

Mailing Date: SEP 15 2011

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

PENNSYLVANIA STATE :
POLICE, BUREAU OF : Citation No. 11-0569
LIQUOR CONTROL ENFORCEMENT :
 : Incident No. W01-426992
 :
 v. :
 : LID - 55651
 :
ALANIS 5 INC :
401-403-405 W NORRIS ST :
PHILADELPHIA PA 19122-2238 :
 :
PHILADELPHIA COUNTY :
LICENSE NO. R-AP-SS-1636 :

JUDGE SHENKLE
BLCE COUNSEL: Erik Shmukler, Esq.
LICENSEE: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on April 12, 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 March 3, 2011, by selling alcoholic beverages after its Restaurant Liquor License expired on October 30, 2010, [sic] and had not been renewed and/or validated.

At the hearing scheduled for Thursday, July 21, 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 24 through March 3, 2011, and sent it written notice of the results on March 15, 2011 (N.T. 7-8, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on April 12, 2011 (N.T. 9-10), Ex. B-2).
3. A Notice of Hearing was mailed to Licensee on June 6, 2011.
4. On March 3, 2011, liquor enforcement officers visited the licensed premises and saw a bartender serving alcoholic beverages to five patrons. They purchased alcoholic beverages themselves (N.T. 6-7, 13-15).

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

CONCLUSIONS OF LAW:

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 March 3, 2011, by selling alcoholic beverages after its Restaurant Liquor License expired on October 31, 2010, and had not been renewed and/or validated.

PRIOR RECORD:

Licensee has been licensed since February 17, 2006, and has had prior violations as follows:

Citation No. 07-0048. \$250.00 fine.

1. Loudspeakers could be heard outside. November 19 and December 16, 2006.

Citation No. 07-3001. \$300.00 fine.

1. Loudspeakers could be heard outside. November 9, 2007.

Citation No. 08-0510. \$1,300.00 fine.

1. Sales on Sunday between 2:00 a.m. and 11:00 a.m. February 3, 2008.
2. Failed to require patrons to vacate the premises by the required time. February 3, 2008.
3. Permitted patrons to possess alcoholic beverages after 2:30 a.m. February 3, 2008.

Citation No. 08-1817. \$2,250.00 fine.

1. Permitted patrons to possess alcoholic beverages after 2:30 a.m. May 11, 2008.
2. Failed to require patrons to vacate the premises by the required time. May 11, 2008.
3. Sales on Sunday between 2:00 a.m. and 11:00 a.m. May 11, 2008.
4. Permitted patrons to enter the premises between 2:30 a.m. and 7:00 a.m. without an extended hours food permit. May 11, 2008.

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.

Since this is Licensee's third violation of a provision of the Crimes Code or a provision mentioned in 47 P.S. §4-471(b) in a four-year period, the law requires that the penalty include license suspension or revocation.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Alanis 5, Inc., License No. R-AP-SS-1636, 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.

IT IS FURTHER ORDERED that the Restaurant Liquor License of Alanis 5, Inc., License No. R-AP-SS-1636, be suspended for a period of one (1) day. However, the suspension period will be deferred pending renewal of Licensee's license.

The Bureau of Licensing is directed to notify the Office of Administrative Law Judge of the reactivation of the license so that an order may be entered fixing the dates for suspension.

Dated this 31ST day of AUGUST, 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

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