

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. 08-2971
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-382662
	:	
WORLDWIDE BARTENDING	:	
INSTITUTE INC.	:	LID - 51079
5450 LARGE ST.	:	
PHILADELPHIA PA 19124-1122	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-OPS-6939	:	

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 23, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Worldwide Bartending Institute, Inc., License Number R-AP-SS-OPS-6939 (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 contains two counts.

The first count charges Licensee with violation of Section 437 of the Liquor Code, 47 P.S. Section 4-437, and Section 5.41 of the Liquor Control Board Regulations, 40 Pa. Code Section 5.41, in that on October 16, November 10 and 24, 2008, Licensee, by its servants, agents or employes, operated the licensed establishment without a valid health permit or license, which expired on April 30, 2008.

The second count charges Licensee with violation of Section 102 of the Liquor Code, 47 P.S. Section 1-102, in that on November 24, 2008, the licensed premises was not a bona fide restaurant in that License, by its servants, agents or employes, maintained insufficient food items.

#### FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on October 5, 2008 and ended on November 26, 2008. A notice of violation letter dated December 9, 2008 was sent to the licensed premises by certified mail, return receipt requested. The mailing was signed as received. A citation dated December 23, 2008 was sent to the licensed premises by certified mail, return receipt requested. The certified mailing was returned unclaimed. 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 by Bob Bradley (N.T. 11-14 and Exhibits B-1 and B-2).

2. An officer from the Bureau of Enforcement visited the licensed premises on Thursday, October 16, 2008 at 10:30 p.m. He was accompanied by another Enforcement officer. The two officers entered the bar and noted ten patrons seated. A bartender was on duty. The officers purchased alcoholic beverages and departed at 11:10 p.m. The premises was open and operating and serving patrons (N.T. 5-6).

3. An officer returned to the premises on Monday, November 10, 2008, arriving at 7:10 p.m. He noted that there were two patrons and one bartender on the premises. The patrons were in possession of alcoholic beverages. On that occasion, the officer purchased a forty ounce Coors Light beer to go. The officer left immediately after making the purchase (N.T. 7).

4. The officer's third visit to the premises was Monday, November 24, 2008. He arrived at 2:45 p.m., in order to conduct a routine inspection of the premises. When he entered, there was one male seated at the bar and one bartender on duty. The premises was open and operating (N.T. 8).

5. The officer identified himself to the bartender and conducted the inspection. The bartender indicated that the premises does not sell food. The officer asked to see a Food Preparation License. The bartender was not aware that the premises had such a license. The officer did not observe a health license on the premises. The bartender asked that the officer call the manager, John Klinck. The officer spoke to Mr. Klinck by phone. He advised the officer that his wife, Denise Mitchell, is the president of the corporation. Mr. Klinck also indicated they did not sell food. He was unaware as to whether or not the premises had a Food Preparing Permit (N.T. 8-9).

6. The officer saw no food on the premises. The premises was not in good condition, but appeared to be under some form of remodeling (N.T. 9).

7. Certification from the city of Philadelphia dated December 12, 2008 indicated that the establishment has never applied for a Preparing and Serving Food License (N.T. 13-14 and Exhibit B-3).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

Count No. 1 - On October 16, November 10 and 24, 2008, Licensee, by its servants, agents or employes, operated the licensed establishment without a valid health permit or license, which expired on April 30, 2008, in violation of Section 437 of the Liquor Code, 47 P.S. Section 4-437, and Section 5.41 of the Liquor Control Board Regulations, 40 Pa. Code Section 5.41.

Count No. 2 - On November 24, 2008, the licensed premises was not a bona fide restaurant in that Licensee, by its servants, agents or employes, maintained insufficient food items, in violation of Section 102 of the Liquor Code, 47 P.S. Section 1-102.

PRIOR RECORD:

Licensee has been licensed since April 18, 2003, and has a record of prior violations as follows:

Citation No. 04-0080. \$1,000.00 fine.

