

Mailing Date: SEP 20 2011

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

PENNSYLVANIA STATE :  
POLICE, BUREAU OF : Citation No. 11-0461  
LIQUOR CONTROL ENFORCEMENT :  
 : Incident No. W01-426280  
 :  
 v. :  
 : LID - 56713  
 :  
 7681 SMOKEEATERS INC :  
 7681 FRANKFORD AVE :  
 PHILADELPHIA PA 19136-3634 :  
 :  
 PHILADELPHIA COUNTY :  
 LICENSE NO. R-AP-SS-9122 :

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 March 22, 2011. The citation alleges that Licensee violated §§491(1), 492(2) and 493(16) of the Liquor Code, 47 P.S. §§4-491(1), 4-492(2) and 4-493(16), on February 23, 2011, by selling alcoholic beverages after its Restaurant Liquor License expired on October 31, 2010, and had not been renewed and/or validated.

At the hearing scheduled for August 1, 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 February 10 through February 24, 2011, and sent it written notice of the results on March 8, 2011 (N.T. 7-9, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on March 22, 2011 (N.T. 7-9, Ex. B-2).
3. A Notice of Hearing was mailed to Licensee on June 16, 2011.

4. Liquor enforcement officers visited the licensed premises at 3:40 p.m. on February 23, 2011, and found it open and operating, with two patrons drinking beer which had been served to them by Licensee's bartender (N.T. 5-7).

5. This license expired on October 31, 2010, and Licensee did not have authority to dispense alcoholic beverages on February 23, 2011 (Exhibit B-3).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since September 29, 2006, and has had four prior violations:

Citation No. 07-1696X. \$500.00 fine. License suspended 1 day for late payment.

1. Bad checks for malt or brewed beverages. April 13 and 26, 2007.

Citation No. 07-2071. \$150.00 fine. License suspended 1 day for late payment.

1. Loudspeakers could be heard outside. July 28, 2007.

Citation No. 08-2382. \$300.00 fine.

1. Sold, furnished or gave liquor for consumption off premises. July 17, 2008.

Citation No. 10-0609. \$600.00 fine. License suspended 1 day for late payment.

1. Loudspeakers could be heard outside. February 12, 13 and 28, 2010.

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 \$1,000.00 to \$5,000.00 range, or both, for violations of this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, 7681 Smokeeaters, Inc., License No. R-AP-SS-9122, shall pay a fine of one thousand dollars (\$1,000.00) 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 14<sup>TH</sup> day of September, 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

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7681 Smokeeaters, Inc.