

Mailing Date: APR 02 2012

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 11-1045
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-421794
	:	
VETERANS OF FOREIGN WARS	:	
SGT. EMMOR WILLIAMS POST 2404	:	LID - 1315
109-113 N. 7 <sup>TH</sup> AVE.	:	
COATESVILLE PA 19320-3303	:	
	:	
	:	
CHESTER COUNTY	:	
LICENSE NO. C-2563	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

**JAMES E. DAILEY, ESQ.**

FOR THE LICENSEE:

**KENNETH BOND  
PRO SE**

**BEFORE: JUDGE WRIGHT**

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on June 14, 2011, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Veterans of Foreign Wars, Sgt. Emmor Williams Post 2404, License Number C-2563 (hereinafter "Licensee").

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Sgt. Emmor Williams Post 2404  
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An Administrative hearing was held on Wednesday, September 28, 2011, pursuant to requisite and appropriate hearing notice. The parties stipulated to the service and receipt of the notice letter and the citation.

The citation charges Licensee with violation of Section 406(a)(1) of the Liquor Code, 47 P.S. §4-406(a)(1), in that on March 26, 2011, Licensee, by its servants, agents or employes, sold alcoholic beverages to nonmembers.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on November 2, 2010 and ended May 25, 2011. There were no violations found on the initial investigation of November 14, 2010. There were two visits made to the premises with approximately six investigative dates. An officer from the Bureau of Enforcement contacted the Coatesville Police Department in relationship to police reports regarding fights at the premises. The actual visits were made by investigative officers from the Bureau on December 10, 2010 and February 18, 2011, which did not result in citations (N.T. 12 and Exhibits B-1 and B-2).

2. In March of 2011, a citation was brought based upon the officer's investigation and observations with regard to sales to nonmembers (N.T. 13).

3. Between March and May, an officer from the Bureau was attempting to finish a routine inspection, which began on March 26, 2011. An officer from the Bureau and Mr. Bond, the commander of the Post, had several conversations in an attempt to set up an appointment. The appointment finally occurred on May 13, 2011 (N.T. 5 and 13-14).

4. The inspection of the premises did not result in a citation. The only violation brought was sales to nonmembers on March 26, 2011 (N.T. 14-16).

5. An officer from the Bureau of Enforcement assisted in the investigation of the licensed premises by visiting the premises on March 26, 2011. The officer arrived at the premises at 1:05 a.m. (N.T. 24).

6. The officer approached the front door. She was stopped by a doorman who checked her identification and checked her handbag for weapons. She was asked to pay a three dollar cover charge on March 26, 2011 (N.T. 25).

7. The officer was not questioned with regard to membership (N.T. 26).

8. After the officer entered, she proceeded to the bar. She noted that there were approximately sixty patrons on the premises. There were two female bartenders on duty. The officer walked into the bar and approached one of the female bartenders. The officer asked for a vodka and cranberry mixed alcoholic beverage. The female bartender went behind the bar to prepare the beverage and placed the drink on the counter in front of the officer. She requested \$3.50. The officer gave her a ten dollar bill and was given \$6.50 in change (N.T. 27-28).

9. The officer was never challenged with regard to membership (N.T. 28).

10. The routine inspection detail entered at approximately 1:50 a.m. The officer remained on the premises for approximately 45 minutes (N.T. 28-29 and 38).

11. The officer left the premises after the raid detail entered. When the raid detail began asking the patrons to leave, she walked with the other patrons and remained undercover (N.T. 28-29).

12. The officer was aware that there was a pre-arranged detail of officers who would be entering the premises. Along with the Bureau officers, there were officers from the Probation and Parole Department, the Coatesville Police Department and the District Commander involved (N.T. 29).

13. Jackie Matthews was on the Post on March 26, 2011, when the raid occurred. She saw officers from the Bureau of Liquor Control Enforcement and officers from Parole coming into the premises, but did not see the Coatesville Police officers. The officers asked the disc jockey to stop playing. They advised the patrons to be seated (N.T. 50).

