

Mailing Date: SEPT 21 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-0882
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-386872
v.	:	
	:	LID - 57366
100 JRR INC	:	
100 W WYOMING AVE	:	
PHILADELPHIA PA 19140-1629	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-EHF-9029	:	

JUDGE SHENKLE  
BLCE COUNSEL: Erik S. Shmukler, Esq.  
LICENSEE: no appearance.

**ADJUDICATION**

**BACKGROUND:**

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on April 21, 2009. There are two counts in the citation.

The first count alleges that Licensee violated §5.32(a) of the Liquor Control Board Regulations, 40 Pa. Code §5.32(a), on January 7, 2009, by permitting the use on the inside of the licensed premises of a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

The second count alleges that Licensee violated §§491(1), 492(2) and 493(16) of the Liquor Code, 47 P.S. §§4-491(1), 4-492(2) and 4-493(16), on January 7 and February 7, 2009, by selling alcoholic beverages after its Restaurant Liquor License expired on October 31, 2008, and had not been renewed and/or validated.

At the hearing scheduled for July 28, 2009, in Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the case was heard *ex parte*.

**FINDINGS OF FACT:**

1. The Bureau investigated Licensee during the period December 31, 2008, through March 25, 2009, and sent written notice of the results of its investigation to the licensed premises by certified mail on April 3, 2009 (N.T. 10-11, Exhibit B-1).

2. A copy of this citation was mailed to the licensed establishment by certified mail on April 21, 2009 (N.T. 11-12 Exhibit B-2).

3. A Notice of Hearing was mailed to the licensed establishment by the Office of Administrative Law Judge, Harrisburg, PA, by certified and first class mail on June 12, 2009.

4. On January 7, 2009, a liquor enforcement officer purchased an alcoholic beverage in the licensed premises. There was music playing on the jukebox. When the officer left the premises he continued to hear the music outside at a distance of 35 yards (N.T. 6-7).

5. On February 7, 2009, the officer returned to the premises and again purchased an alcoholic beverage. He then identified himself and asked to see a liquor license. The only license document in the premises had expired (N.T. 7-9).

6. Licensee did not have a valid liquor license or temporary authority to operate on January 7 and February 7, 2009 (Exhibit B-3).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since April 11, 2007, and has had prior violations, as follows:

Citation No. 08-0470. \$800.00 fine.

1. Loudspeakers could be heard outside.  
On 23 dates between December 30, 2007, and March 22, 2008.
2. Not a *bona fide* restaurant (insufficient food). December 8, 2007.
3. Operated without a valid health permit or license. December 8, 2007.

Citation No. 08-1598. \$1,500.00 fine and R.A.M.P. – certification mandated.

1. Sales to minors. April 19, 2008.
2. Loudspeakers could be heard outside. May 16 and June 4, 2008.

Citation No. 08-2238. \$700.00 fine.

1. Operated without a valid health permit or license. August 7, 2008.
2. Not a *bona fide* restaurant (insufficient food). August 7, 2008.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine, or both, for violations of the type found in this case. For violations of the type found in Count No. 1 any fine must be in the \$50.00 to \$1,000.00 range. For violations of the type found in Count No. 2 any fine must be in the \$1,000.00 to \$5,000.00 range. Penalties are assessed as follows:

- Count 1 – a fine of \$300.00.
- Count 2 – a fine of \$1,000.00.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, 100 JRR, Inc., License No. R-AP-SS-EHF-9029, shall pay a fine of thirteen hundred dollars (\$1,300.00) 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 16<sup>TH</sup> day of SEPTEMBER, 2009.



David L. Shenle, 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

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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 to:

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