

Mailing Date: FEB 20 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-1280
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-348423
v.	:	
	:	LID - 55270
ESQUILIN INC	:	
430-434 W DAUPHIN ST	:	
PHILADELPHIA PA 19133-2914	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-7345	:	BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: James E. Dailey, Esq.
For Licensee: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on June 19, 2007. There are two counts in the citation.

The first count alleges that Licensee violated §437 of the Liquor Code, 47 P.S. §4-437, and §5.41 of the Liquor Control Board Regulations, 40 Pa. Code §5.41, on February 23, March 18, April 1 and May 4, 2007, by operating the licensed premises without a valid health permit.

The second count alleges that Licensee violated §§406(a)(2) and 493(16) of the Liquor Code, 47 P.S. §§4-406(a)(2) and 4-493(16), on March 18 and April 1, 2007, by selling, furnishing and/or giving alcoholic beverages on Sunday after 2:00 a.m.

At the hearing scheduled for December 12, 2007, in Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the matter was heard *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee between February 8 and May 7, 2007, and gave it written notice of the results of the investigation on May 14, 2007 (N.T. 9, Exhibit B-1).

2. A copy of this citation was mailed to the licensed establishment by certified mail on June 19, 2007 (N.T. 9-10, Exhibit B-2).

3. A Notice of Hearing was mailed to Licensee by the Office of Administrative Law Judge, Harrisburg, PA, by certified and first class mail on November 1, 2007.

4. Liquor Enforcement Officer Justin Clark purchased beer in the licensed premises on February 23, March 18, and April 1, 2007. March 18 and April 1, 2007, were both Sundays, and the purchases occurred after 2:00 a.m. (N.T. 4-7).

5. On May 4, 2007, Officer Clark inspected the licensed premises, which was open for business, and found that there was no health permit posted (N.T. 7).

6. Licensee did not have a Sunday Sales Permit from the PLCB on March 18, and April 1, 2007 (Exhibit B-3).

7. Licensee did not have a valid Preparing/Serving Food License from the City of Philadelphia on February 23, March 18, April 1 and May 4, 2007 (Exhibit B-4).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since November 8, 2005, 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, or both, for violations of the type found in this case. For violations of the type found in Count No. 1, any fine must be in the \$50.00 to \$1,000.00 range. For violations of the type found in Count No. 2, any fine must be in the \$1,000.00 to \$5,000.00 range. Penalties are assessed as follows:

Count No. 1 – a fine of \$300.00 plus verification of compliance.

Count No. 2 – a fine of \$1,000.00.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Esquilin, Inc., License No. R-AP-7345, shall pay a fine of one thousand three hundred dollars (\$1,300.00) 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.

IT IS FURTHER ORDERED that Licensee shall, within 20 days of the mailing date of this order, submit a copy of a valid and current health permit. If Licensee fails to submit the health permit within the time allowed, the penalty in this case will be modified to include a suspension of license, and for that purpose jurisdiction is retained.

Dated this 29th day of January, 2008.

David L. Shenkle, J.

jb

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.

Detach Here and Return Stub with Payment

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 PA 17110-9661