14. Jackie Matthews does not remember serving a nonmember. She indicated that she knows most of the people who frequent the premises (N.T. 50).

15. Mr. Bond indicated that he has reoccurring issues with the Coatesville Police Department. Mr. Bond indicated that he has done everything he knew to do to reach out to the police, but they refuse to meet with him (N.T. 57-59).

#### CONCLUSIONS OF LAW:

On March 26, 2011, Licensee, by its servants, agents or employes, sold alcoholic beverages to nonmembers, in violation of Section 406(a)(1) of the Liquor Code, 47 P.S. §4-406(a)(1).

#### PRIOR RECORD:

Licensee has been licensed since May 7, 1935, and since July 1, 1987, the date of establishment of the Office of Administrative Law Judge, has had a record of prior violations as follows:

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Citation No. 98-0328. \$50.00 fine.

1. Sales to nonmembers.

Citation No. 00-0952. \$350.00 fine. Fine not paid and license suspended for one day and continuing thereafter until fine paid.

1. Sales after the license expired and had not been renewed and/or validated.

Citation No. 07-2112. \$300.00 fine.

1. Sales to nonmembers.  
August 9, 2007.

Citation No. 08-1949. \$400.00 fine.

1. Sales to nonmembers.  
June 21 and July 18, 2008.

Citation No. 10-0483. \$700.00 fine.

1. Sales to nonmembers.  
December 9, 2009, January 2 and February 12, 2010.

Citation No. 10-0815. Three days suspension.

1. Sales to nonmembers.  
March 14, 2010.

Citation No. 10-1241. \$500.00 fine and three days suspension.

1. Sales to nonmembers.  
May 22, 2010.

Citation No. 10-2464. \$500.00 fine and four days suspension.

1. Sales to nonmembers.  
September 26, 2010.

#### DISCUSSION:

Mr. Bond expressed a number of concerns, including how often his records have been checked and with regard to his relationship with the Coatesville Police Department. Here, the Licensee was charged with only one violation and that was service to nonmembers. On March 26, 2011, an officer from the Bureau of Enforcement entered the premises, paid a cover charge, was searched for weapons and was permitted to purchase liquor on the premises. She was never challenged as to membership. No other charges were brought, although there was a very lengthy investigation.

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It is noted that the Licensee has a record of violations from 1998 to 2010. Most, if not all, however deal with sales to nonmembers. It appears to be an issue which the Licensee has failed to address. It would behoove Licensee to direct some of his energy towards setting a membership policy which includes identification, investigation, voting on members and the payment of dues for the membership.

Based on its prior record, the Licensee will be given a five day suspension.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of 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.

Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that the Club Liquor License of Veterans of Foreign Wars, Sgt. Emmor Williams Post 2404, License Number C-2563, be suspended for a period of five (5) days **BEGINNING** at 7:00 a.m. on Monday, July 9, 2012 and **ENDING** at 7:00 a.m. on Saturday, July 14, 2012.

Licensee is directed on Monday, July 9, 2012 at 7:00 a.m. to place the enclosed placard of notice of suspension (identified as Form No. PLCB-1925 and as printed with red and black ink) in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises and to remove said license from the wall and place it in a secure location.

Licensee is advised if a replacement placard is needed for any reason they are available at all State Liquor Stores/Wine and Spirit Shoppes.

The "Bureau of Enforcement" is directed to visit and monitor the aforementioned licensed premises for compliance with this Order.

The Licensee is authorized on Saturday, July 14, 2012 at 7:00 a.m. to remove the placard of suspension and return the license to its original wall location.

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**Jurisdiction of this matter is retained.**

Dated this 27<sup>TH</sup> day of MARCH, 2012.

A handwritten signature in cursive script that reads "Tania E. Wright". The signature is written in black ink and is positioned above a horizontal line.

Tania E. Wright, J.

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

**If you wish to appeal the decision on the Administrative Law Judge's Order, the appeal must be filed within 30 days of the mailing date of the Order. Please contact Chief Counsel's Office at 717-783-9454.**

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