

Mailing Date: JUL 22 2011

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

PENNSYLVANIA STATE  
POLICE, BUREAU OF  
LIQUOR CONTROL ENFORCEMENT

Citation No. 10-2312

Incident No. W01-414285

v.

LID - 48825

CPBP-II LLC  
981 BALTIMORE PIKE  
GLEN MILLS PA 19342-1016

DELAWARE COUNTY  
LICENSE NO. R-SS-8829

JUDGE SHENKLE  
BLCE COUNSEL: James E. Dailey, Esq.  
LICENSEE COUNSEL: no appearance

ADJUDICATION

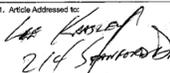
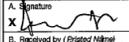
BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on November 2, 2010. The citation alleges that Licensee violated §5.23(c) of the Liquor Control Board Regulations, 40 Pa. Code §5.23(c), during the period December 16, 2009, through September 15, 2010, by failing to notify the Board within fifteen days of a change of manager.

At the hearing scheduled for May 26, 2011, 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 2 through September 23, 2010, and sent it written notice of the results on October 18, 2010 (N.T. 10-11, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on November 2, 2010 (N.T. 11, Ex. B-2).
3. A Notice of Hearing was mailed to Licensee's member on April 8, 2011, and received:

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:              214 S. GLENMILLS PIKE            CHESTER, PENNSYLVANIA            19325</p> <p>2. Article Number:            (Transfer from service) 7011 0110 0000 2522 4116</p> <p>PS Form 3811, February 2004 Domestic Return Receipt 10-2312 102885-02-04-1540</p>	<p>A. Signature   <input type="checkbox"/> Agent  <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)            Lee Kasper</p> <p>C. Delivery Method  <input checked="" type="checkbox"/> Registered Mail <input checked="" type="checkbox"/> Restricted Delivery</p> <p>D. Is delivery address different from item #1? <input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No            If YES, enter delivery address below:</p> <p>3. Sender's Type  <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

4. Board records show that during the period December 1, 2009, through September 15, 2010, Licensee's manager was Jeffrey Kevin Stein. A letter from the Board's Director of Licensing dated August 20, 2004, approved this appointment (Exhibit B-3).

5. On June 2, 2010, a liquor enforcement officer visited the licensed premises and asked to speak to the person in charge. Michael DiTomassi identified himself as that person. Knowing that Jeffrey Stein was the Board-approved manager, the officer asked if he was available. Mr. DiTomassi said that he had no knowledge of Mr. Stein. Mr. DiTomassi stated that he had been the manager since December of 2009 (N.T. 4-6).

6. On June 9, 2010, Licensee's sole member, Lee R. Krasley, sent this message to the Bureau:

To Whom It May Concern,

I would like to inform you of a change of manager for CPBP-II LLC, 981  
Baltimore Pike, Glen Mills, PA 19342, R-8829, LID 48825

Richard Proud has been replaced by Michael DiTomassi as General Manager and  
as manager on file with regard to the PLCB.

Please feel free to contact me at any time if you would have any questions  
regarding this change of manager. My office phone number is (610) 280-0800, my  
email address is [lrk@americabargrill.com](mailto:lrk@americabargrill.com).

(N.T. 8, Ex. B-4).

7. The enforcement officer asked Mr. Krasley for clarification, and in response received the following facsimile message, dated August 18, 2010:

To Whom It May Concern,

I would like to inform you of a change in manager for CPBP-II, LLC, 981 Baltimore Pike, Glen  
Mills, PA 19342, R-8829, LID 48825.

The manager of record with the PLCB is Jeff Stein. Jeff was the initial approved manager who  
worked from our opening date of 6/30/2004 until March of 2005. Jeff relocated to New Jersey  
in 3/2005 and ended his employment at that time.

Rich Proud took over Jeff's responsibilities in 3/2005 and we initiated the change of manager  
process immediately. Two young gentlemen from the PLCB came to visit the restaurant and  
were informed of the change of manager necessity. Rich had already procured his passport  
photos for the change of manager process and an interview had been arranged. The interview  
had to be rescheduled by the PLCB but in fact never did get rescheduled by the PLCB. Rich  
Proud was the acting manager from 3/2005 until 12/2009. Rich was made an offer from a  
national restaurant chain and accepted the offer and ended his employment with CPBP-II at that  
time.

Michael DiTomassi took over as general manager of the restaurant in 12/2009. He is the acting, though unapproved, PLCB manager. We would like to formally request the initiation of the approval process for Michael DiTomassi at this time and as well will initiate the process via the on-line PLCB website for an official change of manager for CPBP-II, LLC.

Please feel free to contact me at anytime if you would have any questions regarding this change of manager.

My contact numbers are: (office) 610 280-0800, (cell) 610 547-5457, my e-mail address is lrk@americabargrill.com.

(N.T. 9-10, Ex. B-5).

8. The beginning date of the violation alleged in this case is December 16, 2010, because the officer was adding the 15 day period within which a licensee is obliged to notify the Board of a change of manager (N.T. 10-11).

#### CONCLUSIONS OF LAW:

Sustained as charged.

#### DISCUSSION:

Mr. Krasley's correspondence to the Bureau shows a considerable degree of nonchalance concerning Licensee's duties under the law. One gets the feeling that the recipient of these missives is regarded casually and expected to excuse whatever oversights may have occurred. This feeling is confirmed by Licensee's failure to participate in these proceedings, despite having notice.

The reality is that the Board's right to approve a licensee's selection of a manager is an important enforcement function. Despite Licensee's member's statement in the message of August 18, 2010, that he would initiate the process "for an official change of manager" through the Board's web site, there has been no application as of this writing.

Board records show that this license became inactive as of December 1, 2010. Since Licensee will have to undergo a renewal investigation (including approval of a manager) before the license can again become active, I will not impose any conditions to the order which follows.

#### PRIOR RECORD:

Licensee has been licensed since February 28, 2002, and has had no prior violations.

#### 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.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, CPBP-II, LLC, License No. R-SS-8829, 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 18<sup>TH</sup> day of JULY, 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.**

**WHETHER OR NOT RECONSIDERATION HAS BEEN REQUESTED, AGGRIEVED PERSONS MAY APPEAL TO THE PLCB, NORTHWEST OFFICE BUILDING, HARRISBURG, PA 17124 WITHIN 30 DAYS AFTER THE MAILING DATE OF THIS ORDER.**

**THE PLCB CHIEF COUNSEL'S TELEPHONE NUMBER IS 717-783-9454.**

Detach Here and Return Stub with Payment

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**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