

Mailing Date: JUN 04 2015

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

PENNSYLVANIA STATE	:	In re Citation No. 14-1521
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W01-479800
	:	
v.	:	PLCB LID No. 53541
	:	
CH & JI, INC.	:	PLCB License No. R-SS-873
6525 RISING SUN AVE.	:	
PHILADELPHIA, PA 19111-5246	:	Philadelphia County

JUDGE SHENKLE
BLCE COUNSEL: Andrew R. Britt, Esq.
LICENSEE: Chuan Y. Liu

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on August 5, 2014. There are two counts in the citation.

The first count alleges that Licensee violated the Liquor Code, 47 P.S. §§4-406(a)(2) and 4-493(16), on May 24, 2014, by selling, furnishing and/or giving alcoholic beverages between 2:00 a.m. and 7:00 a.m.

The second count alleges that Licensee violated the Liquor Code, 47 P.S. §4-471, and the Clean Indoor Air Worker Protection Law, §10-602(3)(a.1)(iv), on May 24, 2014, by smoking and/or permitting smoking in a public place where it is prohibited.

A hearing was held on March 10, 2015, in Plymouth Meeting, Pennsylvania.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period May 17 through 24, 2014, and sent it written notice of the results on June 23, 2014 (N.T. 20, Exhibit B-1).
2. This citation was filed on August 5, 2014, and a copy of it was mailed to Licensee on the same date (N.T. 21-22, Exhibit B-2).
3. This Office mailed a notice of hearing to Licensee on January 16, 2015.
4. Liquor enforcement officers saw patrons at the bar in the licensed premises smoking cigarettes, using ashtrays provided, on May 24, 2014. Licensee did not have a waiver of the Clean Indoor Air Worker Protection Law to permit smoking on that date (N. T. 31, Exhibit B-3).

5. On May 24, 2014, undercover liquor enforcement officers entered the licensed premises at 1:00 a.m. and saw between five and ten patrons at the bar. At 2:25 a.m. an officer ordered a bottle of beer, which Chuan Y. Liu served to him for \$3.50, which was not deposited in the cash register. About five minutes after the officers left one of them returned and arrested Chuan Y. Liu for misdemeanor sales of alcohol without a license. As they were processing this arrest, patrons were still trying to enter the side door of the premises (N.T. 25-27).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since September 13, 2004, and has had prior violations:

In re Citation No. 05-2443. 1 day suspension.

1. Sales on Sunday after 2:00 a.m. October 6, 2005.

In re Citation No. 06-2035. \$450.00 fine.

1. Failed to keep records on the licensed premises. July 25, 2006.
2. Failed to maintain coil cleaning records. July 25, 2006.
3. Not a *bona fide* restaurant (insufficient food). July 25, 2006.

In re Citation No. 07-2923. \$400.00 fine & 3 days suspension, plus 1 day for late payment.

1. Sales between 2:00 a.m. and 7:00 a.m. October 6 and 27, 2007.
2. Failed to vacate the premises by the required time. October 6 and 27, 2007.
3. Permitted patrons to possess alcoholic beverages after 2:30 a.m. October 6 & 27, 2007.
4. Permitted patrons to enter the premises between 2:30 a.m. and 7:00 a.m. without an extended hours food permit. October 6 and 27, 2007.

In re Citation No. 08-1741X. \$100.00 fine.

1. Bad checks for malt or brewed beverages. May 21, 2008.

In re Citation No. 08-2767. \$100.00 fine.

1. Failed to post a notice of suspension. October 22, 2008.

In re Citation No. 09-0189X. \$200.00 fine.

1. Bad checks for malt or brewed beverages. December 4, 2008.

In re Citation No. 09-0745X. \$250.00 fine.

1. Bad checks for malt or brewed beverages. December 10, 2008.

In re Citation No. 10-1300. \$500.00 fine.

1. Smoking in a public place where prohibited. November 12, December 9, 2009, January 31, March 27 and April 17, 2010.
2. Failed to post signage as required. November 12, December 9, 2009, January 31, March 27 and April 17, 2010.
3. Failed to keep records on the licensed premises. May 22, 2010.

In re Citation No. 10-2542X. \$300.00 fine.

1. Bad checks for malt or brewed beverages. October 5, 2010.

In re Citation No. 13-1679. \$1,100.00 fine.

1. Loudspeakers heard beyond property line. May 11 and June 9, 2013.
2. Failed to vacate not later than one half-hour after the required time. May 11, 2013.
3. Smoking in a public place where prohibited. May 11, June 9, 22, July 20 and 21, 2013.

In re Citation No. 13-2540. 2 days suspension.

1. Failed to vacate by the required time. August 9 and October 6, 2013.
2. Permitted patrons to possess alcoholic beverages after 2:30 a.m. August 9 & October 6, 2013.
3. Permitted patrons to enter the premises between 2:30 a.m. and 7:00 a.m. without an extended hours food permit. October 6, 2013.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine, or both, for violations of the type found in this case. For violations of the type found in in the first count any fine must be in the \$1,000.00 to \$5,000.00 range. For violations of the type found in the second count any fine must be in the \$50.00 to \$1,000.00 range. Penalties are assessed as follows:

Count No. 1 – Suspension of license for three (3) days.

Count No. 2 – Suspension of license for one (1) day.

ORDER

THEREFORE, IT IS HEREBY ORDERED that the Restaurant Liquor License of Licensee, CH & JI, Inc., License No. R-SS-873, shall be suspended for a period of four (4) days (including all permits and Licensee Discount Card) BEGINNING at 7:00 a.m. on Friday, August 7, 2015, (the conclusion of the suspension ordered regarding Citation No. 14-1483) and ENDING at 7:00 a.m. on Tuesday, August 11, 2015. Jurisdiction is retained.

Licensee is directed on Friday, August 7, 2015, at 7:00 a.m., pursuant to the order in re Citation No. 14-1483, to leave the notice of suspension (Form No. PLCB-1925 as printed with red and black ink) posted in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises and to remove said license from the wall and place it in a secure location.

Licensee is advised if replacement placards are needed for any reason they are available at all Pennsylvania Fine Wine & Good Spirit stores.

The Bureau is directed to visit and monitor the premises for compliance with this order.

Licensee is authorized on Tuesday, August 11, 2015, at 7:00 a.m. to remove the placard of suspension and return the license to its original wall location.

Dated this 29TH day of MAY, 2015.



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.