the other legal requirements needed to maintain the existence of such an entity.

And yet this is Licensee's first offense, except for a minor violation fifteen years ago. In light of that, I will impose a monetary penalty for each of these violations. If Licensee's management ignores this order the way they ignored the notice of hearing in this case, I will be revoking this license soon enough. Penalties are assessed as follows:

- Count No. 1 – a fine of \$500.00.
- Count No. 2 – a fine of \$750.00.
- Count No. 3 – a fine of \$750.00.
- Count No. 4 – a fine of \$500.00.
- Count No. 5 – a fine of \$200.00.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Italian Social Club, License No. CC-749, shall pay a fine of two thousand seven hundred dollars (\$2,700.00) within 20 days of the mailing date of this order. In the event the fine is not paid within 20 days, Licensee's license will be suspended or revoked. Jurisdiction is retained.

Dated this 12<sup>TH</sup> day of JULY, 2016.



David L. Shenkle, J.

**NOTICE: MOTIONS FOR RECONSIDERATION CANNOT BE ACTED UPON UNLESS THEY ARE IN WRITING AND RECEIVED BY THE OFFICE OF ADMINISTRATIVE LAW JUDGE WITHIN 15 DAYS AFTER THE MAILING DATE OF THIS ORDER, ACCOMPANIED BY A \$25.00 FILING FEE.**

**WHETHER OR NOT RECONSIDERATION HAS BEEN REQUESTED, AGGRIEVED PERSONS MAY APPEAL TO THE PLCB, NORTHWEST OFFICE BUILDING, HARRISBURG, PA 17124 WITHIN 30 DAYS AFTER THE MAILING DATE OF THIS ORDER.**

**THE PLCB CHIEF COUNSEL'S TELEPHONE NUMBER IS 717-783-9454.**

**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 account of an attorney licensed in Pennsylvania. **Personal and business checks are NOT acceptable unless bank certified.** If you are paying by guaranteed check, please make it 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:** if you have already registered with PLCB+ you should be able to pay by Credit/Debit card; if you have not registered with PLCB+ you may obtain the information on how to register by sending an email message to:

[RA-LBLICENSINGMOD@pa.gov](mailto:RA-LBLICENSINGMOD@pa.gov).