

Mailing Date: MAY 07 2014

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 13-0393
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W09-434832
	:	
4508 SUPER HIGHWAY INC.	:	
4508 SUPER HWY.	:	PLCB LID - 28107
BENSALEM TWP.	:	
OAKFORD PA 19053	:	
	:	PLCB License No. H-AP-SS-4183
	:	
BUCKS COUNTY	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

ROY HARKAVY, ESQ.

FOR THE LICENSEE:

EDWARD McHUGH, ESQ.

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on February 22, 2013, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against 4508 Super Highway, Inc., License Number H-AP-SS-4183 (hereinafter "Licensee").

An Administrative hearing was held on Tuesday, February 25, 2014, pursuant to requisite and appropriate hearing notice. The parties stipulated to the service and receipt of the notice letter and the citation, and to a summary of the facts.

The citation charges Licensee with violation of Section 471 of the Liquor Code, 47 P.S. §4-471 and Section 5902 of the Crimes Code, 18 Pa. C.S. §5902, in that on October 23, 2011, January 31 and February 23, 2012, Licensee, by its servants, agents or employees, promoted prostitution on the licensed premises or in rooms contiguous with the licensed premises or used in connection therewith.

The Bureau of Enforcement filed a Motion to Withdraw the violation dates of October 23, 2011 and January 31, 2012 pursuant to *Malios v. PSP*, 633 A.206 1163 (Pa. 1993), which requires the Bureau to issue citations within one year from the date the alleged violation occurred.

FINDINGS OF FACT:

1. On or about August 8, 2011, District Enforcement Office #9 received an anonymous complaint alleging that dancers are performing sexual activities during lap dances within the premises, and that the Licensee is aware of the dances and records everything on removable drives stored on location (Exhibit B-3).

2. On Friday, August 26, 2011 at approximately 8:50 p.m., Thursday, September 22, 2011 at approximately 6:55 p.m., Saturday, November 19, 2011 at approximately 9:00 p.m., Monday, December 12, 2011 at approximately 1:00 p.m., Wednesday, January 11, 2012 at approximately 10:15 p.m., Monday, March 19, 2012 at approximately 1:30 p.m., Monday, April 16, 2012 at approximately 2:45 p.m., Thursday, May 3, 2012 at approximately 9:20 p.m., Thursday, June 28, 2012 at approximately 9:50 p.m., Tuesday, July 24, 2012 at approximately 2:20 p.m., Wednesday, August 22, 2012 at approximately 7:35 p.m., Thursday, September 20, 2012 at approximately 5:00 p.m., Friday, October 19, 2012 at approximately 12:25 p.m., Thursday, October 25, 2012 at approximately 3:00 p.m., and Thursday, November 29, 2012 at approximately 1:00 a.m., an officer from the Bureau of Enforcement conducted an undercover surveillance on the premises as part of the Bureau's ongoing and continuous investigation (Exhibit B-3).

3. On Sunday, February 23, 2012 at approximately 6:00 p.m., the officer entered the premises and observed two female individuals tending bar and rendering service to approximately fifteen patrons. At approximately 6:40 p.m., the officer told the dancer named Sabrina that he wanted a dance. The officer and Sabrina walked to the disc jockey booth, where the officer paid twenty dollars for the dance, and they proceeded downstairs to the couch dance area. When the officer sat down on the couch, Sabrina got on top of him and asked if they were going to "play today." The officer asked Sabrina what she meant by "play," and Sabrina replied, "Well I get some lotion and then play with your cock." When asked how much, Sabrina replied, "\$80.00." The officer informed Sabrina that he didn't have enough money with him, and Sabrina proceeded with the lap dance (Exhibit B-3).

4. At approximately 6:45 p.m., the officer and Sabrina returned to the bar area. At approximately 8:00 p.m., the officer departed from the premises (Exhibit B-3).

5. On Wednesday, July 18, 2012 at approximately 10:30 a.m., the officer, along with Cpl. Goodling and Trooper Krawizcki, interviewed the dancer Sabrina Bickham relative to this investigation. Sabrina was employed as a dancer at the licensed premises until the end of May 2012, when she was fired for fighting with one of the other dancers. Sabrina admitted that she would give “*hand jobs*” in the couch area for money, and that the disc jockey named Rick was the individual who gave her permission to do so. Sabrina admitted that she offered to give the officer a “*hand job*,” and informed Corporal Goodling that she would give blow jobs to his clients (Exhibit B-3).

