

Mailing Date: DEC 23 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-1299
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-412877
v.	:	
	:	LID - 50029
58 STREET INC	:	
5801 CATHERINE ST	:	
PHILADELPHIA PA 19143-2417	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-13755	:	

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 June 29, 2010. 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 May 7, 2010, by operating the licensed premises without a valid health permit or license, which expired on April 30, 2010.

The second count alleges that Licensee violated §493(12) of the Liquor Code, 47 P.S. §4-493(12), on May 7, 2010, by failing to keep records on the licensed premises.

At the hearing scheduled for November 9, 2010, 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 7 through 25, 2010, and sent written notice of the result to Licensee on June 3, 2010 (N.T. 9-10, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on June 29, 2010 (N.T. 9-10, Ex. B-2).
3. A Notice of Hearing was mailed to Licensee on September 23, 2010.
4. On May 7, 2010, a liquor enforcement officer inspected the licensed premises and saw that the health permit on display had expired on April 30, 2010, and there were no business records kept in the premises (N.T. 5-8).

5. The renewal bill for the health permit was paid on June 16, 2010 (Exhibit B-3).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since January 31, 2003, and has had prior violations as follows:

Citation No. 03-1305. \$350.00 fine and verification conditions corrected.

1. Operated without a valid health permit or license.

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. Penalties are assessed as follows:

Count No. 1 – a fine of \$400.00.

Count No. 2 – a fine of \$100.00.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, 58 Street, Inc., License No. R-AP-SS-13755, shall pay a fine of five hundred dollars (\$500.00) 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 3<sup>RD</sup> day of December, 2010.



David L. Shenkle, J.

**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