

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

FRONT ROW WEST JEFFERSON, INC.,]	
]	CASE NO. 12CVF-9750
Appellant,]	
vs.]	JUDGE BEATTY
]	
OHIO LIQUOR CONTROL COMMISSION]	
]	
Appellee		

DECISION AND JUDGMENT ENTRY
AFFIRMING THE ORDER OF THE OHIO LIQUOR CONTROL COMMISSION
AND
NOTICE OF FINAL APPEALABLE ORDER

BEATTY, JUDGE

This is an appeal pursuant to R.C. 119.12 from a June 22, 2012 Order of the Ohio Liquor Control Commission (the “Commission”) affirming the non-renewal of Appellant’s liquor permit for failure to file tax returns and pay taxes.

A hearing was held before the Commission in this matter on June 8, 2012. Elizabeth Protheroe, a representative of the Ohio Department of Taxation, testified that Appellant had delinquent sales tax returns for March and April, 2012. (T. 5). Ms. Protheroe identified as Exhibit D a tax department record showing that Appellant had not complied with tax filing requirements and had outstanding tax liabilities. (R. 29-31). There was no appearance on behalf of Appellant at the hearing.

On June 22, 2012, the Commission issued its Order finding that Appellant was delinquent in filing sales or withholding tax returns and/or has outstanding liability for sales or withholding taxes, penalties or interest. The Commission affirmed the non-renewal of the permit. Appellant filed this appeal on August 1, 2012.

This Court must affirm the Order of the Commission if the order is supported by reliable, probative and substantial evidence and is in accordance with law. R.C. 119.12; *Univ. of Cincinnati v. Conrad*, 63 Ohio St. 2d 108, 111 (1980).

R.C. 4303.271(D)(2)(a) provides that “the division of liquor control shall not renew the permit of any permit holder the tax commissioner has identified as being delinquent in filing any sales or withholding tax returns or as being liable for outstanding sales or withholding tax, penalties, or interest”

Appellant’s brief argues that the record does not contain evidence of service of the notice of hearing.

The hearing transcript reflects that proof of service of the notice of hearing was identified as Exhibit B at the hearing. (T. 4). The record includes Exhibit B, a certified mail receipt verifying service of the hearing notice on Appellant, signed on May 3, 2012. (R. 23).

Having reviewed the record, the Court finds that the Commission’s Order is supported by reliable, probative, and substantial evidence and is in accordance with law. Accordingly, the Commission’s Order is hereby AFFIRMED. This is a final, appealable Order. Costs to Appellant.

Franklin County Court of Common Pleas

Date: 11-19-2012
Case Title: FRONT ROW WEST JEFFERSON INC -VS- OHIO STATE LIQUOR
CONTROL COMMISSION
Case Number: 12CV009750
Type: DECISION/ENTRY

It Is So Ordered.

The image shows a handwritten signature in black ink that reads "Laurel Beatty". The signature is written over a blue circular official seal. The seal contains the text "COMMON PLEAS COURT" at the top, "FRANKLIN COUNTY, OHIO" in the middle, and "ALL THINGS ARE POSSIBLE" at the bottom.

/s/ Judge Laurel A. Beatty

Court Disposition

Case Number: 12CV009750

Case Style: FRONT ROW WEST JEFFERSON INC -VS- OHIO
STATE LIQUOR CONTROL COMMISSION

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes