

Mailing Date: NOV 07 2013

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

PENNSYLVANIA STATE	:	In re Citation No. 13-0245
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W01-454437
	:	
v.	:	PLCB LID No. 54115
	:	
PEM MANAGEMENT, INC.	:	PLCB License No. R-AP-SS-EHF-3920
27 S. 21 st ST.	:	
PHILADELPHIA, PA 19103-3307	:	

JUDGE SHENKLE
BLCE COUNSEL: Erik S. Shmukler, Esq.
LICENSEE: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on February 12, 2013. The citation 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 November 2, 3, 9, 10, 15, 16, 17, 23, 24, 29, 30, December 1, 7, 8, 13, 14, 15, 20, 21 and 22, 2012, by selling alcoholic beverages after its restaurant liquor license expired on October 31, 2012, and had not been renewed and/or validated.

At the hearing scheduled for September 19, 2013, 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 December 12, 2012, through January 19, 2013, and sent it written notice of the results on February 1, 2013 (N.T. 9-11, Ex. B-1).
2. A copy of this citation was mailed to Licensee on February 2, 2013 (N.T. 12, Ex. B-2).
3. A Notice of Hearing was mailed to Licensee on July 31, 2013.
4. This license expired on October 31, 2012, and Licensee did not have authority to sell alcoholic beverages again until January 4, 2013 (Exhibit B-3).
5. On December 22, 2012, a liquor enforcement officer purchased beer in the licensed premises. He then identified himself and asked to see a current liquor license, but one was not produced. Licensee's president later admitted to the officer that they had sold alcoholic beverages on November 2, 3, 9, 10, 15, 16, 17, 23, 24, 29, 30, December 1, 7, 8, 13, 14, 15, 20, 21 and 22, 2012 (N.T. 6-9).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since March 22, 2005, and has had prior violations as follows:

In re Citation No. 06-0525. \$1,000.00 fine.

1. Sales after liquor license expired. December 2, 2005.

In re Citation No. 06-1490. \$1,450 fine.

1. Loudspeakers could be heard outside. March 23 and 24, 2006.
2. Sales to a minor. April 5, 2006.
3. Sold malt or brewed beverages for consumption off premises. April 5, 2006.

In re Citation No. 06-2916. \$300.00 fine.

1. Sold unlimited alcoholic beverages for a fixed price.

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 \$1,00.00 to \$5,000.00 range, or both, for violations of this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Pem Management, Inc., License No. R-AP-SS-EHF-3920, shall pay a fine of one thousand two hundred fifty dollars (\$1,250.00) 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 16TH day of OCTOBER, 2013.



David L. Shenkle, J.

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; Note Citation Number on Check

The fine must be paid by cashier's check, money order, or a check drawn on the business or trust account of an attorney licensed in Pennsylvania. **Personal and business checks are not acceptable unless bank certified.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail it, along with any required documentation, to:

PLCB-Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg PA 17110-9661