

Mailing Date: DEC 21 2009

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

PENNSYLVANIA STATE :
POLICE, BUREAU OF : Citation No. 09-1626C
LIQUOR CONTROL ENFORCEMENT :
 : Incident No. W01-394094
v. :
 : LID - 58593
TRIPLE C'S INC :
423 W BRISTOL ST :
PHILADELPHIA PA 19140-2621 :
 :
PHILADELPHIA COUNTY :
LICENSE NO. R-4799 :

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

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on July 14, 2009. There are two counts in the citation.

The first count alleges that Licensee violated §493(1) of the Liquor Code, 47 P.S. §4-493(1), on May 28, 2009, by selling, furnishing, and/or giving or permitting such sale, furnishing or giving of alcoholic beverages to one male minor, twenty years of age.

The second count 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 May 28 and June 2, 2009, by operating the licensed premises without a valid health permit or license, which expired on April 30, 2009.

At the hearing scheduled for November 4, 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 May 28 through June 16, 2009, and sent written notice of the results of its investigation to the licensed premises by certified mail on June 19, 2009 (N.T. 6-7, Exhibit B-1).

2. A copy of this citation was mailed to the licensed establishment by certified mail on July 14, 2009 (N.T. 7-8, Exhibit B-2).

3. A Notice of Hearing was mailed to Licensee by the Office of Administrative Law Judge, Harrisburg, PA, by certified and first class mail on September 18, 2009.

4. On May 28, 2009, a man whose birth date was March 3, 1989, purchased beer in the licensed premises. His age was not questioned (N.T. 9-11).

5. On May 28, 2009, a liquor enforcement officer inspected the licensed premises and found there was no health permit on display (N.T. 12-13).

6. On June 2, 2009, a liquor enforcement officer inspected the licensed premises and found there was no health permit on display (N.T. 15-16).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since September 17, 2007, and has had one prior violation:

Citation No. 08-2856. \$1,250.00 fine.

1. Sales after license expired. November 2 and 3, 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 second count any fine must be in the \$50.00 to \$1,000.00 range. Mandatory R.A.M.P. – certification is required by 47 P.S. §4-471(d) in these circumstances. Penalties are assessed as follows:

- Count No. 1 – a fine of \$1,500.00 and mandatory R.A.M.P. – certification.
- Count No. 2 – a fine of \$500.00 and verification of compliance.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Triple C's, Inc., License No. R-4799, shall pay a fine of two thousand dollars (\$2,000.00) 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.

IT IS FURTHER ORDERED that Licensee shall comply with the requirements set forth in Liquor Code Section 471.1, pertaining to Responsible Alcohol Management in the following manner. The Licensee is directed to contact the Bureau of Alcohol Education, Pennsylvania Liquor Control Board (toll free telephone: 1-866-275-8237; www.lcb.state.pa.us) within thirty (30) days of the mailing date of this adjudication in order to receive assistance in the compliance process. Licensee must receive certification within ninety (90) days of the mailing date of this adjudication. Licensee must remain in compliance for a period of one year from the date such certification is issued. The Bureau of Liquor Control Enforcement is further directed to monitor compliance with this adjudication.

Failure to comply with this order will be grounds for modification of penalty in this case. Failure to comply may also constitute grounds for issuance of a new citation as authorized by Section 471(d) of the Liquor Code, 47 P.S. Section 4-471(d).

IT IS FURTHER ORDERED that Licensee shall submit a true copy of a current and valid health permit within 20 days of the mailing date of this order. In the event the verification is not received within that time, this license will be suspended or revoked by further order.

Dated this 8TH day of December, 2009.



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