

Mailing Date: MAR 26 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-1413
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-391765
	:	
411 MAJA LEAGUE INC.	:	
411-13 E. PENN ST.	:	LID - 53252
PHILADELPHIA PA 19144-5803	:	
	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-13501	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

JAMES E. DAILEY, ESQ.

FOR THE LICENSEE:

EX PARTE

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on June 16, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against 411 Maja League, Inc., License Number R-AP-SS-13501 (hereinafter "Licensee").

An Administrative hearing was held on Thursday, November 05, 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 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 April 9 and May 2, 2009, Licensee, by its servants, agents or employes, operated the licensed establishment without a valid health permit or license, which expired on April 30, 2007.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on March 24, 2009 and ended on June 1, 2009. A notice of violation letter dated June 1, 2009 was sent to the licensed premises by certified mail, return receipt requested. The mailing was returned unclaimed. A citation dated June 16, 2009 was sent to the licensed premises by certified mail, return receipt requested. The certified mailing was signed as received. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on September 18, 2009 by certified mail, return receipt requested, and by first class mail. That certified mailing was signed as received (N.T. 10-11 and Exhibits B-1 and B-2).

2. On April 9, 2009, an officer from the Bureau of Enforcement visited the licensed premises to conduct an investigation for disorderly operations on Wednesday through Saturday between the hours of 9:00 p.m. and 2:00 a.m. The officer arrived at the premises at 11:55 p.m. The premises was open and operating. No violations were found at that time (N.T. 5-6).

3. The officer made another visit to the premises on May 2, 2009 in conjunction with a detail of officers. The premises was open and operating. There was service of alcoholic beverages. The manager, Anthony Durham, was present. A routine inspection of the premises was conducted at this time (N.T. 6-7).

4. There was no valid health permit on the premises (N.T. 7).

5. The Licensee was issued a warning with regard to lack of food on the premises, but was not cited for that offense (N.T. 7).

6. Certified records from the city of Philadelphia indicate that the premises had no valid Preparing and Serving Food License on May 2, 2009, and that their renewal bill was paid on May 28, 2009 (N.T. 9-10 and Exhibit B-3).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

411 Maja League, Inc.
Citation No. 09-1413

On May 2, 2009, Licensee, by its servants, agents or employes, operated the licensed establishment without a valid health permit or license, 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.

PRIOR RECORD:

Licensee has been licensed since November 10, 2004, and has a record of prior violations as follows:

Citation No. 05-1863. \$500.00 fine. Documentation conditions corrected. Documentation not submitted and license suspended for one day and thereafter until documentation submitted.

1. Operated the licensed establishment without a valid health permit or license.
July 30, 2005.

Citation No. 07-3118. \$300.00 fine.

1. Sold and/or served an increased volume of one drink without a corresponding and proportionate increase in the price of the drink.
December 6, 2007.

DISCUSSION:

The Liquor Code and its Regulations mandate that alcoholic beverages cannot be dispensed in licensed premises without a current and valid health permit. Further, the health permit must be properly posted on the premises.

The certification indicates that the renewal bill was paid May 28, 2009, therefore, no further Verification will be required.

Under the circumstances, a moderate monetary 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 \$50.00 or more than \$1,000.00, or both, for violations of the type found in this case.

Accordingly, we issue the following

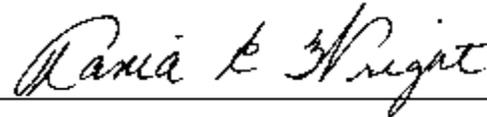
411 Maja League, Inc.
Citation No. 09-1413

ORDER:

THEREFORE, it is hereby Ordered that Licensee, 411 Maja League, Inc., License Number R-AP-SS-13501, pay a fine of Three Hundred Dollars (\$300.00) 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 5TH day of MARCH, 2010.



Tania E. Wright, J.

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 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, along with any required documentation, to:

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

Citation No. 09-1413
411 Maja League, Inc.