

Mailing Date: FEB 01 2012

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 11-1418
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-430161
v.	:	
	:	LID - 54374
4326 MAIN STREET HOLDCO LLC	:	
4326 MAIN ST	:	
PHILADELPHIA PA 19127-1421	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-1299	:	

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 August 23, 2011. The citation alleges that Licensee violated §§406(a)(3) and 493(16) of the Liquor Code, 47 P.S. §§4-406(a)(3) and 4-493(16), on June 5, 2011, by selling, furnishing and/or giving alcoholic beverages on Sunday between 2:00 a.m. and 11:00 a.m.

At the hearing scheduled for December 15, 2011, 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 May 3 through July 12, 2011, and sent it written notice of the results on July 27, 2011 (N.T. 10-11, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on August 23, 2011 (N.T. 10-11, Ex. B-2).
3. A Notice of Hearing was mailed to Licensee on November 1, 2011.
4. On Sunday, June 5, 2011, liquor enforcement officers visited the licensed premises in the Manayunk section of Philadelphia at 10:10 a.m., during the annual bike race. There were about 20 patrons in possession of alcoholic beverages. The officers purchased beer (N.T. 5-10).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since May 18, 2005, and has had prior violations as follows:

Citation No. 06-1909, 06-2014 & 06-2025 (consolidated). \$2,800.00 fine and mandatory R.A.M.P. – certification within 90 days, maintained for one year.

1. Loudspeakers could be heard outside. June 9, July 2, 22 and 23, 2006.
2. Sold malt or brewed beverages for consumption off premises. June 11, 2006.
3. Sunday sales after 2:00 a.m. June 11, 2006.
4. Sales to a minor. July 27, 2006.

Citation No. 06-2532. \$1,000.00 fine.

1. Sunday sales after 2:00 a.m. September 17, 2006.

Citation No. 06-2908. \$200.00 fine.

1. Loudspeakers could be heard outside. November 11, 2006.

Citation No. 07-1871. \$1,200.00 fine and 2 days suspension.

1. Loudspeakers could be heard outside. April 19 and May 12, 2007.
2. Gambling (tickets). May 12, 2007.
3. Sales to a visibly intoxicated person. June 10, 2007.
4. Failed to clean coils at least once every 7 days. April 25 through June 6, 2007.

Citation No. 08-2237. \$500.00 fine.

1. Loudspeakers could be heard outside. May 9, 2008.

Citation No. 09-1233. \$900.00 fine.

1. Loudspeakers could be heard outside. March 26 and 28, 2010.
2. Held a contest, event or tournament on the licensed premises which involved the consumption of alcoholic beverages. March 26, 28 and April 3, 2010.

Citation No. 10-1885. \$600.00 fine and verification of compliance. License suspended one day for late payment and failure to verify compliance.

1. Operated without a valid health permit. June 4, 8, July 16, 28 and August 1, 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, 4326 Main Street Holdco, LLC, License No. R-AP-SS-1299, 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 26TH day of JANUARY, 2012.


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

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4326 Main Street Holdco, LLC