

Mailing Date: MAY 31 2012

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

PENNSYLVANIA STATE :  
POLICE, BUREAU OF : Citation No. 11-2080  
LIQUOR CONTROL ENFORCEMENT :  
 : Incident No. W01-438888  
 :  
 v. :  
 : LID - 64488  
 :  
 BRISTOL EDWIN INC :  
 423 W BRISTOL ST :  
 PHILADELPHIA PA 19140-2621 :  
 :  
 PHILADELPHIA COUNTY :  
 LICENSE NO. R-SS-AP-4799 :

JUDGE SHENKLE  
BLCE COUNSEL: Erik S. Shmukler, Esq.  
LICENSEE COUNSEL: John J. McCreesh, III, Esq.

**ADJUDICATION**

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on December 6, 2011. There are two 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 November 7, 2011, by operating the licensed premises without a valid health permit, which expired on April 30, 2011.

The second count alleges that Licensee violated §493(12) of the Liquor Code, 47 P.S. §4-493(12), on November 7, 2011, by failing to keep records on the licensed premises.

A hearing was held on Thursday, March 22, 2012, in Plymouth Meeting, Pennsylvania. The parties stipulated to the timely service of the notice letter and citation.

FINDINGS OF FACT:

1. A liquor enforcement officer visited the licensed premises on November 7, 2011, and saw a bartender serving three or four patrons. He identified himself and conducted an inspection, in which he found that the health permit on display had expired on April 30, 2011, and that there were no beer or liquor invoices maintained in the premises (N.T. 6).

2. Records of the Department of Licenses and Inspections of the City of Philadelphia show that there was no valid preparing/serving food license issued to Licensee on November 7, 2011, and that this establishment has never applied for one (Exhibit B-3).

CONCLUSIONS OF LAW:

Sustained as charged.

DISCUSSION:

This case and No. 11-1965 were heard on the same day, and Licensee's counsel moved to consolidate the two citations as one.

The motion is denied. The Bureau's notice of violation in No. 11-1965 was mailed to Licensee on October 11, 2011, and it effectively gave Licensee actual notice of a continuing problem, to which it should have responded immediately, and at any rate prior to the date of violation in this case.

PRIOR RECORD:

Licensee has been licensed since February 11, 2011, 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.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Bristol Edwin, Inc., License No. R-AP-SS-4799, shall pay a fine of four hundred dollars (\$400.00) 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.

IT IS FURTHER ORDERED that Licensee shall, within 20 days of the mailing date of this order, submit a copy of a valid and current health permit to the address given at the end of this adjudication. If Licensee fails to comply, the penalty will be modified to include an indefinite suspension of license, which will continue until a health permit has been supplied.

Dated this 21<sup>ST</sup> day of MAY, 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

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**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