1. Sold alcoholic beverages after the Restaurant Liquor License expired on October 31, 2003 and had not been renewed and/or validated.  
November 15 and December 17, 2003.

Citation No. 04-0425. \$1,000.00 fine.

1. Sold alcoholic beverages after the Restaurant Liquor License expired on October 31, 2003 and had not been renewed and/or validated.  
February 5, 2004.

Citation No. 05-2334. \$1,250.00 fine and one day suspension.

1. Sales between 2:00 a.m. and 7:00 a.m.  
August 26, 2005.
2. Failed to require patrons to vacate the premises not later than one-half hour after the required time.  
August 26, 2005.
3. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 a.m.  
August 26, 2005.

Citation No. 06-1045. \$600.00 fine, three days suspension and R.A.M.P. training mandated.

1. Sales between 2:00 a.m. and 7:00 a.m.  
March 18, 2006.
2. Permitted patrons to possess alcoholic beverages after 2:30 a.m.  
March 18, 2006.
3. Failed to require patrons to vacate the premises not later than one-half hour after the required time.  
March 18, 2006.
4. Used loudspeakers or devices whereby music could be heard outside.  
March 30, 2006.

Citation No. 06-2656. \$400.00 fine.

1. Failed to require patrons to vacate the premises not later than one-half hour after the required time.  
July 8, 2006.

Citation No. 07-0963. \$200.00 fine.

1. Failed to comply with the Order of the Administrative Law Judge mandating R.A.M.P. training.  
February 19 through March 22, 2007.

#### DISCUSSION:

Under the circumstances, the Licensee will be required to present a copy of a current and valid health permit and a copy of a menu indicating what food items that they are currently serving. Licensee is reminded that in order to maintain a restaurant liquor license, they must also have food available for the public.

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.

Therefore, penalties shall be assessed as follows:

Count No. 1 - \$400.00.  
Count No. 2 - \$400.00.

Accordingly, we issue the following

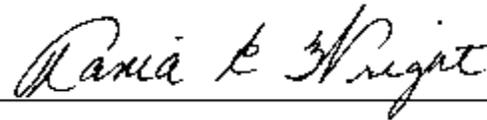
ORDER:

THEREFORE, it is hereby Ordered that Licensee, Worldwide Bartending Institute, Inc., License Number R-AP-SS-OPS-6939, pay a fine of Eight Hundred Dollars (\$800.00) 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.

IT IS FURTHER ORDERED that Licensee, Worldwide Bartending Institute, Inc., License Number R-AP-SS-OPS-6939, submit a copy a current and valid health permit, and a Verification indicating that the premises is a bona fide restaurant in that they now maintain sufficient food items. Said documentation must be submitted within twenty (20) days from mailing date of this Order. If said documentation is not submitted within twenty (20) days from mailing date of this Order, Licensee's license shall be suspended for one (1) day and **continuing thereafter** until such documentation is received.

**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.

Worldwide Bartending Institute, Inc.  
Citation No. 08-2971

**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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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

Citation No. 08-2971  
Worldwide Bartending Institute, Inc.

## VERIFICATION

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I/We, Worldwide Bartending Institute, Inc., License No. R-AP-SS-OPS-6939, do hereby affirm that food is served on the premises (attach menu or list of items offered for sale) as of \_\_\_\_\_ (date).

Subject to the penalties contained in 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities, the undersigned officer(s) verifies that I/We are signing and executing this document as the authorized act and deed of the licensee. I/We hereby certify that the foregoing is true and correct.

\_\_\_\_\_  
Corporate Officer's Signature

\_\_\_\_\_  
Corporate Officer's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

NOTE: Mail Verification and accompanying documents to:

PLCB – OFFICE OF ADMINISTRATIVE LAW JUDGE  
Brandywine Plaza  
2221 Paxton Church Road  
Harrisburg, Pennsylvania 17110-9661