

Mailing Date: MAR 5 2009

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

PENNSYLVANIA STATE :
POLICE, BUREAU OF : Citation No. 08-2239
LIQUOR CONTROL ENFORCEMENT :
 : Incident No. W01-379562
 v. :
 : LID - 55678
 :
MOES TAVERN INC :
1235 E PALMER ST :
PHILADELPHIA PA 19125-3307 :
 :
PHILADELPHIA COUNTY :
LICENSE NO. R-AP-SS-OPS-11093 : BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: Erik S. Shmukler, Esq.
For Licensee: no appearance.

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on October 7, 2008. The citation 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 August 11 and 13, 2008, by operating the licensed premises without a valid health permit or license, which expired on April 30, 2006.

At the hearing scheduled for January 28, 2009, 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 during the period August 11 through August 19, 2008, and sent written notice of the results of its investigation to the licensed premises by certified mail on September 3, 2008 (N.T. 9-10, Exhibit B-1).

2. A copy of this citation was mailed to the licensed establishment by certified mail on October 7, 2008 (N.T. 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 December 12, 2008.

4. Liquor Enforcement Officer Chante McKoy inspected the licensed premises, while it was open to the public, on August 11, 2008, and found that there was no valid health permit posted and no business records on the premises (N.T. 5-7).

5. Officer McKoy returned to the premises on August 13, 2008, and was able to review the business records, but there was still no health permit on display. There was no valid preparing/serving food license in force for this premises on these two dates (N.T. 7-8, Ex. B-3).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since January 3, 2006, and has had two prior violations:

Citation No. 06-1587. \$350.00 fine.

- 1. Loudspeakers could be heard outside. April 16 and May 14, 2006.

Citation No. 07-0955C. \$1,250.00 fine and R.A.M.P. – certification mandated.

- 1. Sales to a minor. March 29, 2007.

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 this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Moes Tavern, License No. R-AP-SS-OPS-11093, 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.

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 2nd day of March, 2009.



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