

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

PENNSYLVANIA STATE	:	In re Citation No. 12-1101
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W01-445453
	:	
v.	:	PLCB LID No. 57615
	:	
7178 CFJ LTD	:	PLCB License No. R-AP-SS-EHF-13624
7178 N 19 <sup>th</sup> ST	:	
PHILADELPHIA PA 19126-1510	:	
JUDGE SHENKLE	:	
BLCE COUNSEL: Andrew R. Britt, Esq.	:	
LICENSEE: no appearance	:	

**ADJUDICATION**

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on July 24, 2012. There are two counts in the citation.

The first count alleges that Licensee violated §§491(1), 492(2) and 493(16) of the Liquor Code, 47 P.S. §§4-491(1), 4-492(2) and 4-493(16), on April 26, May 7 and May 11, 2012, by selling alcoholic beverages after its Restaurant Liquor License expired on October 31, 2011, and had not been renewed and/or validated.

The second count alleges that Licensee violated §471(a) of the Liquor Code, 47 P.S. §4471(a), on November 1 and December 1, 2011, January 6, February 22 and April 13, 2012, by altering an expired letter of temporary authority to show that it was current and valid.

At the hearing scheduled for Thursday, March 7, 2013, 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 13 through June 12, 2012, and sent written notice of the results on July 10, 2012 (N.T. 9-10, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on July 24, 2012 (N.T. 10, Exhibit B-2).
3. A Notice of Hearing was mailed to Licensee on January 16, 2013.

4. Based on information received from the PLCB's Licensee Access Information System (LIAS), a liquor enforcement officer visited the licensed premises on May 7, 2012, and advised the bartender that he did not have authority to sell alcoholic beverages. The bartender made a phone call. He then presented the officer with a temporary authority letter from the Board dated April 12, 7178 CFJ, Ltd. Page 2  
In re Citation No. 12-1101

2012, purporting to extend operating authority through May 12, 2012. Based on the letter, the officer allowed the premises to remain open and returned to his office (N.T. 5-6).

5. The officer checked LIAS again and did not see the temporary authority he had been shown. He called the president of the licensed corporation and asked him if he had temporary authority. The president said that he did. The officer asked where he got the temporary authority from. The president said that his lawyer gave it to him. The officer requested a faxed copy. A couple of days later, after another phone call, the officer received the faxed copy and transmitted it to a representative of the board, who advised that the authority was fictitious (N.T. 6-7).

6. An undercover officer visited the premises again at the investigating officer's request; she reported to him that she was able to purchase alcohol on May 11, 2012. A detail of officers entered the premises at 5:00 p.m. on that date; it was open, selling alcohol. The president of the corporation was called to the premises. He admitted that they were selling alcohol without a license, and that he forged or altered the temporary authority from a previous year to make it look current. There were five previous temporary authority letters, dated November 1 and December 1, 2011; January 6, February 22, and April 13, 2012, also forged to make it appear that he had had temporary authority continuously since the license expired on August 31, 2012 (N.T. 7-8).

7. Licensee did not have authority from the Board to operate on April 26, May 7 and May 11, 2012 (Exhibit B-3).

#### CONCLUSIONS OF LAW:

Sustained as charged.

#### PRIOR RECORD:

Licensee has been licensed since May 25, 2007, and has had prior violations as follows:

In re Citation No. 09-1986. \$600.00 fine and verification of compliance.

1. Operated without a valid health permit. May 1, 2009.
2. Not a *bona fide* restaurant (insufficient food, eating utensils, dishes, seating). May 1, 2009.
3. Insufficient Illumination. May 1, 2009.

Citation No. 10-0957. \$200.00 fine. 2 days suspension for late payment.

1. Failed to keep records on the licensed premises. April 17, 2010.

Citation No. 12-0242. \$1,000.00 fine and one day suspension.

1. Sales after license expired. January 4 and 5, 2012.

#### PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine, or both, for violations of the type found in this case. For violations of the type found in the first count any fine must be in the \$1,000.00 to \$5,000.00 range. For violations of the type found in the second count any fine must be in the \$50.00 to \$1,000.00 range. Penalties are assessed as follows:

7178 CFJ, Ltd.

Page 3

In re Citation No. 12-1101

Count No. 1 – a fine of \$1,500.00 plus suspension of license for two (2) days.

Count No. 2 – suspension of license for twelve (12) days.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, 7178 CFJ, Ltd., License No. R-APSS-EHF-13624, shall pay a fine of one thousand five hundred dollars (\$1,500.00) 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.

IT IS FURTHER ORDERED that the Restaurant Liquor License of Licensee, 7178 CFJ, Ltd., License No. R-AP-SS-EHF-13624, shall be suspended for a period of fourteen (14) days (including all permits and Licensee Discount Card) on a date to be set by further order if this license is renewed. Jurisdiction is retained.

The Bureau of Licensing is requested to notify this office of the reactivation of the license so that an order fixing the dates of suspension may be entered.

Dated this 25<sup>TH</sup> day of APRIL, 2013.



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

In re Citation No. 12-1101 7178  
CFJ, Ltd.