

Mailing Date: NOV 04 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 11-0742
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-421589
v.	:	
	:	LID - 61417
BROCKS WINGS II INC	:	
10090 ROOSEVELT BLVD	:	
PHILADELPHIA PA 19116-3901	:	Safekeeping Address:
	:	Raheem Brock
PHILADELPHIA COUNTY	:	1017 Serpentine Lane
LICENSE NO. E-953	:	Wyncote, PA 19095

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

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on May 10, 2011. There are three counts in the citation.

The first count alleges that Licensee violated §437 of the Liquor Code, 47 P.S. §4-437, and §5.41 of the Liquor Control Board Regulations, 40 Pa. Code §5.41, on October 27, 2010, by operating the licensed premises without a valid health permit, which expired on April 30, 2010.

The second count alleges that Licensee violated §5.23(a) of the Liquor Control Board Regulations, 40 Pa. Code §5.23(a), prior to November 2, 2010, by failing to appoint a Board-approved full-time manager for the licensed premises.

The third count alleges that Licensee violated §5.23(c) of the Liquor Control Board Regulations, 40 Pa. Code §5.23(c), prior to November 2, 2010, by failing to notify the Board within fifteen days of a change of manager.

At the hearing scheduled for September 22, 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 October 27, 2010 through March 16, 2011, and sent it written notice of the results on April 15, 2011 (N.T. 12, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on May 10, 2011 (N.T. 13, Exhibit B-2).

3. A Notice of Hearing was mailed to Licensee on August 8, 2011.
4. On October 27, 2010, a liquor enforcement officer visited the licensed premises and saw that the health permit posted had expired in April, 2010 (N.T. 5).
5. The officer made contact with a woman who stated that she was the business manager of the premises, and that the Board-approved manager had ended his employment earlier in 2010. The officer was unable to communicate with Licensee's management after this (N.T. 7-9).
6. This license was received by the Board for safekeeping on February 23, 2011, because of lack of business. Board records list only two persons responsible for this corporation: the manager who ended his employment, and Raheem F. Brock. Mr. Brock is currently playing defensive end for the Seattle Seahawks.

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since April 29, 2009, 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. Penalties are assessed as follows:

- Count 1 – a fine of \$300.00.
- Count 2 – a fine of \$200.00.
- Count 3 – a fine of \$200.00.

DISCUSSION:

Since this opinion is being written during the height of football season, I will assume that Mr. Brock has more pressing things on his mind than this business venture.

I would like to point out, however, that someone needs to attend to the affairs of this corporation, if only to transfer the license to someone else with the time and capability of running a business.

This license can remain with the Board in safekeeping until February 22, 2014, but it must still be renewed in the usual way. On February 23, 2014, unless certain exceptions apply, the license will cease to exist.

If the fine imposed in this adjudication is not paid within the time allowed, the license will be burdened with mandatory suspensions, and eventually, it may be revoked for this reason.

Mr. Brock should have attorneys on retainer to take care of matters such as this, so that he can concentrate on sacking quarterbacks instead.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Brocks Wings II, Inc., License No. E-953, shall pay a fine of seven hundred dollars (\$700.00) 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 19TH day of OCTOBER, 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