

Mailing Date: NOV 14 2013

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 13-0729
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-455588
	:	
HYPNOTIC LOUNGE LLC	:	
100 N. 53 RD ST.	:	PLCB LID - 61896
PHILADELPHIA PA 19139-2612	:	
	:	
	:	PLCB License No. R-SS-7916
	:	
PHILADELPHIA COUNTY	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

ERIK S. SHMUKLER, ESQ.

FOR THE LICENSEE:

EX PARTE

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on April 9, 2013, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Hypnotic Lounge, LLC, License Number R-SS-7916 (hereinafter "Licensee").

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 15.62(a) of the Liquor Control Board Regulations, 40 Pa. Code §15.62(a), in that on February 11, 2013, Licensee, by its servants, agents or employes, failed to post in a conspicuous place on the outside of the licensed premises, or in a window plainly visible from the outside of the premises, a Notice of Suspension.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on January 10, 2013 and ended on February 12, 2013. A notice of violation letter dated February 26, 2013 was sent to the licensed premises by certified mail, return receipt requested. That mailing was signed as received on February 27, 2013. A citation dated April 9, 2013 was sent to the licensed premises by certified mail, return receipt requested. The certified mailing was returned unclaimed. The mailing was sent to the licensed premises by first class mail on May 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. That certified mailing was returned unclaimed (N.T. 7-10 and Exhibits B-1 and B-2).

2. This investigation resulted from a suspension check in reference to the Adjudication for Citation No. 12-1342. The suspension for nonpayment of a fine, ordered by Administrative Law Judge Wright, was to begin at 7:00 a.m. on Monday, February 11, 2013, and end at 7:00 a.m. on Tuesday, February 12, 2013 (N.T. 11-12).

3. On Monday, February 11, 2013 at 7:33 p.m., an officer from the Bureau of Enforcement arrived in the vicinity of the licensed premises. The premises was closed with the security gate down and locked. The officer did not observe a Notice of Suspension placard visibly posted on the exterior of the premises. While parked outside the premises, the officer observed two males open the security gate. The officer exited the vicinity of the premises at 7:59 p.m. in order to go to an ATM and get enough cash to enter the premises. He returned to the licensed premises at 8:17 p.m. The security gate was down and locked again, no lights were on, and the two males had left the vicinity. The officer still did not observe a Notice of Suspension placard visibly posted on the exterior of the premises (N.T. 11-14).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

On February 11, 2013, Licensee, by its servants, agents or employes, failed to post in a conspicuous place on the outside of the licensed premises, or in a window plainly visible from the outside of the premises, a Notice of Suspension, in violation of Section 15.62(a) of the Liquor Control Board Regulations, 40 Pa. Code §15.62(a).

Hypnotic Lounge, LLC
In Re: Citation No. 13-0729

PRIOR RECORD:

Licensee has been licensed since March 4, 2010, and has a record of prior violations as follows:

In Re:

Citation No. 12-1342. \$1,250.00 and R.A.M.P. training mandated.
Fine not paid and license suspended one day and thereafter until fine paid.

1. Sales to a minor.
August 4, 2012.

DISCUSSION:

The Office of Administrative Law Judge was advised that there is now a transfer pending. Under the circumstances, a moderate monetary penalty shall be imposed in lieu of another suspension.

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.

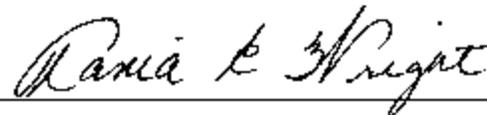
Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, Hypnotic Lounge, LLC, License Number R-SS-7916, pay a fine of Three Hundred Fifty Dollars (\$350.00) 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 12TH day of November, 2013.



Tania E. Wright, J.

Hypnotic Lounge, LLC
In Re: Citation No. 13-0729

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

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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Hypnotic Lounge, LLC