

Mailing Date: DEC 15 2014

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

PENNSYLVANIA STATE	:	In re Citation No. 14-0770
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W01-473320
	:	
v.	:	PLCB LID No. 53252
	:	
411 MAJA LEAGUE, INC.	:	PLCB License No. R-AP-SS-13501
411-13 E. PENN ST.	:	
PHILADELPHIA, PA 19144-5803	:	Philadelphia County

JUDGE SHENKLE
BLCE COUNSEL: Andrew R. Britt, Esq.
LICENSEE: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on April 29, 2014. There are two counts in the citation.

The first count alleges that Licensee violated the Liquor Code, 47 P.S. §1-102, on February 12, 27 and March 7, 2014, on the basis that the licensed premises was not a *bona fide* restaurant because there was insufficient seating.

The citation second count alleges that Licensee violated the Liquor Code, 47 P.S. §4-493(12), by failing to maintain complete and truthful records covering the operation of the licensed premises for a period of two years immediately preceding March 7, 2014.

At the hearing scheduled for October 21, 2014, in Plymouth Meeting, Pennsylvania, there was no appearance by or on behalf of the Licensee; therefore, the matter proceeded *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period January 23 through March 7, 2014, and sent it written notice of the results on March 27, 2014 (N.T. 12-14, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on April 29, 2014, and another copy on June 26, 2014, which latter copy was signed for as received (N.T. 13-14, Exhibit B-2).
3. A Notice of Hearing was mailed to Licensee on August 28, 2014.
4. On February 12, 2014, a liquor enforcement officer inspected the licensed premises and found there was seating for only 21 patrons, including seats at the bar. He informed the bartender of this violation, and left a card so that a follow-up appointment could be made. He followed this

up with a phone message left at the licensed premises' number on February 21, but did not hear back. He followed this up with a visit to the premises on February 27, 2014, at 4:15 p.m. The premises was open and operating at the time, but the bartender said that the manager was not available, so the officer left a written request for records. The seating was the same (N.T. 5-9).

5. After an appointment for March 5 was cancelled by Licensee's president, the officer finally met with her at the premises on March 7. She provided some liquor and beer invoices for a three or four month period, but did not provide the following items, which had been requested: list of employees and payroll records, cash income and expense records, bank statements and cancelled checks, mortgages or deeds of the property, and cash register receipts. The seating was the same as on the two previous visits (N.T. 9-12).

CONCLUSIONS OF LAW:

Sustained as charged.

DISCUSSION:

When informed of the insufficient seating, Licensee's officer said she would take care of the problem. One hopes this has been done, because a routine inspection by a Bureau officer which falls this far short of ideal is likely to be followed up with another investigation. If nothing has changed, that is likely to result in another citation and a harsher penalty.

PRIOR RECORD:

Licensee has been licensed since November 10, 2004, and has had prior violations as follows:

Citation No. 05-1863. \$500.00 fine. License suspended 1 day for late verification.

1. Operated without a valid health permit. July 30, 2005.

Citation No. 07-3118. \$300.00 fine.

1. Sold a larger quantity of alcohol without a proportionate increase in price. December 6, 2007.

Citation No. 09-1413. \$300.00 fine. License suspended 1 day for late payment.

1. Operated without a valid health permit. April 9 and May 2, 2009.

In re Citation No. 10-1598. \$500.00 fine. License suspended 1 day for late payment.

1. Failed to post notice of suspension. June 28, 2010.

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. Penalties are assessed as follows:

Count No. 1 – a fine of \$400.00.

Count No. 2 – a fine of \$500.00.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, 411 Maja League, Inc., License No. R-AP-SS-13501, shall pay a fine of nine hundred dollars (\$900.00) 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 1ST 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 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

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