

Mailing Date: JUN 21 2016

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	IN RE Citation No.: 16-0294
LIQUOR CONTROL ENFORCEMENT	:	
	:	BLCE Incident No.: W08-502728
v.	:	
	:	
KNIGHTS OF SAINT GEORGE	:	SGOC License No.: 20155687
OF SAINT MICHAEL'S PARISH	:	(Expires 09/14/16)
333-335 W. 26 TH ST.	:	
ERIE, PA 16508-2577	:	PLCB LID No.: 569
	:	
ERIE COUNTY	:	PLCB License No.: C-374
	:	
	:	

BEFORE: JUDGE RICHARD O'NEILL EARLEY
BLCE COUNSEL: NADIA VARGO, ESQUIRE
LICENSEE: LEO J. MUSARRA, PRESIDENT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on March 7, 2016, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Knights of Saint George of Saint Michael's Parish, License Number C-374, and SGOC Number 20155687, (Licensee).

The citation contains two counts.

Count one of the citation charges Licensee with violation of the Local Options Small Games of Chance Act at 10 P.S. §328.501(a.1), alleging that during the period July 2, 2015 through January 12, 2016, Licensee, by its servants, agents or employees, failed to submit annual reports to the Pennsylvania Department of Revenue.

Count two of the citation charges Licensee with violation of the Local Options Small Games of Chance Act at 10 P.S. §328.503 and the Department of Revenue Regulations at 61 Pa. Code §§901.461-468, alleging that Licensee, by its servants, agents or employees, failed to maintain complete and truthful records covering the operation of the licensed business for a period of two years immediately preceding October 8, 2015.

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Licensee has executed a Statement of Admission, Waiver and Authorization in which Licensee: admits to the violation(s) charged in the citation, agrees that the Bureau complied with the applicable investigatory and notice requirements of the Liquor Code, authorizes the Administrative Law Judge to enter an Adjudication without a hearing based on a summary of facts as provided by the Bureau and prior citation history, and waives the right to appeal this Adjudication.

Based upon the admission(s) of Licensee and the summary of facts provided by the Bureau, I make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. Licensee contacted the Erie Police Department and alleged that its former president/Board-approved manager stole funds from the club. The club has since removed that officer/manager. Criminal proceedings are now pending against the former officer. This investigation was conducted in response to the criminal allegations.
2. On October 28, 2015, a Liquor Enforcement Officer proceeded to Licensee's club and provided a records request.
3. On November 2, 2015, the Officer returned to the club and met with Licensee's current manager. The manager stated that most of the small games of chance (SGOC) records were missing and/or incomplete prior to October 8, 2015. The Officer noted that the SGOC records after that date appeared to be in order. The manager said that most of the records had been destroyed by the former president. Pull-tab records were missing the name of games placed into and out of play, as well as gross revenue generated from the games. The current manager acknowledged that the club had conducted approximately 10 raffles during the 2014-2015 calendar year. However, there were no records to indicate revenue from such raffles. Additionally, the manager could not locate records indicating how such revenue was used by Licensee.
4. On a later date, the Officer reviewed the club's bank statements, which indicated that Licensee deposited \$96,224.00 into the SGOC account during 2014. However, as of January 1, 2015, only \$1,172.00 remained in the account. Club officer Rick Erdley confirmed that the records after that date were correct. The Enforcement Officer then accessed the Pennsylvania Department of Revenue website, which revealed that the club had not submitted an annual SGOC report for the 2014 calendar year. The filing deadline for the 2014 calendar year was extended to July 1, 2015.
5. The Pennsylvania Department of Revenue submitted an attestation to the Bureau verifying that as of January 12, 2016, Licensee's club had not submitted a SGOC report for the 2014 calendar year.

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CONCLUSION OF LAW:

Counts one and two: Sustained as charged.

DISCUSSION:

The LOSGCA has created an environment that lends itself to theft from clubs and Pennsylvania charities which are supposed to receive a portion of clubs' gaming revenue. To its credit, Licensee alerted authorities that money was missing, and this responsible behavior will reduce Licensee's penalty in this case.

I must remind Licensee, though, that in the event restitution is ordered in the pending criminal proceedings, all money returned that was originally acquired from small games of chance must be handled in accordance with the LOSGCA. Therefore, returned funds must be reported to the Department of Revenue, and the appropriate portion must be distributed to charitable organizations. Licensee and the Bureau should monitor the criminal proceedings to assure ongoing compliance with Licensee's statutory obligations.

PRIOR RECORD:

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

IN RE:

Citation No. 90-2458. Fine \$450.00.

1. Sales to nonmembers.
2. Failed to clean coils at least once every 7 days.

Citation No. 97-0957. Fine \$375.00.

1. Failed to adhere to by-laws.
2. Failed to fulfill charter purposes.
3. Failed to charge and collect dues.
4. Improper admission of members.
5. Failed to maintain records in conformity with Title 40 of the Pennsylvania Code.

Citation No. 07-3101. Fine \$550.00.

1. Failed to maintain a photostatic or certified copy of the charter on the licensed premises.
2. Failed to hold regular meetings.
3. Possessed or operated gambling devices or permitted gambling on the licensed premises (drawings).
4. Failed to keep records on the licensed premises.

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Citation No. 14-0585. Fine \$150.00.

1. Board-approved manager failed to complete RAMP training within 180 days.
January 20 through February 13, 2014.

Citation No. 15-1811. Fine \$1,400.00.

1. Sales after the license expired and had not been renewed and/or validated.
August 1 through 24, 2015.

PENALTY:

The record discloses that count one of this citation represents Licensee's first violation of the Local Option Small Games of Chance (LOSGOC) Act. Section 328.702(d) prescribes a penalty of LOSGOC license revocation or any combination of a suspension or fine in accordance with §328.706(b). In this case, count one is eligible for a penalty up to \$800.00 and count two is eligible for a fine up to \$1,000.00. In mitigation, some consideration shall be given to the fact that Licensee has admitted to the violations as charged in this citation, and has waived the right to a hearing and appeal.

For the foregoing reasons, a fine of \$200.00 shall be imposed as an appropriate penalty in this case. Accordingly, I impose a penalty of \$100.00 for count one, and \$100.00 for count two.

ORDER:

THEREFORE, it is hereby ordered that Knights of Saint George of Saint Michael's Parish, License Number C-374, pay a fine of \$200.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee's catering club license shall be suspended or revoked and its small games of chance license may be suspended or revoked.

Jurisdiction is retained.

Dated this 17TH day of JUNE, 2016.



Richard O'Neill Earley, J.

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NOTE: MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE FILING FEE.

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Detach Here and Return Stub with Payment – Note Citation Number on Check

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.** 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: 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.

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