

Mailing Date: NOV 02 2012

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

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|----------------------------|---|--------------------------------|
| PENNSYLVANIA STATE POLICE, | : | In Re Citation No.: 12-0564 |
| BUREAU OF LIQUOR CONTROL | : | |
| ENFORCEMENT (BLCE) | : | |
| | : | BLCE Incident No.: W02-436654 |
| v. | : | |
| | : | |
| LE SEUL AFFAIRE, INC. | : | PLCB LID No.: 33834 |
| T/A PICKLED TROUT TAVERN | : | |
| 552 MAIN ST. | : | |
| SIMPSON, PA 18407-2945 | : | PLCB License No.: R-AP-SS-3223 |

ADJUDICATION

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: Craig A. Strong, Esquire

LICENSEE: Ex Parte

BACKGROUND:

This proceeding arises out of a citation, containing one count, that was issued on April 6, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Le Seul Affaire, Inc. (Licensee).

The citation charges Licensee with a violation of Section 474.1(a) of the Liquor Code [47 P.S. §4-474.1(a)] and Section 7.31(a) of the Liquor Control Board Regulations [40 Pa. Code §7.31(a)]. The charge is that Licensee, by your servants, agents, or employees, failed to return your restaurant liquor license and wholesale liquor purchase permit cards to the Board after your licensed establishment had not been in operation for a period of fifteen (15) consecutive days subsequent to February 13, 2012.

I presided at an evidentiary hearing on September 28, 2012 at 100 Lackawanna Avenue, Scranton, Pennsylvania.

Therefore, I make the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT:

1. The Office of Administrative Law Judge sent a notice of hearing on August 7, 2012, by certified mail, return receipt requested. The notice was returned unclaimed. (N.T. 4-5)
2. The Bureau began its investigation on September 21, 2011 and completed it on March 7, 2012. (N.T. 6)
3. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on March 19, 2012. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 6)
4. During the period charged, Licensee was closed and had no electricity service. Licensee did not return its restaurant liquor license and wholesale liquor purchase permit cards to the Pennsylvania Liquor Control Board. (N.T. 5-16)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. I sustain the violation as charged.

PRIOR RECORD:

Licensee has been licensed since May 4, 1995, and has the following Adjudication history:

In Re Citation No.: 97-0989. 3 days suspension.
Sales to minors on April 4, 1997.

In Re Citation No.: 01-0452. Fine \$1,200.00.

1. Sales between 2:00 a.m. and 7:00 a.m. on February 17, 2001.
2. Failed to require patrons to vacate the premises not later than one-half hour after the required time on February 17, 2001.
3. Permitted patrons to possess or remove alcoholic beverages after 2:30 a.m. on February 17, 2001.

PENALTY ASSESSMENT CRITERIA:

Mandatory Requirement(s)

Liquor Code Section 471 [47 P.S. §4-471] prescribes a penalty of license suspension, or revocation, or a fine of not less than \$50.00, or more than \$1,000.00, or both for the violation found herein.

Discretionary Component(s)

There is every indication that the license has been abandoned. Consequently, I revoke the license.

ORDER:

In Re Citation No.: 12-0564; Licensee, Le Seul Affaire, Inc.; PLCB LID No.: 33834; PLCB License No.: R-AP-SS-3223

Imposition of Revocation

I revoke the license and any permit or other authority issued by the Pennsylvania Liquor Control Board attendant to the license, effective December 17, 2012.

Retaining Jurisdiction

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 31ST day of October, 2012.

A handwritten signature in cursive script that reads "Felix Thau". The signature is written in black ink and is positioned above a horizontal line.

Felix Thau, A.L.J.

bc

General Information

This Adjudication is a legal document. It affects your rights, privileges, and obligations. The information which follows is a general guide. Therefore, you may want to consult with an attorney.

Applying for Reconsideration

If you want the Administrative Law Judge to reconsider this Adjudication, you must submit a written application and a nonrefundable \$25.00 filing fee. Both must be received by the Office of Administrative Law Judge, (PLCB - Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661) within fifteen days of this Adjudication's mailing date. Your application must describe the reasons for reconsideration. The full requirements for reconsideration can be found in Title 1 Pa. Code §35.241.

Appeal Rights

If you wish to appeal this Adjudication, you must file an appeal within thirty days of the mailing date of this Adjudication by contacting the Office of Chief Counsel of the Pennsylvania Liquor Control Board (717-783-9454). For further information, visit www.lcb.state.pa.us. The full requirements for an appeal can be found in 47 P.S. §4-471.