

Mailing Date: JAN 31 2011

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

PENNSYLVANIA STATE :
POLICE, BUREAU OF : Citation No. 10-1511
LIQUOR CONTROL ENFORCEMENT :
 : Incident No. W01-414132
 :
 v. :
 : LID - 49241
 :
 SHANNON I INC :
 2672 CORAL ST :
 PHILADELPHIA PA 19125-1410 :
 :
 PHILADELPHIA COUNTY :
 LICENSE NO. R-AP-SS-11165 :

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 July 27, 2010. There are three counts in the citation.

The first count alleges that Licensee violated §§406(a)(2) and 493(16) of the Liquor Code, 47 P.S. §§4-406(a)(2) and 4-493(16), on June 19, 2010, by selling, furnishing and/or giving alcoholic beverages between 2:00 a.m. and 7:00 a.m.

The second count alleges that Licensee violated §499(a) of the Liquor Code, 47 P.S. §4-499(a), on July 19, 2010, by failing to require patrons to vacate that part of the premises habitually used for the service of alcoholic beverages not later than one-half hour after the required time for the cessation of the service of alcoholic beverages.

The third count alleges that Licensee violated §499(a) of the Liquor Code, 47 P.S. §4-499(a), on July 19, 2010, by permitting patrons to possess and/or remove alcoholic beverages from that part of the premises habitually used for the service of alcoholic beverages after 2:30 a.m.

At the hearing scheduled for December 8, 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 June 5 through June 20, 2010, and sent it written notice of the results on July 6, 2010 (N.T. 11-12, Exhibit B-1).

2. A copy of this citation was mailed to Licensee on July 27, 2010 (N.T., 11-12 Ex. B-2).
3. A Notice of Hearing was mailed to Licensee on October 28, 2010.
4. On June 19, 2010, liquor enforcement officers visited the licensed premises at about 12:10 a.m. One bartender was serving about seven patrons, but more patrons and another bartender entered as the night wore on. A band was playing when the officers entered, but it stopped performing at 1:45 a.m. At 2:00 a.m. there were about twenty patrons. At 2:08 a.m. a bartender served a pint of draft beer to a patron and collected money for it. At 2:10 a.m. a bartender sold a six-pack of beer to another patron, and deposited the money in a cash register (N.T. 5-8).
5. At 2:12 a.m. a bartender sold a six-pack of malt liquor to another patron. At 2:22 a.m. a liquor enforcement officer purchased a six-pack of beer from a bartender, who collected \$7 and put the beer in a bag. She then announced that it was time to go, time to leave. When the officers left at 2:30 a.m. there were still five patrons in possession of beer and playing pool (N.T. 8-9).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since July 2, 2002, and has had prior violations as follows:

Citation No. 03-0848. \$1,400.00 fine.

1. Sold more than 192 fluid ounces of malt or brewed beverages in a single sale to one person for consumption off premises. March 22, 2003.
2. Sales between 2:00 a.m. and 7:00 a.m. March 22, 2003.
3. Failed to require patrons to vacate by the required time. March 22, 2003.
4. Permitted patrons to possess alcoholic beverages after 2:30 a.m. March 22, 2003.

Citation No. 04-1319. \$400.00 fine.

1. Gambling (numbers bets). April 7, 2004.

Citation No. 08-1785X. \$100.00 fine.

1. Bad checks for malt or brewed beverages. May 23, 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 and third counts any fine must be in the \$50.00 to \$1,000.00 range. Penalties are assessed as follows:

- Count 1 – a fine of \$1,500.00.
- Count 2 – a fine of \$300.00.
- Count 3 – a fine of \$300.00.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Shannon I, Inc., License No. R-AP-SS-11165, shall pay a fine of two thousand one hundred dollars (\$2,100.00) 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 19TH day of January, 2011.



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