

Mailing Date: DEC 23 2014

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

PENNSYLVANIA STATE	:	In re Citation No. 14-0536
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W01-473230
	:	
v.	:	PLCB LID No. 67921
	:	
4100 N. 5 th ST., INC.	:	PLCB License No. R-AP-SS-1079
4100 N. 5 th ST.	:	
PHILADELPHIA, PA 19140-2614	:	Philadelphia County

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 March 25, 2014. The citation alleges that Licensee violated the Liquor Code, 47 P.S. §4-471.1(g), during the period January 6 through February 13, 2014, because its manager failed to complete RAMP training within 180 days of the Board's approval of the appointment.

At the hearing scheduled for October 30, 2014, 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 January 11, 2014, through February 18, 2014, and sent it written notice of the results on March 7, 2014 (N.T. 9-10, Exhibit B-1).
2. A copy of this citation was mailed to Licensee March 25, 2014 (N.T. 10, Exhibit B-2).
3. A Notice of Hearing was mailed to Licensee on September 11, 2014.
4. The appointment of Yaritza Fernandez to be Licensee's manager was approved by the Board on July 9, 2013, and therefore she was required to complete RAMP owner/manager training within 180 days; i.e., by January 5, 2014. This has still not been done (N.T. 5-8, Board records).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since June 7, 2013, and has had no prior violations.

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 \$50.00 to \$1,000.00 range, or both, for violations of this type.

Board records show that Yaritza Fernandez took Server/Seller RAMP training on February 14, 2014, but she has not taken the required owner/manager RAMP training. If this is not done within thirty (30) days after the mailing date of this adjudication, I will suspend this license by further order until it is done.

This would be a terrible result for Licensee, given that the burden of actually completing the required owner/manager RAMP training is slight.

I also take this opportunity to point out that ignoring notices received from the PLCB as well as this Office is not a good way to start a new business of this nature. This is a highly regulated business, and it will behoove Licensee to read its mail and take action in accordance therewith.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, 4100 N. 5th St., Inc., License No. R-AP-SS-1079, shall pay a fine of three hundred dollars (\$300.00) 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.

IT IS FURTHER ORDERED that Licensee's board-approved manager, Yaritza Fernandez, shall complete owner/manager RAMP training not later than thirty (30) days following the mailing date of this Adjudication, if she is still employed as Licensee's manager. Failing such completion, this license will be suspended indefinitely by further order.

Dated this 11TH day of December, 2014.



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 – 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.** If you are paying by guaranteed check, please make it 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

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Credit/debit cards may be used: visit www.lcb.state.pa.us
and look under LEGAL/Office of ALJ for instructions.