

Mailing Date: JAN 23 2013

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 12-0224
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-441251
	:	
GORDON PITTMAN JR,	:	
ANDREW T. PITTMAN	:	PLCB LID - 11792
T/A 501 BAR	:	
501 E. 7 TH ST.	:	
CHESTER PA 19013-6138	:	PLCB License No. R-AP-5290
	:	
	:	
DELAWARE COUNTY	:	

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 February 21, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Gordon Pittman, Jr., Andrew T. Pittman, t/a 501 Bar, License Number R-AP-5290 (hereinafter "Licensee").

An Administrative hearing was held on Thursday, September 27, 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 Sections 491(1), 492(2) and 493(16) of the Liquor Code, 47 P.S. §§4-491(1), 4-492(2) and 4-493(16), in that on January 11, 2012, Licensee, by its servants, agents or employes, sold alcoholic beverages after the Restaurant Liquor License expired on November 30, 2011 and had not been renewed and/or validated.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on January 5, 2012 and ended on January 11, 2012. A notice of violation letter dated January 27, 2012 was sent to the licensed premises by certified mail, return receipt requested. That mailing was signed as received at the licensed premises. By letter dated February 3, 2012, the Bureau of Enforcement sent an amended notice of violation letter by certified mail, return receipt requested. That mailing was also signed as received at the licensed premises. The Bureau issued a citation dated February 21, 2012 to the licensed premises and it was sent by certified mail, return receipt requested. That mailing was signed as received at the licensed premises. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises notifying them of the hearing scheduled September 27, 2012 at 11:30 a.m. That mailing was sent by certified mail, return receipt requested and was signed as received at the licensed premises (N.T. 9-11 and Exhibits B-1 and B-2).

2. An officer from the Bureau of Enforcement contacted the Board to verify whether or not the premises had authority to operate on January 10, 2012. On January 11, 2012, the officer visited the licensed premises, along with another officer from the Bureau. The officers arrived at approximately 3:00 p.m. (N.T. 6-7).

3. The accompanying officer ordered an alcoholic beverage in the nature of a Heineken beer for which the officer paid \$3.75. The other investigating officer remained outside the premises and then entered at approximately 3:10 p.m. (N.T. 6-7).

4. The officer walked in and talked to the bartender with regard to ceasing the sale of alcoholic beverages. The officer spoke with the bartender as well as Michael Grant, who was on the premises. The officer also spoke to Gordon Pittman on the telephone. He notified him that his license had expired on November 30, 2011 and that he had no authority to operate (N.T. 7-8).

5. The officers left the premises at approximately 3:30 p.m. During the course of the investigation, the officers requested certification from the Pennsylvania Liquor Control Board with regard to the status of the license. Certified records from the Pennsylvania Liquor Control Board dated January 31, 2012 indicate that the Licensee did not have temporary authority or a valid license to operate on January 11, 2012 (N.T. 11-12 and Exhibit B-3).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

On January 11, 2012, Licensee, by its servants, agents or employes, sold alcoholic beverages after the Restaurant Liquor License expired on November 30, 2011 and had not been renewed and/or validated, in violation of Sections 491(1), 492(2) and 493(16) of the Liquor Code, 47 P.S. §§§4-491(1), 4-492(2) and 4-493(16).

PRIOR RECORD:

Licensee has been licensed since December 25, 1975, and since July 1, 1987, the date of establishment of the Office of Administrative Law Judge, has a record of prior violations as follows:

In Re:

Citation No. 91-0003. \$500.00 fine.

1. Obtained liquor from sources other than a Pennsylvania State Store.
2. Unlawfully possessed liquor obtained from a source other than a Pennsylvania State Store.

Citation No. 95-2090. \$1,000.00 fine.

1. Sunday sales after 2:00 a.m.

Citation No. 07-1482. \$200.00 fine.

1. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of two years.
May 22, 2007.

Citation No. 10-0954. \$200.00 fine.

1. Smoked and/or permitted smoking in a public place where smoking was prohibited.
March 12, 2010.
2. Failed to post signage as required by the Clean Indoor Air Act.
March 12, 2010.

Citation No. 11-0915X. \$100.00 fine.

1. Issued worthless checks in payment for malt or brewed beverages.
April 18, 2011.

Gordon Pittman, Jr., Andrew T. Pittman
t/a 501 Bar
In Re: Citation No. 12-0224

Citation No. 11-1237. \$400.00 fine.

1. Permitted smoking in a public place where smoking was prohibited.
June 15, 2011.
2. Failed to post signage required by the Clean Indoor Air Act.
June 15, 2011.

Citation No. 11-1894X. \$200.00 fine.

1. Issued worthless checks in payment for malt or brewed beverages.
June 29, 2011.

DISCUSSION:

The Licensee sold alcoholic beverages after their Restaurant Liquor License expired on November 30, 2011 and had not been renewed or validated. A review of the prior record indicates that Licensee has a fairly long record of violations which include at least one violation for operating during prohibited hours. However, in recent years, the Licensee has had no violations of this nature.

Under the circumstances, a monetary penalty shall be imposed.

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 \$1,000.00 or more than \$5,000.00, or both, for violations of the type found in this case.

Accordingly, we issue the following

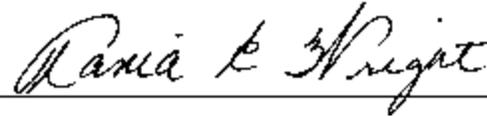
ORDER:

THEREFORE, it is hereby Ordered that Licensee, Gordon Pittman, Jr., Andrew T. Pittman, t/a 501 Bar, License Number R-AP-5290, pay a fine of One Thousand Two Hundred Fifty Dollars (\$1,250.00) 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.

Gordon Pittman, Jr., Andrew T. Pittman
t/a 501 Bar
In Re: Citation No. 12-0224

Jurisdiction of this matter is retained.

Dated this 17TH day of January, 2013.



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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Gordon Pittman, Jr.