

Mailing Date: OCT 26 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-1851
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-414150
	:	
ZAKZUL INC.	:	
2560 S. 67 TH ST.	:	LID - 51616
PHILADELPHIA PA 19142-2704	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-OPS-9998	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

JAMES E. DAILEY, ESQ.

FOR THE LICENSEE:

EX PARTE

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on September 7, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Zakzul, Inc., License Number R-AP-SS-OPS-9998 (hereinafter "Licensee").

An Administrative hearing was held on Wednesday, May 18, 2011, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

The citation charges Licensee with violation of Section 437 of the Liquor Code, 47 P.S. §4-437, and Section 5.41 of the Liquor Control Board Regulations, 40 Pa. Code §5.41, in that on June 6, 2010, Licensee, by its servants, agents or employes, operated the licensed establishment without a valid health permit or license, which expired on April 30, 2010.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on June 5, 2010 and ended August 10, 2010. A notice of violation letter was sent to the licensed premises on August 16, 2010 and was signed as received at the licensed premises. A citation was issued to the licensed premises on September 7, 2010 and sent by certified mail to the licensed premises. The certified mailing was returned and a first class mailing was sent to the Licensee on October 5, 2010 (N.T. 10-11 and Exhibits B-1 and B-2).

2. An officer from the Bureau of Enforcement conducted an investigation of the licensed premises on June 6, 2010. The officer arrived at the premises at 1:20 a.m. along with a detail known as "Operation Pressure Point" (N.T. 5-6).

3. The premises was open and operating and there were approximately twenty people present. There was a female bartender on duty. The officer informed her that they would be conducting an inspection of the premises (N.T. 6).

4. The officer conducted an inspection of the licensed premises. The officer could find no current or valid health permit. There was no food on the premises and there were no beer and liquor invoices on the premises. The officer asked the bartender about the status of the health permit, but she had no information in that regard (N.T. 7-8).

5. Officers from the City of Philadelphia Department of Licenses and Inspection were present at the premises who verified that there was no current health permit (N.T. 8).

6. Certified records from the city of Philadelphia Department of Licenses and Inspections indicate that the renewal bill was paid on June 30, 2010 and as of that date, the Licensee had a current and valid license (N.T. 8-9 and Exhibit B-3).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

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On June 6, 2010, Licensee, by its servants, agents or employes, operated the licensed establishment without a valid health permit or license, which expired on April 30, 2010, in violation of Section 437 of the Liquor Code, 47 P.S. §4-437, and Section 5.41 of the Liquor Control Board Regulations, 40 Pa. Code §5.41.

PRIOR RECORD:

Licensee has been licensed since August 7, 2003, and has a record of prior violations as follows:

Citation No. 04-1410. \$1,500.00 fine.

1. Used loudspeakers or devices whereby music could be heard outside.
June 11, 2004.
2. Sold liquor for consumption off premises.
July 25, 2004.
3. Sunday sales between 2:00 a.m. and 11:00 a.m.
July 25, 2004.
4. Failed to require patrons to vacate the premises not later than one-half hour after the required time.
July 25, 2004.
5. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 a.m.
July 25, 2004.

Citation No. 06-0307. \$200.00 fine. Fine not paid and license suspended one day and thereafter until fine paid.

1. Failed to keep records on the licensed premises.
January 7, 2006.

DISCUSSION:

Licensee operated the premises without a valid health permit. The health permit had expired on April 30, 2010. Licensee has a prior record, albeit none for failure to have a health permit and no record since 2006. Under the circumstances, a moderate monetary penalty 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

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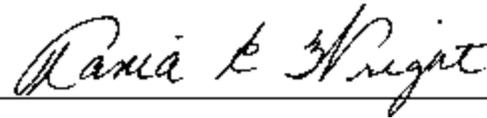
ORDER:

THEREFORE, it is hereby Ordered that Licensee, Zakzul, Inc., License Number R-AP-SS-OPS-9998, pay a fine of Three Hundred Dollars (\$300.00) 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.

IT IS ALSO ORDERED that Licensee, Zakzul, Inc., License Number R-AP-SS-OPS-9998, submit a copy of a current and valid health permit within twenty (20) days from the mailing date of this Adjudication. If said documentation is not submitted within twenty (20) days from the mailing date of this Adjudication, Licensee's license shall be suspended for one (1) day and **continuing thereafter** until such documentation is received.

Jurisdiction of this matter is retained.

Dated this 12TH day of October, 2011.



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.

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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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