

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-2166
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-398997
v.	:	
	:	LID - 32628
TIMBUKTU INC	:	
770 S 7 th ST	:	
PHILADELPHIA PA 19147-2929	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-13528	:	

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 September 22, 2009. There are two 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 August 5, 2009, by operating the licensed premises without a valid health permit or license, which expired on April 30, 2007.

The second count alleges that Licensee violated §§403(h) and 471 of the Liquor Code, 47 P.S. §§4-403(h) and 4-471, on October 31, 2008, by supplying false information on its application for a restaurant liquor license for the term expiring October 31, 2010.

At the hearing scheduled for January 14, 2010, 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 August 5 through 11, 2009, and sent written notice of the results of its investigation to the licensed premises by certified mail on September 1, 2009 (N.T. 8-9, Exhibit B-1).

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2. A copy of this citation was mailed to the licensed establishment by certified mail on September 22, 2009 (N.T. 9, Exhibit B-2).

3. A Notice of Hearing was mailed to the licensed establishment by the Office of Administrative Law Judge, Harrisburg, PA, by certified and first class mail on November 25, 2009.

4. On August 5, 2009, a liquor enforcement officer inspected the licensed premises and found that the health permit on display had expired on April 30, 2007. Licensee had no permit on August 5, 2009, but renewed it on August 11, 2009 (N.T. 5-6, Exhibit B-3).

5. In an application for a restaurant liquor license which was filed with the Board on October 31, 2008, Licensee represented that there was a current and valid health permit on display in the licensed premises (Exhibit B-4).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since December 10, 1993, and has had one prior violation:

Citation No. 05-2044. \$300.00 fine and verification conditions corrected.

1. Operated without a valid health permit or license. August 3, 2005.

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 of this citation, the penalty will be a fine of \$400.00.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Timbuktu, Inc., License No. R-APSS-13528, shall pay a fine of eight hundred dollars (\$800.00) 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 22ND day of February, 2010



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

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. 09-2166 Timbuktu, Inc.