

Mailing Date: DEC 21 2012

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

PENNSYLVANIA STATE : In re Citation No. 12-0954
POLICE, BUREAU OF :
LIQUOR CONTROL ENFORCEMENT : BLCE Incident No. W01-445161
 :
v. : PLCB LID No. 56660
 :
E & J ENTERPRISES LLC : PLCB License No. R-AP-SS-7922
4501-03 SHEFFIELD AVE. :
PHILADELPHIA PA 19136-3224 :

JUDGE SHENKLE
BLCE COUNSEL: Andrew R. Britt, Esq.
LICENSEE COUNSEL: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on June 26, 2012. The citation alleges that Licensee violated §493(34) of the Liquor Code, 47 P.S. §4-493(34), on April 22 and 26, 2012, by permitting the use on the inside of the licensed premises of a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard beyond licensee's property line.

At the hearing scheduled for November 29, 2012 in Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the case was heard *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period April 7, 2012, through May 15, 2012, and sent it written notice of the results on June 6, 2012 (N.T. 8-9, Exhibit B-1).
2. This citation was filed on June 26, 2012, and a copy was mailed to Licensee the next day (N.T. 10, Exhibit B-2).
3. A notice of hearing was mailed to Licensee on October 16, 2012.
4. On April 22, 2012, a liquor enforcement officer arrived in the area of the licensed premises at about 12:50 a.m. and heard loud music coming from it at a distance of 100 feet. The

door of the premises was propped open, so the music was just spilling right out. It was coming from loudspeakers inside the premises, being used by a disk jockey (N.T. 4-7).

5. The officer returned to the premises on April 26, 2012, and again heard the loudspeakers outside. The source was the same, and the level was just deafening (N.T. 7-8).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since November 17, 2006, and has had three prior violations:

In re Citation No. 07-2320. \$300.00 fine.

1. Gambling (cards). September 4, 2007.

In re Citation No. 11-1367. \$500.00 fine.

1. Refused access to business records, request made during business hours. May 24, 2011.
2. Failed to keep business records on the licensed premises. June 22, 2011.

In re Citation No. 12-0092. \$1,200.00 fine.

1. Sales after license expired. December 11, 2011.

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, E & J Enterprises, LLC, License No. R-AP-SS-7922, shall pay a fine of six hundred dollars (\$600.00) 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.

Dated this 19TH day of December, 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

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