

Mailing Date: MAR 15 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-1701
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W04-414942
	:	
464 WILLIAM STREET INC	:	
464 WILLIAM STREET	:	LID-58263
MOUNT OLIVER	:	
PITTSBURGH PA 15210-2239	:	
	:	
	:	
ALLEGHENY COUNTY	:	
LICENSE NO. R-AP-SS-12281	:	

ADJUDICATION

JUDGE: ROBERT F. SKWARYK

APPEARANCES:

BUREAU COUNSEL: Michael C. Nickles, Esq.
LICENSEE COUNSEL: Charles L. Caputo, Esq.

BACKGROUND:

This proceeding arises out of a citation that was issued on August 20, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against 464 William Street, Inc., License Number R-AP-SS-12281 (hereinafter Licensee).

The citation charges Licensee with violation of Sections 491(1), 492(2) and 493(16) of the Liquor Code [47 P.S. §§§4-491(1), 4-492(2) and 4-493(16)], in that on July 1, 2010, Licensee, by its servants, agents or employees, sold alcoholic beverages after its Restaurant Liquor license expired on May 31, 2010, and had not been renewed and/or validated.

The investigation which gave rise to the citation began on June 23, 2010 and was completed on July 16, 2010. The notice of violation letter was mailed to Licensee on August 3, 2010.

An evidentiary hearing was held on this matter on January 27, 2011, in Pittsburgh, Pennsylvania.

Upon review of the transcript of the hearing and the Pre-Hearing Memorandum, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. Licensee is located in Allegheny County, Pennsylvania and holds Restaurant Liquor license number R-AP-SS-12281. (N.T. 4).
2. On May 19, 2009, the Board granted to Licensee temporary authority to operate effective June 1, 2009, which ended no later than May 31, 2010. (N.T. 15, Exhibits L-C and L-D).
3. Licensee's Restaurant Liquor License expired on May 31, 2010, and was not renewed or validated. (N.T. 8, Exhibit C-5).
4. On Thursday, July 1, 2010, at approximately 9:00 p.m., an enforcement officer entered the licensed premises and found two patrons in possession of alcoholic beverages. (N.T. 7).
5. The officer purchased a bottle of Coors Lite beer and a shot of scotch whiskey for \$6.25 from the barmaid, which was rung up on the cash register. (N.T. 7-9, Exhibit C-5).
6. On July 1, 2010, Licensee did not have a valid license or temporary authority from the Board to sell or furnish alcoholic beverages. (N.T. 13, Exhibit C-5).
6. On July 2, 2010, the Board issued to Licensee a temporary authority to operate letter. (N.T. 12, 15, Exhibit L-B).

CONCLUSION OF LAW:

Sustained as charged.

DISCUSSION:

At the hearing held on the matter, the enforcement officer testified that licensee's license expired on May 31, 2010, and was not renewed. On July 1, 2010, he purchased alcoholic beverages at the premises.

Counsel for Licensee entered exhibits and argued that the Board erred in not issuing a temporary authorization letter during the validation process until the day after the officer's visit.

Because Licensee did not have a valid license or temporary authorization letter on July 1, 2010, when the officer purchased alcoholic beverages, the citation is sustained.

PRIOR RECORD:

Licensee has been licensed since July 1, 2007, and has no prior violations.

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PENALTY:

Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or a fine of not less than \$1,000.00 or more than \$5,000.00 or both for a violation of the type found in this case.

After due consideration of the circumstances giving rise to the citation and Licensee's citation history, a fine of \$1,100.00 will be imposed as the penalty in this case.

ORDER:

THEREFORE, it is hereby ORDERED that 464 Williams Street, Inc., pay a fine of \$1,100.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee's license shall be suspended or revoked.

JURISDICTION IS RETAINED UNTIL CASE IS CLOSED.

Dated this 24TH day of February, 2011.



Robert F. Skwaryk, J.

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.

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

464 Williams Street, Inc.
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