

Mailing Date: MAY 23 2014

[Appeal](#)

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

PENNSYLVANIA STATE :
POLICE, BUREAU OF : In Re: Citation No. 13-0657 LIQUOR CONTROL
ENFORCEMENT :

v. : BLCE Incident No. W01-456952

LAVDAS INC. :
T/A PRIVE : PLCB LID - 60016 246 MARKET ST. :
PHILADELPHIA PA 19106-2817 :

PLCB License No. R-SS-11351

PHILADELPHIA COUNTY :

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

ANDREW R. BRITT, ESQ.

FOR THE LICENSEE:

EX PARTE

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on April 2, 2013, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Lavdas, Inc., t/a Prive, License Number R-SS-11351 (hereinafter "Licensee").

Lavdas, Inc.
t/a Prive
In Re: Citation No. 13-0657

An Administrative hearing was held on Tuesday, October 22, 2013, 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 Section 404 of the Liquor Code, 47 P.S. §4-404, in that on February 21, 2013, Licensee, by its servants, agents or employes, failed to adhere to the conditions of the agreement entered into with the Board placing additional restrictions upon the subject license.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on February 6, 2013 and ended on February 21, 2013. A notice of violation letter dated March 11, 2013 was sent to the licensed premises by certified mail, return receipt requested. That mailing was signed as received on March 12, 2013. A citation dated April 2, 2013 was sent to the licensed premises by certified mail, return receipt requested. That mailing was signed as received on April 3, 2013. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on August 29, 2013 by certified mail, return receipt requested, and by first class mail (N.T. 8-10 and Exhibits B-1 and B-2).

2. On July 29, 2008, the president of the licensed premises entered into an agreement with the Pennsylvania Liquor Control Board. Counsel for the Liquor Control Board signed this agreement on July 30, 2008. According to the agreement, the Board and Lavdas agreed to the following conditions being placed on the license and the premises:

(b) Lavdas will not have a designated dance floor inside the licensed premises and agrees that in the event it does apply for an amusement permit it will abide by the following:

1. Lavdas agrees that it will not permit live amplified music at the licensed premises and it will limit acoustic music to no more than five (5) acoustic musicians at one time for use only on the second floor, and shall permit such acoustic performances no later than 10:00 p.m. on all Sunday through Thursday evenings and no later than 12:00 midnight on all Friday and Saturday evenings:
2. Lavdas will not permit amplified music at the premises unless the amplification is through the system in the premises which is owned, maintained and monitored by Lavdas:

Lavdas, Inc.

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3. No disc jockey playing recorded music of any sort will be employed or permitted by Lavdas (N.T. 11-12 and Exhibit B-3).

3. An officer from the Bureau of Enforcement conducted an investigation of the licensed premises relative to a complaint that the Licensee had violated their conditional licensing agreement. On Thursday, February 21, 2013, two officers, the investigating officer and a second officer from the Bureau of Enforcement, entered the premises at approximately 9:10 p.m. The officers observed a disc jockey playing amplified music through several speakers throughout the premises. The officers also noticed that there was a dance floor set up with strobe lights and multicolored disco lights in a designated area. They did not, however, observe any patrons dancing (N.T. 5-8).

4. There were two persons tending bar and two persons on the premises (N.T. 7-8).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

On February 21, 2013, Licensee, by its servants, agents or employes, failed to adhere to the conditions of the agreement entered into with the Board placing additional restrictions upon the subject license, in violation of Section 404 of the Liquor Code, 47 P.S. §4-404.

PRIOR RECORD:

Licensee has been licensed since April 21, 2008, and has no record of prior violations.

DISCUSSION:

Licensee failed to adhere to the conditions of the agreement entered into with the Board which placed additional restrictions upon the licensed premises. The premises, in fact, utilized a disc jockey and a dance floor which was in violation of their agreement. Under the circumstances, a monetary penalty shall be imposed. No one appeared on behalf of the Licensee to defend these charges.

PENALTY:

Lavdas, Inc.

t/a Prive

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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.

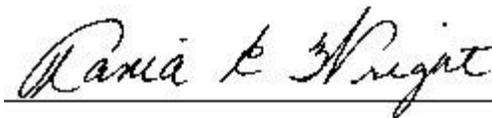
Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, Lavdas, Inc., t/a Prive, License Number R-SS-11351, pay a fine of Five Hundred Dollars (\$500.00) 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 15TH day of MAY, 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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Detach Here and Return Stub with Payment

Lavdas, Inc.

t/a Prive

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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

In Re: Citation No. 13-0657 Lavdas,
Inc.