

Mailing Date: FEB 01 2012

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-1241
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-411099
	:	
VETERANS OF FOREIGN WARS	:	
SGT. EMMOR WILLIAMS POST 2404	:	LID - 1315
109-113 N. 7 TH AVE.	:	
COATESVILLE PA 19320-3303	:	
	:	
	:	
CHESTER COUNTY	:	
LICENSE NO. C-2563	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

JAMES E. DAILEY, ESQ.

FOR THE LICENSEE:

**KENNETH BOND
PRO SE**

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on June 15, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Veterans of Foreign Wars, Sgt. Emmor Williams Post 2404, License Number C-2563 (hereinafter "Licensee").

An Administrative hearing was held on Tuesday, June 14, 2011, pursuant to requisite and appropriate hearing notice. The parties stipulated to the service and receipt of the notice letter and the citation.

The citation charges Licensee with violation of Section 406(a)(1) of the Liquor Code, 47 P.S. §4-406(a)(1), in that on May 22, 2010, Licensee, by its servants, agents or employes, sold alcoholic beverages to nonmembers.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on April 9, 2010 and ended on May 22, 2010. A notice of violation letter was sent to the licensed premises by certified mail dated June 2, 2010. The mailing was signed as received on June 7, 2010. A citation dated June 15, 2010 was sent to the licensed premises by certified mail, return receipt requested. The mailing was signed as received on June 21, 2010 (N.T. 20-22 and Exhibits B-1 and B-2).

2. An officer from the Bureau of Enforcement went to the licensed premises as the result of an anonymous complaint. On April 29, 2010, he made his first visit to the premises at approximately 9:40 p.m. The officer conducted a surveillance of the premises for minors. He remained about twenty feet from the premises from 9:40 to 10:30 p.m. (N.T. 13-14).

3. On Saturday, May 22, 2010, the officer again visited the premises at 9:30 p.m. He entered the premises through the front door. After ringing a doorbell, he heard the door buzz and walked in. The officer went to the bar, sat down and ordered a cranberry vodka (N.T. 14-16).

4. The bartender asked him for identification prior to serving him, but did not question him with regard to membership (N.T. 16-18).

5. The officer is not now nor has he ever been a member of the VFW Club (N.T. 16).

CONCLUSIONS OF LAW:

On May 22, 2010, Licensee, by its servants, agents or employes, sold alcoholic beverages to nonmembers, in violation of Section 406(a)(1) of the Liquor Code, 47 P.S. §4-406(a)(1).

PRIOR RECORD:

Licensee has been licensed since May 7, 1935, and since July 1, 1987, the date of establishment of the Office of Administrative Law Judge, has had a record of prior violations as follows:

Citation No. 98-0328. \$50.00 fine.

1. Sales to nonmembers.

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Citation No. 00-0952. \$350.00 fine. Fine not paid and license suspended for one day and continuing thereafter until fine paid.

1. Sales after the license expired and had not been renewed and/or validated.

Citation No. 07-2112. \$300.00 fine.

1. Sales to nonmembers.
August 9, 2007.

Citation No. 08-1949. \$400.00 fine.

1. Sales to nonmembers.
June 21 and July 18, 2008.

Citation No. 10-0483. \$700.00 fine.

1. Sales to nonmembers.
December 9, 2009, January 2 and February 12, 2010.

Citation No. 10-0815. Three days suspension.

1. Sales to nonmembers.
March 14, 2010.

DISCUSSION:

Licensee has an extensive history of sales to nonmembers. Under the circumstances, because of the present and repeated violations, a monetary penalty and period of suspension shall be imposed.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of a fine of not less than \$50.00 or more than \$1,000.00, or both, for violations of the type found in this case.

Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, Veterans of Foreign Wars, Sgt. Emmor Williams Post 2404, License Number C-2563, pay a fine of Five Hundred Dollars (\$500.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

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IT IS FURTHER ORDERED that the Club Liquor License of Veterans of Foreign Wars, Sgt. Emmor Williams Post 2404, License Number C-2563, be suspended for a period of three (3) days **BEGINNING** at 7:00 a.m. on Monday, May 7, 2012 and **ENDING** at 7:00 a.m. on Thursday, May 10, 2012.

Licensee is directed on Monday, May 7, 2012 at 7:00 a.m. to place the enclosed placard of notice of suspension (identified as Form No. PLCB-1925 and as printed with red and black ink) in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises and to remove said license from the wall and place it in a secure location.

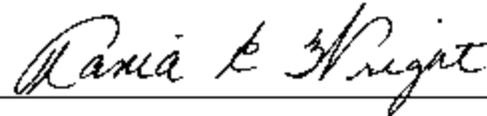
Licensee is advised if a replacement placard is needed for any reason they are available at all State Liquor Stores/Wine and Spirit Shoppes.

The "Bureau of Enforcement" is directed to visit and monitor the aforementioned licensed premises for compliance with this Order.

The Licensee is authorized on Thursday, May 10, 2012 at 7:00 a.m. to remove the placard of suspension and return the license to its original wall location.

Jurisdiction of this matter is retained.

Dated this 20TH day of January, 2012.



Tania E. Wright, J.

NOTE: MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER TO THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE FILING FEE.

If you wish to appeal the decision on the Administrative Law Judge's Order, the appeal must be filed within 30 days of the mailing date of the Order. Please contact the Chief Counsel's Office of the Pennsylvania Liquor Control Board at 717-783-9454.

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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, along with any required documentation, to:

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

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