6. Sabrina stated that the dancers known as Candy, Gabriella, Tawny and Velvet all conduct acts of prostitution in the couch area. The best way to get in with the dancers is to flash a lot of cash and then set up a time to meet with them outside the club. A lot of patrons take the dancer’s to lunch. After that they are considered a “*regular*.” Sabrina stated that the best time to come to the premises is in the afternoon because there is no one there to monitor the cameras (Exhibit B-3).

7. On Monday, February 11, 2013, at approximately 2:33 p.m., the officer conducted a routine inspection of the premises in the presence of James Rago, the Corporate President of the licensed premises (Exhibit B-3).

CONCLUSIONS OF LAW:

On February 23, 2012, Licensee, by its servants, agents or employes, promoted prostitution on the licensed premises or in rooms contiguous with the licensed premises or used in connection therewith, in violation of Section 471 of the Liquor Code, 47 P.S. §4-471 and Section 5902 of the Crimes Code, 18 Pa. C.S. §5902.

PRIOR RECORD:

Licensee has been licensed since April 25, 1991, and has a record of prior violations as follows:

In Re:

Citation No. 92-1636. \$1,250.00 fine and one day suspension with thereafter conditions. Suspension vacated.

1. Permitted lewd, immoral or improper entertainment.
2. Permitted entertainers to contact or associate with patrons for a lewd, immoral, improper or unlawful purpose.
3. Not a bona fide hotel in that seating accommodations at tables were insufficient in the public dining room.

Citation No. 93-0200. \$200.00 fine.

1. Not a bona fide hotel in that seating accommodations at tables were insufficient in the public dining room.

Citation No. 00-0854. \$1,000.00 fine.

1. Permitted entertainers to contact or associate with patrons.
2. Permitted lewd, immoral or improper entertainment.

Citation No. 01-0568. \$1,100.00 fine.

1. Permitted lewd, immoral or improper entertainment.
2. Permitted entertainers to contact or associate with patrons (Dismissed by ALJ).

Citation No. 02-2271. \$250.00 fine.

1. Permitted lewd entertainment.

Citation No. 08-1251. \$250.00 fine.

1. Sold and/or served an unlimited or indefinite amount of alcoholic beverages.
February 3, 2008.

DISCUSSION:

Licensee's most recent violation was in 2008 and was of an unrelated matter. Before that, in 2002, more than ten years ago, Licensee was cited for lewd entertainment. Licensee testified that he has an elaborate camera system in place to monitor the dancers' activity. The disc jockey, who actively participated in the illegal operation by collecting monies and who seemingly had some managerial authority regarding the dancers has been dismissed, as has one of the dancers.

Licensee showed the Court information that is supposedly provided to dancers indicating that which is acceptable behavior. The Court was concerned that the consequences for solicitation of prostitution be spelled out as plainly as the consequences for drug use, which is dismissal or fines for failing to change one's onstage outfits.

Any further findings of this nature will likely result in a fine and suspension of the license. Under the circumstances, the recommended penalty shall be imposed.

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 \$50.00 or more than \$1,000.00, or both, for violations of the type found in this case.

Accordingly, we issue the following

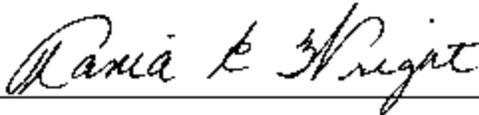
4508 Super Highway, Inc.
In Re: Citation No. 13-0393

ORDER:

THEREFORE, it is hereby Ordered that Licensee, 4508 Super Highway, Inc., License Number H-AP-SS-4183, pay a fine of Seven Hundred Dollars (\$700.00) 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.

Jurisdiction of this matter is retained.

Dated this 22ND day of APRIL, 2014.



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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4508 Super Highway, Inc.
In Re: Citation No. 13-0393

Detach Here and Return Stub with Payment

The fine must be paid by a check drawn on the business or trust account of your attorney, who must be licensed in this Commonwealth, a Treasurer's Check, Cashier's Check or Money Order. **Personal and business checks are not acceptable unless they are certified by your bank.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail, along with any required documentation (please use the Return Stub when mailing payment or write your citation number on the check) to:

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

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4508 Super Highway, Inc.