

Mailing Date: FEB 08 2010

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

PENNSYLVANIA STATE :  
POLICE, BUREAU OF : Citation No. 09-1986  
LIQUOR CONTROL ENFORCEMENT :  
 : Incident No. W01-394276  
 v. :  
 : LID - 57615  
 7178 CFJ LTD :  
 7178 N 19<sup>th</sup> ST :  
 PHILADELPHIA PA 19126-1510 :  
 :  
 PHILADELPHIA COUNTY :  
 LICENSE NO. R-SS-EHF-13624 :

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

**ADJUDICATION**

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on August 25, 2009. There are three counts in the citation.

The first 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 1, 2009, by operating the licensed premises without a valid health permit or license.

The second count alleges that Licensee violated §102 of the Liquor Code, 47 P.S. §1-102, on May 1, 2009, on the basis that the licensed premises was not a *bona fide* restaurant because there were insufficient food items, eating utensils, dishes and seating.

The third count alleges that Licensee violated Section 5.42 of the Liquor Control Board Regulations, 40 Pa. Code §5.42, on May 1, 2009, because your licensed premises had insufficient illumination.

At the hearing scheduled for December 15, 2009, in Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the matter was heard *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period May 1 through July 13, 2009, and sent written notice of the results of its investigation to the licensed premises by certified mail on July 24, 2009, and an amended letter on August 12, 2009 (N.T. 9-11, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on August 25, 2009 (N.T. 11-12, Ex. 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 October 29, 2009.

4. A liquor enforcement officer inspected the licensed premises on May 1, 2009, and found that there was no valid health permit (it had expired, but was renewed on June 2, 2009), there was no food, and there was seating only for 19 people. In addition, the lighting was so dim that the officer had to use a flashlight to conduct the inspection and complete the report (N.T. 6-8, Exhibit B-3)

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since May 25, 2007, and has had no prior violations.

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. For each count the penalty will be a fine of \$200.00, and verification submitted for Count No. 2.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, 7178 CFJ, Ltd., License No. R-SS-EHF-13624, shall pay a fine of six hundred dollars (\$600.00) 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, within 20 days of the mailing date of this order, submit verification in the form attached hereto that the premises now maintains sufficient food, eating utensils, dishes and seating on hand to qualify as a *bona fide* restaurant. If Licensee fails to submit the verification within the time allowed, the penalty in this case will be modified to include a suspension of license, and for that purpose jurisdiction is retained.

Dated this 20<sup>TH</sup> day of January, 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

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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 to:

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

Citation No. 09-1986  
7178 CFJ, Ltd.

**VERIFICATION**

Subject to the penalties contained in 18 Pa. C. S. §4904, relating to unsworn falsification to authorities, the undersigned officer verifies that the licensed premises contains sufficient seating accommodations for at least thirty (30) persons at tables.

Licensee has \_\_\_\_\_ chairs at \_\_\_\_\_ tables.

Licensee acknowledges that thirty (30) seats at tables are to be maintained at all times this license is in operation.

Licensee acknowledges that sufficient food, cooking equipment, utensils, and dishes are to be maintained at all times this license is in operation.

\_\_\_\_\_  
Corporate Officer's Signature

\_\_\_\_\_  
Date

Submit Verification to:

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