

Mailing Date: AUG 06 2010

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

|                            |   |                         |
|----------------------------|---|-------------------------|
| PENNSYLVANIA STATE         | : |                         |
| POLICE, BUREAU OF          | : | Citation No. 09-0531    |
| LIQUOR CONTROL ENFORCEMENT | : |                         |
|                            | : |                         |
| v.                         | : | Incident No. W04-388530 |
|                            | : |                         |
| TIPPLE INC                 | : |                         |
| T/A THE GOLDEN ALE         | : | LID-52816               |
| 1309 FAYETTE AVE           | : |                         |
| WASHINGTON TWP             | : |                         |
| BELLE VERNON PA 15012-2513 | : |                         |
|                            | : |                         |
| FAYETTE COUNTY             | : |                         |
| LICENSE NO. R-AP-SS-1839   | : |                         |

**ADJUDICATION**

**JUDGE:** ROBERT F. SKWARYK

APPEARANCES:

**BUREAU COUNSEL:** Nadia L. Vargo, Esq.

**LICENSEE COUNSEL:** Ex Parte

BACKGROUND:

This proceeding arises out of a citation that was issued on March 16, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against Tipple, Inc., T/A The Golden Ale, License Number R-AP-SS-1839 (hereinafter Licensee).

The citation charges Licensee with violation of Sections 491(1), 492(2) and 493(16) of the Liquor Code [47 P.S. §§§4-491(1), 4-492(2) and 4-493(16)], in that on January 28 and February 5, 2009, Licensee, by its servants, agents or employees, sold alcoholic beverages after its Restaurant Liquor License expired on June 30, 2008, and had not been renewed and/or validated.

The investigation which gave rise to the citation began on January 28, 2009, and was completed on February 5, 2009. The notice of violation letter was mailed to Licensee on February 25, 2009.

An evidentiary hearing was held on this matter on June 29, 2010, in Pittsburgh, Pennsylvania.

Upon review of the transcript of the hearing and the Pre-Hearing Memorandum, we make the following Findings of Fact and reach the following Conclusions of Law:

TIPPLE, INC.  
T/A THE GOLDEN ALE  
Citation No. 09-0531

FINDINGS OF FACT:

1. Licensee is a corporation located in Fayette County, Pennsylvania and holds Restaurant Liquor license number R-AP-SS-1839. (N.T. 4).
2. Licensee's Restaurant Liquor License expired on June 30, 2008. (N.T. 6, Exhibit C-4).
3. On Wednesday, January 28, 2009, at approximately 2:45 p.m., two enforcement officers visited the licensed premises and found a barmaid rendering service of alcoholic beverages to approximately nine patrons. (N.T. 8-9).
4. On Thursday, February 5, 2009, at 12:10 p.m., an enforcement officer spoke with the Board's licensing office and found that the license renewal was rejected due to the lack of a filing fee. (N.T. 9-10).
5. On Thursday, February 5, 2009, at approximately 2:20 p.m., the enforcement officer returned to the licensed premises in an undercover capacity and purchased a 12-ounce bottle of Miller Lite beer from the barmaid for \$2.00. (N.T. 10).
6. The officer identified himself and informed the barmaid that the license was inactive and Licensee had no authority to sell alcoholic beverages. (N.T. 10).

CONCLUSION OF LAW:

Sustained as charged.

DISCUSSION:

At the hearing held on the matter, the enforcement officer testified as to his visiting the licensed premises on January 28 and February 5, 2009, and observing alcoholic beverage sales after its Restaurant Liquor License had expired and was not renewed.

Licensee did not appear at the hearing although a notice of hearing was mailed to the address of record.

I find the testimony of the Bureau's witness to be credible. As such, the citation is sustained.

PRIOR RECORD:

Licensee has been licensed since July 12, 2004, and has no violations.

TIPPLE, INC.  
T/A THE GOLDEN ALE  
Citation No. 09-0531

PENALTY:

Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or a fine of not less than \$1,000.00 or more than \$5,000.00 or both for a violation of the type found in this case.

After due consideration of the circumstances giving rise to the citation and Licensee's status as a first time offender, a fine of \$1,100.00 will be imposed as the penalty in this case.

ORDER:

THEREFORE, it is hereby ordered that Licensee, Tipple, Inc., T/A The Golden Ale, pay a fine of \$1,100.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee's license shall be suspended or revoked.

**JURISDICTION IS RETAINED UNTIL CASE IS CLOSED.**

Dated this 20<sup>TH</sup> day of JULY, 2010.



Robert F. Skwaryk, J.

**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.**

Detach Here and Return Stub with Payment

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The fine must be paid by Cashier's Check, Certified Check or Money Order. **Personal and business checks are not acceptable unless bank certified.** 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

09-0531  
Tipple, Inc.  
T/A The Golden Ale