

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. 12-0838
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-445405
	:	
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 June 5, 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").

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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 April 25, 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 April 14, 2012 and ended on April 25, 2012. A notice of violation letter dated May 11, 2012 was sent to the licensed premises by certified mail, return receipt requested. That mailing was signed as received. A citation dated June 5, 2012 was sent to the licensed premises by certified mail, return receipt requested. That certified mailing was also signed as received. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on August 6, 2012 by certified mail, return receipt requested. That certified mailing was signed as received at the licensed premises (N.T. 8-9 and Exhibits B-1 and B-2).

2. An officer from the Bureau of Enforcement investigated the licensed premises after receiving a complaint regarding the premises operating without an expired liquor license. He also contacted the Liquor Control Board on April 18 and April 25, 2012 to determine the status of the license and to request certification of the status (N.T. 6).

3. On April 25, 2012 at approximately 1:00 p.m., two officers from the Bureau visited the licensed premises. Upon entering, they were approached by a black male bartender. One of the officers requested a Budweiser beer. The bartender served him a twelve ounce can of Budweiser. The officer gave the bartender a five dollar bill and two dollars was returned to him in change (N.T. 6).

4. The officers then identified themselves to the bartender and asked to speak to the owner or manager. The bartender gestured to the end of the bar and the son of Gordon Pittman, who is the owner of the premises. At that time, Mr. Anthony Potter came down and spoke with the two officers (N.T. 6-7).

5. Mr. Potter was not able to show any valid liquor license. Mr. Gordon Pittman was contacted by phone and was advised that the liquor license had expired. He indicated that he had filled out paperwork and that it had been sent to the Board and that he believed he had authority to operate. Mr. Pittman was informed that the Board had no such paperwork. He advised the officers that he was closing the bar for the day and contacting his lawyer to take care of the situation as quickly as possible (N.T. 8).

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6. An attestation from the Pennsylvania Liquor Control Board dated May 21, 2012 indicates that a search of the records revealed that the premises did not have authority to sell alcoholic beverages on April 25, 2012 (N.T. 8).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

On April 25, 2012, Licensee, by its servants, agents or employees, 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.

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

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

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:

Under the circumstances, a \$1,250.00 penalty shall be imposed. Licensee is advised to be certain that the license is current and valid prior to service of alcoholic beverages on the premises.

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

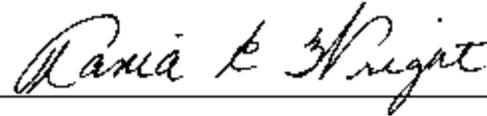
ORDER:

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.

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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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