

Mailing Date: OCT 05 2012

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

PENNSYLVANIA STATE : In re Citation No. 12-0216
POLICE, BUREAU OF :
LIQUOR CONTROL ENFORCEMENT : BLCE Incident No. W01-436153
 :
v. : PLCB LID No. 55073
 :
CASTILLOS AND CASTILLOS INC : PLCB License No. E-SS-3061
186 W LEHIGH AVE :
PHILADELPHIA PA 19133-3839 :

JUDGE SHENKLE
BLCE COUNSEL: Erik Shmukler, Esq.
LICENSEE: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on February 21, 2012. The violation alleges that Licensee violated §§491 and 493(16) of the Liquor Code, 47 P.S. §§4-491 and 4-493(16), on January 14, 2012, by selling liquor without a license.

At the hearing scheduled for August 21, 2012, Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the case was heard *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period September 8, 2011, through January 18, 2012, and sent it written notice of the results on February 2, 2012 (N.T. 10, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on February 21, 2012 (N.T. 11, Ex. B-2).
3. A Notice of Hearing was mailed to Licensee on July 2, 2012.
4. On January 14, 2012, a liquor enforcement officer entered the licensed premises at 10:00 p.m. and saw ten patrons. He took a seat at the bar and a bartender asked how she could help him. He asked for a Hennessey cognac and Coca Cola. The bartender went to another room and returned with a 750 milliliter bottle of Hennessey cognac. She poured some into a glass with Coca Cola and ice and served the drink to the officer. He paid \$8 for the drink; the money tendered was deposited in the business cash register, from which change was taken and given to the officer (N.T. 12-14).

CONCLUSIONS OF LAW:

Sustained as charged. Eating Place licensees may not sell liquor, only malt or brewed beverages. 47 P.S. §4-442.

PRIOR RECORD:

Licensee has been licensed since September 13, 2005, and has had one prior violation:

In re Citation No. 09-3027. \$300.00 fine.

1. Operated without a valid health permit or license. November 30, 2009.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine in the \$1,000.00 to \$5,000.00 range, or both, for violations of this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Castillo and Castillo, Inc., License No. E-SS-3061, shall pay a fine of one thousand dollars (\$1,000.00) within 20 days of the mailing date of this order. In the event the fine is not paid within 20 days, Licensee's license will be suspended or revoked. Jurisdiction is retained.

Dated this 2ND day of OCTOBER, 2012.



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.

Detach Here and Return Stub with Payment

The fine must be paid by cashier's check, certified check or money order. Personal and business checks are not acceptable unless bank certified. Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail to:

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