

(CONSOLIDATED INTO 4045)

Docket Number: 4029

SIMPLE BRANDS, LLC

John J. Jacko, III, Esquire
Christopher Hapka, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA LIQUOR CONTROL BOARD**

~~Faith S. Diehl, Chief Counsel~~
~~Jason P. Lutcavage, Deputy Chief Counsel~~
Dean F. Piermattei, Esquire
Stephanie E. DiVittore, Esquire

December 7, 2011

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: \$228,279.

December 8, 2011

Board issued Acknowledgment letter and forwarded a copy of the Claim to Attorney General.

December 12, 2011

Defendant filed Praecipe for Entry of Appearance of Jason P. Lutcavage, Deputy Chief Counsel, on behalf of Defendant.

December 15, 2011

Attorney General filed Acknowledgement of Claim form. Receipt of same acknowledged December 13, 2011.

December 22, 2011

Plaintiff filed (along with Defendant's signature) a stipulation to stay proceedings and extend the time for respondent' to file a response to the statement of claim pursuant to Pa.R.C.P. No. 201 & BOC R.P. 102.

December 23, 2011

Board rendered a stay of proceedings. Order as follows: **"AND NOW**, this 23rd day of December, 2011, it is hereby **ORDERED** and **DECREED** that pursuant to stipulation filed on December 22, 2011, by claimant, Simple Brands, LLC ('Claimant" or "SB") and respondent, Commonwealth of Pennsylvania, Pennsylvania Liquor Control Board ("Respondent" or "PLCB"), the above-captioned action is hereby stayed until February 8, 2012, and Respondent is granted an extension of time through and up to February 8, 2012 in which to answer, move or otherwise plead in response to the Statement of Claim." Copy forwarded to Plaintiff and Defendant.

December 23, 2011

Defendant transmitted via fax an Acceptance of Service of Order dated December 23, 2011. Receipt of same acknowledged December 23, 2011.

February 8, 2012

Defendant transmitted via facsimile a joint stipulation to stay proceedings and extend the time for Defendant to file its response to the statement of claim pursuant to Pa. R.C.P. No. 201 & BOC R.P. 102.

February 13, 2012

Defendant filed via U.S. mail a joint stipulation to stay proceedings and extend the time for Defendant to file its response to the statement of claim pursuant to Pa. R.C.P. No. 201 & BOC R.P. 102.

February 13, 2012

Board rendered an Order. Order as follows: "**AND NOW**, this 13th day of February, 2012, it is hereby **ORDERED** and **DECREED** that pursuant to a joint stipulation filed on February 13, 2012, by claimant, Simple Brands, LLC ("Claimant" or "SB") and respondent, Commonwealth of Pennsylvania, Pennsylvania Liquor Control Board ("Respondent" or "PLCB"), the above-captioned action is hereby stayed until May 8, 2012, and Respondent is granted an extension of time through and up to May 8, 2012 in which to answer, move or otherwise plead in response to the Statement of Claim."

February 21, 2012

Defendant filed Acceptance of Service of Order dated February 13, 2012. Receipt of same acknowledged February 15, 2012.

February 21, 2012

Plaintiff filed Acceptance of Service of Order dated February 13, 2012. Receipt of same acknowledged February 15, 2012.

May 8, 2012

Defendant filed preliminary objections and brief in support. [02A070912D]

May 9, 2012

Board forwarded letter to Plaintiff, with copy to Defendant, advising of the rules for filing responses/briefs.

June 6, 2012

Plaintiff filed preliminary objections to Respondent's preliminary objections to the statement of claim, answer to respondent's preliminary objections to the statement of claim, Claimant's omnibus memorandum of law in support of its preliminary objections to the statement of claim and answer to respondent's preliminary objections to the statement of claim, and two proposed orders.

June 7, 2012

Board forwarded letter to Defendant, with copy to Plaintiff, advising of the rules for filing responses/briefs.

July 5, 2012

Defendant filed Answer to Plaintiff's Preliminary Objections and Brief in Opposition.

