

**IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO  
CIVIL DIVISION**

JJ Group, Inc., :  
Appellant, : **CASE NO. 12CVF-11075**  
v. : **JUDGE SERROTT**  
Liquor Control Commission, :  
Appellee. :

**DECISION AND ENTRY AFFIRMING THE ORDER OF APPELLEE LIQUOR  
CONTROL COMMISSION**

**AND  
NOTICE OF FINAL APPEALABLE ORDER**

Rendered this 30<sup>th</sup> day of November, 2012

**SERROTT, J.**

This matter is before the Court on a R.C. 119.12 appeal from Appellee Liquor Control Commission's (the Commission) Orders of August 9, 2012 imposing a suspension or a forfeiture in lieu of suspension for certain violations. Appellant has not filed a Brief in accordance with the Briefing Schedule. The following decision is based on a review of the Record of Proceeding and applicable law.

**I. PERTINENT FACTS**

On July 10, 2012, the Commission conducted a hearing after affording Appellant notice of its intent to take action against Appellant's liquor permit for an underage sale and for improper conduct on the premises in violation of O.A.C. 4301:1-1-52(B)(7), i.e. receiving stolen property. At the hearing, Appellant, through counsel, stipulated to the evidence and did not contest that its employee had committed the violations. Appellant's counsel asserted that the owner of the permit premises had no knowledge

that his employee was engaging in the unlawful activity and that there had been no prior violations.

The Commission determined that the violations had been proven, and issued Orders imposing a suspension of the liquor permit or allowing Appellant to pay forfeiture in lieu of the suspension.

## **II. STANDARD OF REVIEW**

In a R.C. 119.12 appeal, the Court must affirm the order of the Commission if it is supported by substantial, reliable, and probative evidence. Our Place, Inc. v. Ohio Liquor Control Comm'n, 63 Ohio St.3d 570 (1992). “The Ohio Supreme Court has defined reliable, probative, and substantial evidence as follows: (1) ‘Reliable’ evidence is dependable; that is, it can be confidently trusted. In order to be reliable, there must be a reasonable probability that the evidence is true. (2) ‘Probative’ evidence is evidence that tends to prove the issue in question; it must be relevant in determining the issue. (3) ‘Substantial’ evidence is evidence with some weight; it must have importance and value.” Keydon Mgmt. Co. v. Liquor Control Comm'n, 10th Dist. No. 08AP-965, 2009-Ohio-1809, at ¶5 (quoting Our Place, supra, at 571).

## **III. LAW AND ANALYSIS**

Here, Appellant stipulated to the evidence and did not deny that its employee had committed the violations. The lack of knowledge on the part of the owner of the permit premises is of no consequence. “Ohio Adm. Code 4301:1-1-52(B)(7) is clear that the violation can be committed by either the permit holder, his agent, or employee” and the State need not show “direct participation by the permit holder.” Sammor v. Ohio Liquor Control Comm'n, 10th Dist. No. 09AP-20, 2009-Ohio-3439, ¶21.

The Court finds that the Commission's Orders are supported by substantial, reliable, and probative evidence. Accordingly, the Orders of the Commission are hereby AFFIRMED. Costs to Appellant.

Pursuant to Civ. 58(B), the Clerk of Courts is hereby directed to serve upon all parties notice and the date of this judgment.

**Copies to (via e-filing notification):**

Nathan Gordon  
Counsel for Appellant

Paul Kulwinski  
Counsel for Appellee

Franklin County Court of Common Pleas

**Date:** 11-30-2012  
**Case Title:** JJ GROUP INC -VS- OHIO STATE LIQUOR CONTROL  
COMMISSION  
**Case Number:** 12CV011075  
**Type:** DECISION/ENTRY

It Is So Ordered.

The image shows a handwritten signature in cursive that reads "Mark Serrott". Below the signature is a circular blue ink 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. The seal also features a central emblem with a sunburst design.

/s/ Judge Mark Serrott

Court Disposition

Case Number: 12CV011075

Case Style: JJ GROUP INC -VS- OHIO STATE LIQUOR CONTROL  
COMMISSION

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes

Motion Tie Off Information:

1. Motion CMS Document Id: 12CV0110752012-11-2199980000

Document Title: 11-21-2012-MOTION TO DISMISS

Disposition: MOTION IS MOOT