

Mailing Date: DEC 02 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-1546
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-395748
v.	:	
	:	LID - 53000
JSMG INC	:	
3589 RICHMOND ST	:	
PHILADELPHIA PA 19134-6120	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-5058	:	

JUDGE SHENKLE  
BLCE COUNSEL: James E. Dailey, Esq.  
LICENSEE: no appearance

**ADJUDICATION**

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on July 7, 2009. The citation alleges that Licensee violated §437 of the Liquor Code, 47 P.S. §4-437, and §5.41 of the Liquor Control Board Regulations, 40 Pa. Code §5.41, on June 11, 2009, by operating the licensed premises without a valid health permit or license, which expired on April 30, 2009.

At the hearing scheduled for October 27, 2009, in Allentown, Pennsylvania, there was no appearance for the Licensee; therefore, the matter proceeded *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period June 11 through June 15, 2009, and sent written notice of the results of its investigation to the licensed premises by certified mail on June 16, 2009 (N.T. 8-9, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on July 7, 2009 (N.T.9, Exhibit B-2).
3. A Notice of Hearing was mailed to Licensee on September 14, 2009.

4. A liquor enforcement officer inspected the licensed premises on June 11, 2009, and found that the health permit on display had expired on April 30, 2009. Licensee did not have a valid health permit on June 11, 2009 (N.T. 7-8).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since August 30, 2004, and has had five prior violations:

Citation No. 06-1083C. \$1,300.00 fine and RAMP training mandated.

1. Sold malt or brewed beverages for consumption off premises. March 2, 2006.
2. Sales to a minor. March 2, 2006.

Citation No. 06-2914 and 07-0139 (consolidated). \$2,000.00 fine. License suspended 2 days for late payment.

1. Sold and/or served an unlimited or indefinite amount of alcoholic beverages for a fixed price. November 19, 2006.
2. Sales after restaurant liquor license expired. November 19 and December 27, 2006.

Citation No. 07-2930. \$650.00 fine, 1 day suspension, and R.A.M.P. – certification mandated. License suspended 1 additional day for late payment.

1. Failed to comply with order mandating R.A.M.P. – certification. October 25 through November 13, 2007.
2. Operated without a valid health permit or license. November 13, 2007.

Citation No. 08-2068. \$500.00 fine.

1. Operated without a valid health permit or license. August 4, 2008.

Citation No. 08-2361. \$600.00 fine.

1. Sold, furnished and/or gave liquor for consumption off premises. August 29, 2008.
2. Loudspeakers could be heard outside. August 29, 2008.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine in the \$50.00 to \$1,000.00 range, or both, for violations of this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, JSMG, Inc., License No. R-AP-SS-5058, shall pay a fine of three hundred dollars (\$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.

IT IS FURTHER ORDERED that Licensee shall submit a true copy of a current and valid health permit to the address set forth below within 20 days of the mailing date of this order. In the event the copy is not received within 20 days, Licensee's license will be suspended or revoked.

Dated this 20<sup>TH</sup> day of November, 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 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 it, with the health permit, to:

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