September 17, 2012

Board rendered Opinion and Order. Order as follows: "**AND NOW**, this 17th day of September, 2012, upon consideration of PLCB's preliminary objections and Brief, Simple Brands' preliminary objections to the preliminary objections and Brief, and PLCB's Answer and Brief, it is **ORDERED** and **DECREED** that Simple Brands' preliminary objection to PLCB's preliminary objection based upon a claim of sovereign immunity is **GRANTED**, and said PLCB preliminary objection is **STRICKEN**. All other preliminary objections (by either party) are **OVERRULED**. The PLCB is **ORDERED** to file its Answer and New Matter to the Statement of Claim within thirty (30) days from the exit date of this Order." Copy forwarded to Plaintiff and Defendant.

September 20, 2012

Defendant filed Acceptance of Service of Opinion and Order dated September 17, 2012. Receipt of same acknowledged September 19, 2012.

September 24, 2012

Plaintiff filed Acceptance of Service of Opinion and Order dated September 17, 2012. Receipt of same acknowledged September 19, 2012.

October 17, 2012

Defendant filed Answer and New Matter.

October 18, 2012

Board forwarded letter to Plaintiff requesting response to New Matter.

October 24, 2012

Plaintiff filed Notice of Service of Plaintiff's First Set of Interrogatories.

October 31, 2012

Defendant filed Praecipe to Substitute Verification for the attorney verification attached to the Pennsylvania Liquor Control Board's Answer and New Matter.

October 31, 2012

Plaintiff filed Preliminary Objections to Defendant's New Matter, Memorandum of Law in Support and Proposed Order.

November 21, 2012

Defendant filed Notice of Service of Responses to Interrogatories and Responses to Requests for the Production of Documents.

November 26, 2012

Defendant filed Response in Opposition to Plaintiff's Preliminary Objections to Defendant's New Matter and Brief in Opposition.

November 27, 2012

Defendant filed Praecipe to Attach Verification to Defendant's Response in Opposition to Preliminary Objections to New Matter.

January 4, 2013

Board rendered an Opinion and made the following Order: "**AND NOW**, this 4th day of January, 2013, upon consideration of Simple Brands' Preliminary Objections to the affirmative defenses raised in Paragraphs 65 to 84 of PLCB's Answer and New Matter, and PLCB's Response in Opposition to the Preliminary Objections, it is **ORDERED** and **DECREED** that Simple Brands' Preliminary Objections to Paragraphs 65 to 84 are **SUSTAINED** and that these paragraphs be **STRICKEN**. PLCB is granted 30 days."

January 11, 2013

Plaintiff filed Acceptance of Service of Opinion and Order dated January 4, 2013. Receipt of same acknowledged January 8, 2013.

January 11, 2013

Plaintiff filed Certificate of Service of Acceptance of Service of Opinion and Order dated January 4, 2013.

February 4, 2013

Defendant filed Amended Answer and New Matter.

February 5, 2013

Board forwarded letter to Plaintiff, with copy to Defendant, requesting a response to amended answer and new matter.

February 25, 2013

Defendant filed Second Amended Answer and New Matter.

February 26, 2013

Board forwarded letter to Plaintiff, with copy to Defendant, requesting a response to second amended answer and new matter.

February 26, 2013

Defendant filed praecipe to attach verification to the second amended answer and new matter.

March 7, 2013

Plaintiff filed Answer to Defendant's Second Amended New Matter dated February 25, 2013.

March 8, 2013

Board forwarded letter to parties directing them to proceed with discovery.

March 11, 2013

Plaintiff filed Motion for Partial Judgment on the Pleadings, Memorandum of Law in Support and Proposed Order.

March 12, 2013

Board forwarded letter to Defendant, with copy to Plaintiff advising of the rules for filing responses/briefs.

April 8, 2013

Defendant filed response in opposition to Plaintiff's motion for partial summary judgment, brief in opposition and proposed order.

April 17, 2013

Plaintiff filed Entry of Appearance of Christopher Hapka of Fellheimer & Eichen LLP on behalf of Plaintiff.

April 17, 2013

Plaintiff filed reply memorandum of law in support of its motion for partial judgment on the pleadings.

