

Mailing Date: SEP 18 2012

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 11-2038
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-437622
	:	
BOO'S DOUBLE DOWN LOUNGE INC.	:	
3000 N. 26 TH ST.	:	PLCB LID - 48243
PHILADELPHIA PA 19132-1203	:	
	:	
	:	PLCB License No. R-AP-SS-4458
	:	
PHILADELPHIA COUNTY	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

ANDREW R. BRITT, ESQ.

FOR THE LICENSEE:

EX PARTE

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on November 29, 2011, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Boo's Double Down Lounge, Inc., License Number R-AP-SS-4458 (hereinafter "Licensee").

An Administrative hearing was held on Thursday, April 26, 2012, 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 October 11, 2011, Licensee, by its servants, agents or employes, operated the licensed establishment without a valid health permit or license, which expired on April 30, 2006.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on October 11, 2011 and ended on October 18, 2011. A notice of violation letter dated November 9, 2011 was sent to the licensed premises by certified mail, return receipt requested. The notice was signed as received on November 10, 2011. A citation dated November 29, 2011 was sent to the licensed premises by certified mail, return receipt requested. The certified mailing was signed as received at the licensed premises on December 2, 2011. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on March 8, 2012 by certified mail, return receipt requested, and by first class mail. That certified mailing was signed as received (N.T. 8-9 and Exhibits B-1 and B-2).

2. According to certified records from the city of Philadelphia, Licensee had no valid Preparing Serving and Food License on October 11, 2011. The records of the city indicate that the last health permit at that location expired on April 1, 2006 (N.T. 7-8 and Exhibit B-3).

3. An officer from the Bureau of Enforcement conducted an investigation of the licensed premises. On Tuesday, October 11, 2011, the officer arrived at the licensed premises at approximately 4:15 p.m. The officer entered and observed several patrons in possession of and consuming alcoholic beverages. The officer approached the bar and identified herself to the bartender named Vanity Lopez and informed her that she was going to conduct a routine inspection of the premises (N.T. 5-6).

4. As a result of the routine inspection, the officer was unable to find a current health license on the premises. The bartender contacted the corporate officer who indicated that he was not sure if the premises possessed a current health permit. No liquor or beer receipts were on the premises. Therefore, the officer made an appointment to meet with a representative of the licensed premises to view these records at a later date (N.T. 6-7).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

Boo's Double Down Lounge, Inc.
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On October 11, 2011, Licensee, by its servants, agents or employes, operated the licensed establishment without a valid health permit or license, 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.

PRIOR RECORD:

Licensee has been licensed since August 28, 2011, and has no record of prior violations.

DISCUSSION:

On October 11, 2011, the Licensee operated the licensed establishment without a valid health permit. According to the records, the premises was licensed by the current owner to sell alcoholic beverages on August 28, 2011. The Bureau provided nothing of record which would indicate ownership prior to that date. Under the circumstances, a moderate monetary penalty shall be imposed, and Licensee will be required to submit a copy of a current and valid health permit.

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:

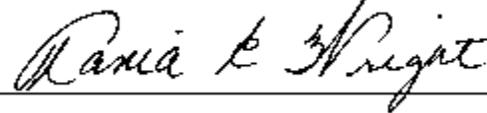
THEREFORE, it is hereby Ordered that Licensee, Boo's Double Down Lounge, Inc., License Number R-AP-SS-4458, pay a fine of Three Hundred Dollars (\$300.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

IT IS ALSO ORDERED that Licensee, Boo's Double Down Lounge, Inc., License Number R-AP-SS-4458, 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.

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Jurisdiction of this matter is retained.

Dated this 12TH day of September, 2012.



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 of the Administrative Law Judge's Order, the appeal must be filed within 30 days of the mailing date of the Order. Please contact the Office of the Chief Counsel of the Pennsylvania Liquor Control Board 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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