

Mailing Date: DEC 14 2006

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

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| PENNSYLVANIA STATE | : | |
| POLICE, BUREAU OF | : | Citation No. 06-0257 |
| LIQUOR CONTROL ENFORCEMENT | : | |
| | : | Incident No. W01-323878 |
| v. | : | |
| | : | LID - 881 |
| VESPER NEW YEARS ASSN. | : | |
| 223 S. SYDENHAM ST. | : | |
| PHILADELPHIA, PA 19102-3702 | : | |
| | : | |
| | : | |
| | : | |
| PHILADELPHIA COUNTY | : | |
| LICENSE NO. CC-1256 | : | |

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Erik S. Shmukler, Esquire
Pennsylvania State Police
6901 Woodland Avenue
Third Floor
Philadelphia, PA 19142

For Licensee
Edward B. McHugh, Esquire
3331 Street Road
Two Greenwood Square
Bensalem, PA 19102

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on February 14, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Vesper New Years Assn. (Licensee), License Number CC-1256.

The citation¹ charges Licensee with violations of Sections 491(1), 492(2) and 493(16) of the Liquor Code [47 P.S. §4-491(1), §4-492(2) and §4-493(16)]. The charge is that on December 28 and 29, 2005, Licensee, by servants, agents or employes, sold alcoholic beverages after its Catering Club License expired on October 31, 2005, and had not been renewed and/or validated.

An evidentiary hearing was conducted on November 6, 2006 at the Philadelphia State Office Building, 1400 West Spring Garden Street, 13th Floor, Room #2, Philadelphia, Pennsylvania.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. The Bureau began its investigation on December 14, 2005 and completed it on December 29, 2005. (Commonwealth Exhibit No. B-2, N.T. 6)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on January 13, 2006. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. B-1, N.T. 6)
3. On December 28 and 29, 2005, representing two separate visits, Licensee was open and in operation selling alcoholic beverages. The license expired October 31, 2005 and had not been renewed on those dates. (N.T. 6-8)

1. Commonwealth Exhibit No. B-2, N.T. 6.

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. The citation is **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since January 4, 1934, and has had no prior violations.

PENALTY:

Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or a fine of not less than \$1,000.00 or more than \$5,000.00 or both for violations of the type found in this case.

As Licensee had an unblemished record for 74 years, I will impose the minimum allowable fine of \$1,000.00.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,000.00 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 license shall be suspended or revoked.

The fine must be paid by Treasurer's Check, Cashier's Check, Certified Check or Money Order. **Personal checks, which include business-use personal checks, are not acceptable.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail to:

PLCB - Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg, Pennsylvania 17110-9661

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 8th day of December, 2006.

Felix Thau, A.L.J.

pm

MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER TO 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.