

Mailing Date: JUNE 3 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-2432
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W04-420358
v.	:	
	:	LID - 11075
ESTATE OF ALAN W PARROTT	:	
DEBRA L PARROTT EXECUTRIX	:	
T/A PARROTT'S PUB	:	
1620-22 SPRING GARDEN AVENUE	:	
PITTSBURGH PA 15212	:	
	:	
ALLEGHENY COUNTY	:	
LICENSE NO. R-AP-SS-3654	:	

BEFORE: JUDGE RODERICK FRISK

APPEARANCES:

BLCE COUNSEL: Michael Nickles, Esquire
LICENSEE COUNSEL: Pro Se

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on November 15, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against Estate of Alan W. Parrott, Debra L. Parrott, Executrix, t/a Parrott's Pub, License Number R-AP-SS-3654 (hereinafter Licensee).

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 October 21, 2010, Licensee, by its servants, agents or employees, operated its licensed establishment without a valid health permit or license, which expired on July 31, 2010.

In an Order dated January 19, 2011, Chief Administrative Law Judge Eileen Maunus granted the Bureau's motion to amend this citation to reflect the date of June 30, 2009 as the expiration date of Licensee's health permit.

An administrative hearing was conducted on April 26, 2011, at Two Parkway Center, 875 Greentree Road, Pittsburgh, Pennsylvania. The Bureau was represented by Michael Nickles, Esquire. Debra L. Parrott, Executrix appeared on behalf of Licensee.

After hearing the testimony presented, and upon review of the evidence submitted, the following Findings of Fact and Conclusions of Law are entered:

FINDINGS OF FACT:

1. The Bureau commenced its investigation of Licensee's premises on October 4, 2010, and completed its investigation on October 25, 2010. (Exhibit C-1)
2. The Bureau notified Licensee of the nature of the alleged violation(s) disclosed by its investigation by letter dated October 29, 2010, which was sent by certified mail and received by Licensee on October 30, 2010. (Exhibit C-2)
3. The citation was issued on November 15, 2010, and was sent by certified mail and returned unclaimed and by first class mail on December 27, 2010, which was not returned. (Exhibits C-3, C-4)
4. On October 21, 2010, a Liquor Enforcement officer entered Licensee's premises in an undercover capacity and observed a female bartender rendering service of alcoholic beverages to approximately 10 to 15 patrons. (N.T. 9-10, 12)
5. Prior to entering the premises, the Enforcement officer contacted the Allegheny County Department of Health and verified that Licensee's health permit expired June 30, 2009, and was not renewed as of October 21, 2010. (Exhibit C-5, N.T. 10-11)
6. The Enforcement officer identified himself to the female bartender who contacted Licensee's Executrix Debra L. Parrott who arrived at the premises moments later. Ms. Parrott advised the Enforcement officer that her failure to renew the health permit was an oversight. (N.T. 10, 12)
7. On October 22, 2010, Licensee paid the appropriate renewal fees to the Allegheny County Department of Health and was issued a current health permit which expires June 30, 2011. (N.T. 13-14, 16-17)

CONCLUSIONS OF LAW:

1. The notice provisions as prescribed by Section 471 of the Liquor Code [47 P.S. §4-471] have been satisfied.

2. On October 21, 2010, Licensee, by its servants, agents or employees, operated its licensed establishment without a valid health permit or license, which expired on June 30, 2009, 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].

DISCUSSION:

Upon thorough review of the testimony and evidence presented, this court concludes that the Bureau has established the violation as charged by a clear preponderance of the evidence. *Pennsylvania Liquor Control Board v. Leggens*, 542 A.2d 653 (Pa. Cmwlth. 1988); *Omicron Enterprises*, 449 A.2d 857 (Pa. Cmwlth. 1982); *Com. v. Moreno*, 14 A.3d 133 (Pa.Super. 2011).

PRIOR RECORD:

Licensee has been licensed since January 11, 1983, 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 of not less than \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

In mitigation, the record discloses that this citation represents Licensee's first violation.

For the foregoing reasons, a penalty shall be imposed in the amount of \$200.00.

ORDER:

THEREFORE, it is hereby ordered that Estate of Alan W. Parrott, Debra L. Parrott, Executrix, t/a Parrott's Pub, License Number R-AP-SS-3654, pay a fine of \$200.00 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.

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Jurisdiction is retained to ensure compliance with this Order.

Dated this 13TH day of MAY, 2011.



Roderick Frisk, J.

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NOTE: MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN 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

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