

Mailing Date: May 7, 2014

PENNSYLVANIA LIQUOR CONTROL BOARD
HARRISBURG, PA 17124-0001

PENNSYLVANIA STATE POLICE	:	Citation No. 12-0257
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT	:	
	:	
vs.	:	
	:	
3904 INFINITE CORP.	:	License No. R-3858
3904 Frankford Avenue	:	
Philadelphia, PA 19124-4430	:	LID 55422

Counsel for Licensee: Paul L. Herron, Esq.
Centre Square – West Tower
1500 Market Street
Suite W-3110
Philadelphia, PA 19102

Counsel for Bureau: Erik Shmukler, Esquire
Pennsylvania State Police,
Bureau of Liquor Control Enforcement
6901 Woodland Avenue
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ORDER UPON REMAND

In Citation No. 12-0257, Licensee was charged with selling alcoholic beverages after its liquor license had expired. In an Adjudication and Order

issued on September 27, 2012, Administrative Law Judge David L. Shenkle (“ALJ”), sustained the Citation and imposed a fine of one thousand dollars (\$1,000.00), to be paid within twenty (20) days of the mailing date of the Order. The ALJ further ordered that if the fine was not paid within twenty (20) days from the mailing date of the Order, Licensee’s license would be suspended or revoked.

As a result of non-payment of the fine, the ALJ issued a Supplemental Order on November 14, 2012, suspending the license for at least one (1) day upon reactivation of the license, until the fine was paid. The ALJ advised that further sanctions would be considered, including revocation of the license, if the fine should remain unpaid sixty (60) days after the mailing date of the Supplemental Order. The fine remained unpaid.

As a result of the continued non-payment of the fine, the ALJ issued a Second Supplemental Order on February 1, 2013, revoking Licensee’s restaurant liquor license, effective April 8, 2013. The ALJ noted that he would reconsider the Second Supplemental Order if the fine was paid prior to April 8, 2013. It was not.

On July 29, 2013, Licensee, through its attorney, Paul L. Herron, filed an appeal *nunc pro tunc* to the ALJ’s Second Supplemental Order. On August 28,

2013, the Board issued an Opinion affirming the decision of the ALJ and dismissing the appeal of Licensee.

The Board's Order regarding Citation No. 12-0257 was appealed by Licensee, through its attorney, on September 4, 2013, to the Court of Common Pleas of Philadelphia County, at September Term, 2013 No. 447.

On April 17, 2014, Judge Nina Wright Padilla of the Court of Common Pleas of Philadelphia County, issued an Order granting Licensee's nunc pro tunc motion, denying Licensee's appeal on the merits, modifying the penalty to a one (1) day suspension and the payment of any outstanding fine, and remanding the case to the Board for imposition of the new penalty.

Therefore, the ALJ's Second Supplemental Order is reversed in regards to the revocation of the license and jurisdiction in this matter is relinquished back to the Office of Administrative Law Judge to ensure compliance with this Order and the Order of the Court of Common Pleas of Philadelphia County filed on April 17, 2014.

Board Secretary