

Mailing Date: NOV 05 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-2856
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-384154
	:	
TRIPLES C INC.	:	
423 W. BRISTOL ST.	:	LID - 58593
PHILADELPHIA PA 19140-2621	:	
	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-4799	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

**ERIK S. SHMUKLER, ESQ.**

FOR THE LICENSEE:

**EX PARTE**

**BEFORE: JUDGE WRIGHT**

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on December 9, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Triples C, Inc., License Number R-AP-4799 (hereinafter "Licensee").

An Administrative hearing was held on Thursday, May 7, 2009, 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 charges Licensee with violation of Sections 491(1), 492(2) and 493(16) of the Liquor Code, 47 P.S. Sections 4-491(1), 4-492(2) and 4-493(16), in that on November 2 and 3, 2008, Licensee, by its servants, agents or employes, sold alcoholic beverages after the Restaurant Liquor License expired on October 31, 2008 and had not been renewed and/or validated.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on November 2, 2008 and ended on November 3, 2008. A notice of violation letter dated November 14, 2008 was sent to the licensed premises by certified mail, return receipt requested. The mailing was returned unclaimed. A citation dated December 9, 2008 was sent to the licensed premises by certified mail, return receipt requested. The certified mailing was signed as received on December 23, 2008. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on March 19, 2009 by certified mail, return receipt requested, and by first class mail. That certified mailing was signed as received (N.T. 8-14 and Exhibits B-1 and B-2).

2. An officer from the Bureau of Enforcement accessed the Pennsylvania Liquor Control Board database on Monday, November 3, 2008 as part of his investigation of the licensed premises. The officer determined that the liquor license expired on October 31, 2008 (N.T. 6-7).

3. The officer visited the premises on November 3, 2008 at approximately 3:20 p.m. He observed patrons and a female bartender on duty. The officer was in plainclothes when he arrived. He observed seven patrons in possession of either twelve ounce cans of beer. While waiting to talk to the bartender, the officer observed sales of alcoholic beverages to three patrons (N.T. 7).

4. The officer identified himself to the bartender. The bartender showed the officer an expired liquor license. He advised her that the premises could not sell liquor without a current and valid liquor license (N.T. 7).

5. The officer obtained Certification from the Pennsylvania Liquor Control Board indicating that the license expired October 31, 2008 and that the Licensee did not possess a valid liquor license or temporary authority to operate on November 2 or November 3, 2008 (N.T. 10-14 and Exhibit B-3).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

Triples C, Inc.  
Citation No. 08-2856

On November 2 and 3, 2008, Licensee, by its servants, agents or employes, sold alcoholic beverages after the Restaurant Liquor License expired on October 31, 2008 and had not been renewed and/or validated, violation of Sections 491(1), 492(2) and 493(16) of the Liquor Code, 47 P.S. Sections 4-491(1), 4-492(2) and 4-493(16).

PRIOR RECORD:

Licensee has been licensed since September 17, 2007, and has no record of prior violations.

DISCUSSION:

Licensee had no license nor temporary authority to operate on the dates of the officer's visit to the premises. In that Licensee has no prior record, a moderate penalty 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 \$1,000.00 or more than \$5,000.00, or both, for violations of the type found in this case.

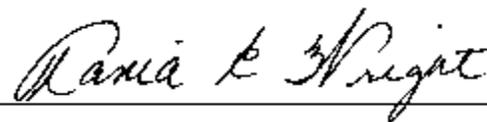
Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, Triples C, Inc., License Number R-AP-4799, pay a fine of One Thousand Two Hundred Fifty Dollars (\$1,250.00) 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 27<sup>TH</sup> day of October, 2009.



Tania E. Wright, J.

Triples C, Inc.  
Citation No. 08-2856

**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.

mm

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, along with any required documentation, to:

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

Citation No. 08-2856  
Triples C, Inc.