

Mailing Date: MAY 05 2016

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 14-1853
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-482860
	:	
LTP, INC.	:	
5400 SPRUCE ST.	:	PLCB LID - 65892
PHILADELPHIA PA 19139-4060	:	
	:	
	:	PLCB License No. R-SS-621
	:	
PHILADELPHIA COUNTY	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

ERIK S. SHMUKLER, ESQ.

FOR THE LICENSEE:

LORI J. HAHN MASLIN, ESQ.

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on September 16, 2014, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against LTP, Inc., License Number R-SS-621 (hereinafter "Licensee").

An Administrative hearing was held on Thursday, July 16, 2015, pursuant to requisite and appropriate hearing notice. The parties stipulated to the service and receipt of the notice letter and the citation.

The citation charges Licensee with violation of Section 102 of the Liquor Code, 47 P.S. §1-102, in that on July 31, 2014, the licensed premises was not a bona fide restaurant in that Licensee, by its servants, agents or employees, maintained insufficient seating.

FINDINGS OF FACT:

1. On Thursday, July 31, 2014 at 2:55 p.m., an officer from the Bureau entered the licensed premises. The premises was open and operating. The officer identified herself to Sin Mi, employee in charge, and informed her that a routine inspection would be conducted. Ms. Sin Mi identified herself as the wife of the manager, Li Poeng, who arrived at the premises approximately ten minutes later (N.T. 6-7).

2. During the course of the inspection, the officer located three tables and twenty-four chairs in the back area of the premises. Several of these chairs were piled on top of tables, along with cleaning products, plastic shrink wrap, trash and boxes. The officer noted that there was a food preparation area that contained soup, which the officer determined was sufficient (N.T. 6-12).

3. On August 28, 2014, the officer ordered a Certification/Attestation from the PLCB listing the licensed areas of the premises as of July 31, 2014 (Exhibit B-3).

4. On August 29, 2014, the officer sent, or caused to be sent, a notice of violation letter, under the signature of Sergeant Daniel D. Steele, District Office Commander, to the Licensee (Exhibit B-3).

CONCLUSIONS OF LAW:

On July 31, 2014, the licensed premises was not a bona fide restaurant in that Licensee, by its servants, agents or employees, maintained insufficient seating, in violation of Section 102 of the Liquor Code, 47 P.S. §1-102.

PRIOR RECORD:

Licensee has been licensed since January 5, 2012, and has a record of prior violations as follows:

In Re:

Citation No. 12-1429. \$650.00 fine and Verification conditions corrected.

1. Not a bona fide restaurant in that food items were insufficient.
August 9 and 10, 2012.
2. Operated the licensed establishment without a valid health permit or license.
August 9 and 10, 2012.
3. Supplied false information on application for Restaurant Liquor License.
July 20, 2012.

Citation No. 13-0613. \$700.00 fine.

1. Not a bona fide restaurant in that food items, eating utensils, dishes and seating were insufficient.
February 16, 2013.
2. Sold, furnished or gave liquor for consumption off premises.
February 16, 2013.

Citation No. 14-0473. \$300.00 fine and Verification conditions corrected.

1. Operated the licensed establishment without a valid health permit or license.
May 1 through February 18, 2014.

DISCUSSION:

Licensee testified that he has a total of thirty-two seats; however, the officer's visual inspection of the premises did not confirm that assessment. The three tables and twenty-four chairs, seen by the officer, were not sufficient in number nor available for use. Licensee indicated that he did not keep chairs in the front so as to avoid people smoking and selling drugs. He further testified that he was cleaning.

The set-up of the premises indicated that the establishment may have once been a bar, but at present is simply selling take-out beer. Licensee was previously cited for insufficient food, but now keeps a stock of soup. That is wholly inconsistent with having a restaurant liquor license, which denotes that one is in the primary business of selling food. Clearly this is not the case.

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.

LTP, Inc.
In Re: Citation No. 14-1853

Accordingly, we issue the following:

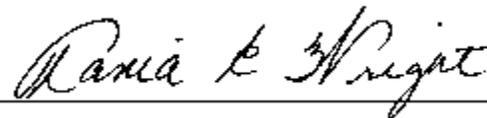
ORDER

THEREFORE, it is hereby Ordered that Licensee, LTP, Inc., License Number R-SS-621, pay a fine of Three Hundred Dollars (\$300.00) 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.

IT IS FURTHER ORDERED that Licensee, LTP, Inc., License Number R-SS-621, submit a Verification indicating that the premises is now a bona fide restaurant in that they maintain sufficient seating, within twenty (20) days from the mailing date of this Adjudication. If said documentation is not submitted within twenty (20) days from the mailing date of this Adjudication, Licensee's license shall be suspended for one (1) day and **continuing thereafter** until such documentation is received.

Jurisdiction of this matter is retained.

Dated this 3RD day of MAY, 2016.



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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LTP, Inc.
In Re: Citation No. 14-1853

Detach Here and Return Stub with Payment - Note Citation Number on Check

The fine must be paid by Treasurer's Check, Cashier's Check, Money Order or a check drawn on the account of an attorney, who must be licensed in Pennsylvania. **Personal and business checks are NOT acceptable unless they are certified by your bank.** If you are paying by guaranteed check, please make it payable to the Commonwealth of Pennsylvania and mail, along with any required documentation, to:

PLCB - Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg, PA 17110-9661

In Re: Citation No. 14-1853
LTP, Inc.

VERIFICATION

I/We, LTP, Inc., License No. R-SS-621, do hereby affirm that the licensed premises contains sufficient seating accommodations for at least thirty (30) persons at tables. LTP, Inc. has _____ (number) chairs at tables.

I/We, LTP, Inc., also affirm that there are _____ (number) tables, and the dimensions of the tables are as follows: _____.

I/We, LTP, Inc., acknowledge that thirty (30) seats at tables are to be maintained at all times pursuant to this license.

Subject to the penalties contained in 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities, the undersigned officer(s) verifies that I/We are signing and executing this document as the authorized act and deed of the licensee. I/We hereby certify that the foregoing is true and correct.

Corporate Officer's Signature

Corporate Officer's Signature

Date

Date

NOTE: Mail Verification and accompanying documents to:

PLCB – OFFICE OF ADMINISTRATIVE LAW JUDGE
Brandywine Plaza
2221 Paxton Church Road
Harrisburg, Pennsylvania 17110-9661