

Mailing Date: APR 08 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-2602
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-340731
	:	
SLIMENEZ INC.	:	
849 E. LUZERNE ST.	:	LID - 52399
PHILADELPHIA PA 19124-5107	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-OPS-479	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

**JAMES E. DAILEY, ESQ.**

FOR THE LICENSEE:

**EX PARTE**

**BEFORE: JUDGE WRIGHT**

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on November 15, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Slimenez, Inc., License Number R-AP-SS-OPS-479 (hereinafter "Licensee").

An Administrative hearing was held on Wednesday, May 2, 2007, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

The citation contains two counts.

The first count charges Licensee with violation of Section 493(12) of the Liquor Code, 47 P.S. Section 4-493(12), in that on September 27 and October 3, 2006, Licensee, by its servants, agents or employes, failed to keep records on the licensed premises.

The second count charges Licensee with violation of Section 5.41 of the Liquor Control Board Regulations, 40 Pa. Code Section 5.41, in that on September 27 and October 3, 2006, Licensee, by its servants, agents or employes, failed to display on the licensed premises documentary evidence that the premises meets all sanitary requirements for a public eating place.

#### COUNT NOS. 1 AND 2

#### FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on September 27, 2006 and ended October 3, 2006. The notice of violation letter dated October 26, 2006 was sent to the licensed premises by certified mail, return receipt requested and was signed as received on October 27, 2006. A citation was sent to the Bureau of Enforcement on November 15, 2006 and was signed as received at the licensed premises on November 17, 2006. A notice of hearing was sent to the licensed premises by the Office of Administrative Law Judge on March 14, 2007. That mailing was sent by certified mail, return receipt requested and by first class mail. That mailing was signed as received on March 16, 2007 (Exhibits B-1 and B-2).

2. Officer S. Rooney from the Bureau of Enforcement visited the licensed premises on September 27, 2006. She arrived at approximately 7:00 p.m. She went to the premises to conduct a routine inspection. When she arrived, the premises was open and operating (N.T. 5-6).

3. The officer noted that there were patrons inside the premises. She approached the owner, Melissa Osea, in order to conduct a routine inspection of the premises (N.T. 6).

4. As a result of the inspection, the officer determined that the premises could not produce records for the past two years. The officer requested beer and liquor invoices, which were unavailable. The officer also requested a current health license. The owner indicated that she did not know if she had a current health license (N.T. 7).

5. The officer saw no health permit displayed on the premises (N.T. 7).

6. The officer again visited the premises on October 3, 2006 at 3:00 p.m. When she arrived, the premises was open and operating and there were patrons inside. At that time, she spoke to a female who was on the premises. The female indicated that the owner had just left the premises. The officer again inspected the premises for beer and liquor invoices, but they were not made available (N.T. 8).

7. The officer also looked for a health permit on the premises, but no one was posted (N.T. 8).

8. The officer was able to verify that a valid health permit had been issued, however, it was not posted on the premises (N.T. 8).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

Count No. 1 - On September 27 and October 3, 2006, Licensee, by its servants, agents or employes, failed to keep records on the licensed premises, in violation of Section 493(12) of the Liquor Code, 47 P.S. Section 4-493(12).

Count No. 2 - On September 27 and October 3, 2006, Licensee, by its servants, agents or employes, failed to display on the licensed premises documentary evidence that the premises meets all sanitary requirements for a public eating place, in violation of Section 5.41 of the Liquor Control Board Regulations, 40 Pa. Code Section 5.41.

PRIOR RECORD:

Licensee has been licensed since January 27, 2004, and has no record of prior violations.

DISCUSSION:

The Licensee is required to have records of the operation of the licensed premises for a period of two years available to the officer for inspection. In addition, the current health permit was not posted, although the officer was able to verify that the Licensee had a valid health permit.

Under the circumstances, moderate monetary penalties shall be imposed.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of a fine of not less than \$50.00 or more than \$1,000.00, or both, for violations of the type found in this case.

Slimenez, Inc.  
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Therefore, penalties shall be assessed as follows:

Count No. 1 - \$250.00.  
Count No. 2 - \$100.00.

Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, Slimenez, Inc., License Number R-AP-SS-OPS-479, pay a fine of Three Hundred Fifty Dollars (\$350.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

**In order to insure compliance with this Order, jurisdiction of this matter is retained.**

Dated this 7<sup>th</sup> day of April, 2008.

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Tania E. Wright, J.

**NOTE:** 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.

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Slimenez, Inc.  
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Detach Here and Return Stub with Payment

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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, along with any required documentation, to:

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

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