

Mailing Date: August 4, 2010

PENNSYLVANIA LIQUOR CONTROL BOARD  
HARRISBURG, PA 17124-0001

PENNSYLVANIA STATE POLICE,	:	Citation No. 09-1436
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT	:	
	:	
v.	:	
	:	
WALKING MILES, LLC	:	License No. R-250
t/a Mellow Mood Bar and Grill	:	
1550 Adams Avenue	:	LID 58998
Philadelphia, PA 19124-4556	:	
	:	

Counsel for Licensee: Nino V. Tinari, Esquire  
Nino V. Tinari & Associates  
1528 Walnut Street, 4<sup>th</sup> Floor  
Philadelphia, PA 19102

Counsel for Bureau: Erik S. Shmukler, Esquire  
Pennsylvania State Police,  
Bureau of Liquor Control Enforcement  
6901 Woodland Avenue, 3<sup>rd</sup> Floor  
Philadelphia, PA 19142

**OPINION**

Walking Miles, LLC t/a Mellow Mood Bar and Grill (“Licensee”) appeals from the Adjudication and Order of Administrative Law Judge David L. Shenkle (“ALJ”), wherein the ALJ sustained Citation No. 09-1436 and issued a penalty of three thousand dollars (\$3,000.00).

The citation in the present matter alleged that on May 16, 2009, Licensee sold, furnished and/or gave alcoholic beverages between 2:00 a.m. and 7:00 a.m., in violation of section 406(a) and 493(16) of the Liquor Code. [47 P.S. §§ 4-406(a), 4-493(16)]. Furthermore, the citation alleges that Licensee violated section 499(a) of the Liquor Code by its servants, agents or employees failing to require patrons to vacate the 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 and permitting patrons to possess and/or remove alcoholic beverages from that part of the premises after 2:30 a.m. [47 P.S. § 4-499(a)].

Consideration of the merits of this appeal is unnecessary because under section 17.21(b)(2) of the Board's Regulations, appeals of ALJ adjudications must be made within thirty (30) calendar days of the mailing date of the ALJ opinion and adjudication. [40 Pa. Code § 17.21(b)(2)].

In the instant action, the ALJ Order and Adjudication was mailed to Licensee on April 14, 2010. Licensee filed its appeal on June 4, 2010. Although Licensee filed a timely motion for reconsideration with the ALJ,<sup>1</sup> that filing does

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<sup>1</sup> A motion for reconsideration was filed on April 29, 2010. The ALJ denied the motion by Order dated May 11, 2010.

not toll the time period for the filing of an appeal of the ALJ's Adjudication and Order. [47 Pa. Code §17.21; 1 Pa. Code § 35.241(f)].

Accordingly, the instant appeal must be denied as untimely, and the decision of the ALJ is, therefore, affirmed.

**ORDER**

The appeal of Licensee is denied as untimely.

The appeal of Licensee is dismissed.

A fine of three thousand dollars (\$3,000.00) has been paid.

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Board Secretary