April 18, 2013

Plaintiff filed Certificate of Service of the Entry of Appearance of Christopher Hapka, Esquire.

April 18, 2013

Plaintiff filed Notice of Service of Second Set of Requests for Production of Documents.

April 26, 2013

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 26th day of April, 2013, upon consideration of Plaintiff's Motion for Partial Judgment on the Pleadings, the Defendant's Response in Opposition thereto and the Plaintiff's Reply Memorandum, **IT IS ORDERED** that the Motion is **DENIED** in its entirety. The parties are directed to proceed with discovery." Copy forwarded to Plaintiff and Defendant.

May 1, 2013

Defendant filed Acceptance of Service of Opinion and Order dated April 26, 2013. Receipt of same acknowledged April 30, 2013.

May 3, 2013

Plaintiff filed Acceptance of Service of Opinion and Order dated April 30, 2013. Receipt of same acknowledged April 30, 2013.

May 20, 2013

Defendant filed Notice of Service of its Response to Plaintiff's Second Set of Requests for Production of Documents.

August 12, 2013

Plaintiff filed Omnibus Motion to Compel Discovery Responses, Memorandum of Law in Support and Proposed Order.

August 13, 2013

Board forwarded letter to Defendant, with copy to Plaintiff, advising of the rules for filing responses/briefs.

September 9, 2013

Defendant filed Response to Plaintiff's Omnibus Motion to Compel Discovery Responses, Memorandum of Law in Opposition and Proposed Order.

September 17, 2013

Plaintiff filed Reply Brief in Support of its Omnibus Motion to Compel Discovery Responses.

September 25, 2013

Board rendered an Opinion and Order. Order as follows: **"AND NOW,** this 25th day of September, 2013, upon consideration of the Motion to Compel Discovery Responses filed by Simple Brands, the response to the Motion from Pennsylvania Liquor Control Board ("PLCB"), and the reply filed by Simple Brands, IT IS **ORDERED** that PLCB shall, within sixty (60) days of the exit date of this Order, produce all documents, e-mails, electronic documents and communications responsive to the Requests for Production served by Simple Brands on October 23, 2012 and April 17, 2013 except as noted below. If PLCB asserts any claims of privilege to any such documents, PLCB shall provide a "privilege log" of the type described in this Opinion for each document claimed to be privileged. The objections made by PLCB to Requests 3, 4 and 12 of the First Request and Requests 33, 34 and 35 of the Second Request are **OVERRULED**. The objections made by PLCB to Requests 37 and 38 of the Second Request are **SUSTAINED**. The motion to compel testimony by a PLCB representative that all documents have been produced is **DENIED** without prejudice." Copy forwarded to Plaintiff and Defendant.

October 3, 2013

Defendant filed Acceptance of Service of Opinion and Order dated September 25, 2013. Receipt of same acknowledged October 3, 2013.

October 4, 2013

Plaintiff filed Acceptance of Service of Opinion and Order dated September 25, 2013. Receipt of same acknowledged October 1, 2013.

October 4, 2013

Plaintiff filed Certificate of Service of its Acceptance of Service of Opinion and Order dated September 25, 2013.

October 8, 2013

Plaintiff filed a stipulation (signed by both parties) and proposed order consolidating appeals for all purposes.

October 10, 2013

Board rendered an Order. Order as follows: "**AND NOW**, this 10th day of October, 2013, it is so **ORDERED** and **DECREED** that the foregoing stipulation is APPROVED and entered as an Order of the Board of Claims.

October 18, 2013

Plaintiff filed Acceptance of Service of Order dated October 10, 2013. Receipt of same acknowledged October 15, 2013.

October 23, 2018

Board rendered a Praecipe Order. Order as follows: "**AND NOW**, this 23rd day of October, 2018, upon receipt of a Praecipe executed by John J. Jacko, III, Esquire, on behalf of Plaintiff, Simple Brands, LLC, requesting that the Board kindly mark the above-captioned consolidated action settled, discontinued and ended with prejudice, docketed with this Board under date of October 22, 2018, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.
