

Mailing Date: JUN 17 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-2320
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-355285
v.	:	
	:	LID - 56660
E & J ENTERPRISES LLC	:	
4501-03 SHEFFIELD AVE	:	
PHILADELPHIA PA 19136-3224	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-SS-7922	:	BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: Erik S. Shmukler, Esq.
For Licensee: Edward B. McHugh, Esq.

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on October 1, 2007. The citation alleges that Licensee violated §471 of the Liquor Code, 47 P.S. §4-471, on September 4, 2007, by possessing or operating gambling devices or paraphernalia or permitting gambling or lotteries, poolselling and/or bookmaking on the licensed premises.

A hearing was held on April 3, 2008, in Plymouth Meeting, Pennsylvania. The parties stipulated to the timely service of the notice letter and citation.

FINDINGS OF FACT:

1. Liquor Enforcement Officer Chris McGrath arrived at the licensed premises at about 8:30 p.m. on September 4, 2007. Inside there was a green felt-covered table with poker chips on it, a bar, a bartender, and four patrons. At about 8:40 p.m. he overheard a conversation in which the bartender told a patron seated at the bar that the poker game was going to change. The buy-in was going to increase from \$30 to \$40, and it was going to be split between the bar, the players and the bartender (N.T. 6-8).

2. At about 8:50 p.m. a man carrying a little folder entered through the side entrance and took a seat at the bar. At about 9:30 p.m. seven patrons took positions at the felt table and handed paper money to the man with the folder. He put the currency in order and handed it to the bartender. The bartender counted the money and put it in two piles, which he placed under the cash drawer of the till in the cash register (N.T. 8-10).

3. The people at the table began playing cards, which involved putting chips in the middle of the table and holding cards in their hands. The number of players dwindled as time went on, until midnight, when the one remaining player, the man with the folder and the bartender had a conversation at the end of the bar. The bartender then opened the cash register, retrieved a pile of money, and handed it to the player, congratulating him (N.T. 10-12).

4. Licensee's sole member received the Bureau's notice of violation letter and spoke to the bartender about it. The bartender admitted that he had conducted the "Hold'em" tournament, and he was let go as a result. Licensee then posted "NO GAMBLING & NO SMOKING ON PREMISES" signs (N.T. 32-35, Exhibit L-2)

CONCLUSIONS OF LAW:

Licensee violated §471 of the Liquor Code, 47 P.S. §4-471, on September 4, 2007, through its employee, who permitted gambling on the licensed premises.

PRIOR RECORD:

Licensee has been licensed since November 17, 2006, 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 in the \$50.00 to \$1,000.00 range, or both, for violations of the type found in this case.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, E & J Enterprises, LLC, License No. R-SS-7922, shall pay a fine of three hundred dollars (\$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. Jurisdiction is retained.

Dated this 9TH day of JUNE, 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.

Return this Page 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

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