

Settling with the State Liquor Authority can prove harmful in the long run

By: Bradley M. Pinsky, Esq.

If the State Liquor Authority has filed charges against your licensed operator, you should consider not simply pleading guilty to the charges. There are two main reasons for this approach. First, the Authority, like any accuser, must prove its case. Often, the Authority bases its accusations on poorly written police reports or poorly compiled cases. In those instances where the Authority can substantiate its charges, there may be defenses available to the licensed operator which will defeat the charges. The articles that follow are intended to give licensed operator a glimpse of the law on various charges commonly imposed on licensed operator.

Moreover, our experience defending these charges has proven to us that the prior negative history of a licensed premises will be introduced at a hearing defending the next charge, even if it is years and years down the road. The negative history will also be considered by the Authority when imposing a punishment. It is always better to have a clean history when appearing before an administrative law judge for a hearing and it is always better being able to say that a conviction was a first offense.

The second reason not to plead guilty to charges issued by the Authority is that the Authority appears to use a “four strike” program. While the first offense to which a licensed operator pleads guilty may result in a small fine, from approximately \$1,000 - \$3,000, the second and third conviction bear much higher penalties. We have seen penalties up to \$10,000 for a third offense. The fourth offense, or in some cases early offenses, carry with it the penalty of revocation and even proscription of the property.

Revocation is bad enough. However, if the licensed operator is also the owner of the premises, the imposition of a revocation order is financially overwhelming. Consider a premises that only has a marketable use as a bar or as a licensed premises. If the property is proscribed from having a license for two years, it will be extremely difficult to sell and nearly impossible to rent for that time period.

The best advice is to seek counsel of an attorney that has vast experience defending charges imposed on licensed operators. If an attorney is too quick to settle, the attorney might not be thinking of the long term consequences of the guilty plea. Attorneys and licensed operators should have a knowledge of the law in order to assist them in evaluating whether it is better to plead guilty or to defend the charge. Our advice is that it is almost always better to make the Authority prove its case and to assert the defenses available to the Operator. We hope that the articles available on this site assist with this education.

Bradley M. Pinsky practices in the Syracuse office of Scicchitan & Pinsky, PLLC. He is an experienced litigator before the State Liquor Authority and has successfully defended over 250 counts against licensed operators. He defends these matters throughout the state. He may be reached at (315) 428-8344 or by email at Brad@sfplawfirm.com.

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