

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-1436
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-388488
v.	:	
	:	LID - 58998
WALKING MILES LLC	:	
T/A MELLOW MOOD BAR AND GRILL	:	
1550 ADAMS AVE	:	
PHILADELPHIA PA 19124-4556	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-EHF-250	:	

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

**ADJUDICATION**

**BACKGROUND:**

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on June 23, 2009. There are three counts in the citation.

The first count alleges that Licensee violated §§406(a)(2) and 493(16) of the Liquor Code, 47 P.S. §§4-406(a)(2) and 4-493(16), on May 16, 2009, by selling, furnishing and/or giving alcoholic beverages between 2:00 a.m. and 7:00 a.m.

The second count alleges that Licensee violated §499(a) of the Liquor Code, 47 P.S. §4-499(a), on May 16, 2009, by failing to require patrons to vacate that part of the premises habitually used for the service of alcoholic beverages not later than one-half hour after the required time for the cessation of the service of alcoholic beverages.

The third count alleges that Licensee violated §499(a) of the Liquor Code, 47 P.S. §4-499(a), on May 16, 2009, by permitting patrons to possess and/or remove alcoholic beverages from that part of the premises habitually used for the service of alcoholic beverages after 2:30 a.m.

At the hearing scheduled for February 23, 2010, in Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the case was heard *ex parte*.

Walking Miles, LLC, t/a Mellow Mood Bar and Grill  
Citation No. 09-1436

Page 2

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period January 18 through May 20, 2009, and sent written notice of its findings to Licensee on June 3, 2009 (N.T. 12-14, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on June 23, 2009 (N.T. 14-15, Ex. B-2).
3. A Notice of Hearing was mailed to Licensee on January 8, 2010.
4. On May 16, 2009, a liquor enforcement officer entered the licensed premises at 2:15 a.m. He paid a \$20 cover charge and entered the premises to see approximately 50 patrons being served alcoholic beverages at three bars. At 2:20 a.m. the officer purchased two bottles of beer for \$10. Other patrons purchased and possessed alcoholic beverages until police entered the premises at 2:45 a.m. and arrested the sole member of this company for after-hours sales (N.T. 6-10).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since October 17, 2007, and has had prior violations as follows:

Citation No. 08-2410. \$1,150.00 fine.

1. Sales on Sunday between 2:00 a.m. and 11:00 a.m. August 24, 2008.
2. Failed to require patrons to vacate the premises by the required time. August 24, 2008.
3. Permitted patrons to possess or remove alcoholic beverages after 2:30 a.m. August 24, 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 the first count any fine must be in the \$1,000.00 to \$5,000.00 range. For violations of the type found in the other counts any fine must be in the \$50.00 to \$1,000.00 range. Penalties are assessed as follows:

Count 1 – a fine of \$2,000.00.

Count 2 – a fine of \$500.00.

Count 3 – a fine of \$500.00.

Walking Miles, LLC, t/a Mellow Mood Bar and Grill  
Citation No. 09-1436

Page 3

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Walking Miles, LLC, t/a Mellow Mood Bar and Grill, License No. R-AP-SS-EHF-250, shall pay a fine of three thousand dollars (\$3,000.00) 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 1<sup>ST</sup> day of APRIL, 2010.



David L. Shenkle, 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

----- 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

Citation No. 09-1436  
Walking Miles, LLC