

Mailing Date: MAY 22 2012

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 11-1285
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-432211
	:	
SALSEAME INC.	:	
2126 E. LEHIGH AVE.	:	LID - 59077
PHILADELPHIA PA 19125-1432	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-15499	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

ERIK S. SHMUKLER, ESQ.

FOR THE LICENSEE:

EX PARTE

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on July 19, 2011, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Salseame, Inc., License Number R-AP-SS-15499 (hereinafter "Licensee").

An Administrative hearing was held on Tuesday, October 25, 2011, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

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 June 15, 2011, Licensee, by its servants, agents or employes, operated the licensed establishment without a valid health permit or license, which expired on April 30, 2009.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on June 15, 2011 and ended on June 24, 2011. A notice of violation letter dated July 6, 2011 was sent to the licensed premises by certified mail, return receipt requested. The mailing was returned the same day undeliverable. A citation dated July 19, 2011 was sent to the licensed premises by certified mail, return receipt requested. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on September 8, 2011 by certified mail, return receipt requested, and by first class mail. That certified mailing was signed as received at the licensed premises (N.T. 8-10 and Exhibits B-1 and B-2).

2. An officer from the Bureau of Enforcement conducted an investigation of the licensed premises. The officer went to the premises on June 15, 2011 in order to conduct a routine inspection. The officer noted that they had no valid Food Preparing License displayed on the premises (N.T. 5-6).

3. The officer spoke to a bartender who was not able to locate the permit and was not able to immediately reach the owner (N.T. 6).

4. The officer subsequently had an opportunity to speak to the Licensee who indicated that he wasn't aware that he did not have a valid Food Preparing License and stated that he would contact Licenses and Inspections (N.T. 7).

5. Certified records from the city of Philadelphia Department of Licenses and Inspections indicate that as of June 15, 2011, the premises never applied for a Preparing and Serving Food License (Exhibit B-3).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

On June 15, 2011, Licensee, by its servants, agents or employes, operated the licensed establishment without a valid health permit or license, which expired on April 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.

Salseame, Inc.
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PRIOR RECORD:

Licensee has been licensed since December 2, 2008, and has no record of prior violations.

DISCUSSION:

Under the circumstances, a \$250.00 penalty shall be imposed. Licensee will also be required to submit a copy of a current and valid health license.

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

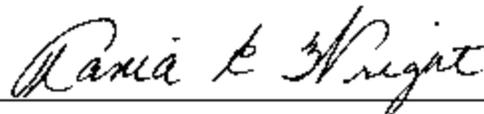
ORDER:

THEREFORE, it is hereby Ordered that Licensee, Salseame, Inc., License Number R-AP-SS-15499, pay a fine of Two Hundred Fifty Dollars (\$250.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

IT IS ALSO ORDERED that Licensee, Salseame, Inc., License Number R-AP-SS-15499, submit a copy of a current and valid health permit within twenty (20) days from the mailing date of this Adjudication. If said documentation is not submitted within twenty (20) days from the mailing date of this Adjudication, Licensee's license shall be suspended for one (1) day and **continuing thereafter** until such documentation is received.

Jurisdiction of this matter is retained.

Dated this 16TH day of MAY, 2012.



Tania E. Wright, J.

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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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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, along with any required documentation, to:

PLCB - Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg, PA 17110-9661

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