

Mailing Date: JUL 25 2013

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 12-0843
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-445438
	:	
PIZZA CONNECTION INC.	:	
732 BURMONT ROAD	:	PLCB LID - 46693
UPPER DARBY TWP.	:	
DREXEL HILL PA 19026-4322	:	
	:	PLCB License No. E-SS-4905
	:	
DELAWARE COUNTY	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

ANDREW BRITT, ESQ.

FOR THE LICENSEE:

EX PARTE

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on June 5, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Pizza Connection, Inc., License Number E-SS-4905 (hereinafter "Licensee").

An Administrative hearing was held on Thursday, November 15, 2012, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

The citation charges Licensee with violation of Sections 492(2), 492(3) and 493(16) of the Liquor Code, 47 P.S. §§4-492(2), 4-492(3) and 4-493(16), in that on April 6, 7 and 9 through 23, 2012, Licensee, by its servants, agents or employes, sold alcoholic beverages after the Restaurant Liquor License expired on November 30, 2011 and had not been renewed and/or validated.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on April 13, 2012 and ended on April 25, 2012. A notice of violation letter dated May 11, 2012 was sent to the licensed premises by certified mail, return receipt requested. That mailing was signed as received on May 12, 2011. A citation dated June 5, 2012 was sent to the licensed premises by certified mail, return receipt requested. The certified mailing was signed as received on June 7, 2012. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on October 3, 2012 by certified mail, return receipt requested, and by first class mail. That certified mailing was signed as received (N.T. 9-11 and Exhibits B-1 and B-2).

2. An officer from the Bureau of Enforcement conducted an investigation of the licensed premises in that Licensee had received temporary authority to operate under their E License, but that authority was to expire on April 5, 2012. The officer contacted the Liquor Control Board in order to verify whether any other temporary authority had been granted. As a result of his conversation with representatives with the Liquor Control Board, the officer went to the licensed premises at 1:15 p.m. on April 18, 2012. The officer observed a cooler filled with beer. He retrieved a forty ounce bottle of Old English malt beer and took it to the counter. He was informed by an employee that it cost \$3.50. He gave the person currency and received change back and departed the premises (N.T. 5-7).

3. The officer again visited the premises on Tuesday, April 24, 2012 along with another Bureau officer. He visited the premises at approximately 2:50 p.m. and spoke with an employee. The officer identified himself and asked the employee to contact the owner. After a short time, the employee contacted the owner who identified himself as Jamie McLaughlin. The officer identified himself to Mr. McLaughlin and informed him that his temporary authority had expired (N.T. 7-8).

4. Mr. McLaughlin indicated that he had been open and operating every day except April 8, 2012 (N.T. 8).

5. Certified records of the Pennsylvania Liquor Control Board indicate that the premises did not have a valid eating license on the date of April 6, 7, 9 through 23, 2012 (Exhibit B-3).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

On April 6, 7 and 9 through 23, 2012, Licensee, by its servants, agents or employes, sold alcoholic beverages after the Restaurant Liquor License expired on November 30, 2011 and had not been renewed and/or validated, in violation of Sections 492(2), 492(3) and 493(16) of the Liquor Code, 47 P.S. §§§4-492(2), 4-492(3) and 4-493(16).

PRIOR RECORD:

Licensee has been licensed since October 19, 2000, and has a record of prior violations as follows:

In Re:

Citation No. 12-0200. One day suspension.

1. Sales after the license expired and had not been renewed and/or validated.
January 11, 2012.

DISCUSSION:

Licensee's license expired on November 30, 2011 and had not been renewed or validated as of the date of the officer's visit to the premises. Licensee had been granted temporary authority to operate from March 16, 2012 until April 5, 2012. However, Licensee did not have authority to operate after that date. Licensee was cited on January 11, 2012 and found in violation of operating after the license expired and had not been renewed. After a review of the prior history, a \$1,500.00 penalty shall be imposed.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of a fine of not less than \$1,000.00 or more than \$5,000.00, or both, for violations of the type found in this case.

Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, Pizza Connection, Inc., License Number E-SS-4905, pay a fine of One Thousand Five Hundred Dollars (\$1,500.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

Pizza Connection, Inc.
In Re: Citation No. 12-0843

Jurisdiction of this matter is retained.

Dated this 22ND day of JULY, 2013.



Tania E. Wright, J.

NOTE: MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER TO THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE FILING FEE.

If you wish to appeal the decision of the Administrative Law Judge's Order, the appeal must be filed within 30 days of the mailing date of the Order. Please contact the Office of the Chief Counsel of the Pennsylvania Liquor Control Board at 717-783-9454.

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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, along with any required documentation, to:

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

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Pizza Connection, Inc.