

Mailing Date: FEB 07 2013

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	IN RE: CITATION NO. 12-1004
LIQUOR CONTROL ENFORCEMENT	:	
	:	BLCE INCIDENT NO. W03-439210
	:	
v.	:	
	:	
	:	PLCB LID - 63938
METRO BRUNSWICK HOTEL LLC	:	
151 N. QUEEN ST.	:	PLCB LICENSE NO. H-AP-SS-EHF-6241
LANCASTER, PA 17603-3508	:	

ADJUDICATION

**BEFORE JUDGE FLAHERTY
BUREAU COUNSEL PIETRZAK
LICENSEE: FRANK C. SLUZIS, ESQUIRE**

BACKGROUND:

This proceeding arises out of a citation that was issued on July 12, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against METRO BRUNSWICK HOTEL LLC, License Number R-AP-SS-EHF-6241 (hereinafter "Licensee").

The citation charges Licensee with violation of Sections 406(a)(2) and 493(16) of the Liquor Code [47 P.S. §§4-406(a)(2) and 4-493(16)] in that on December 31, 2011, Licensee, by its servants, agents or employees, sold, furnished and/or gave alcoholic beverages between 2:00 a.m. and 7:00 a.m.

The investigation which gave rise to the citation began on November 17, 2011 and was completed on June 4, 2012; and notice of the violation was sent to Licensee by Certified Mail on June 29, 2012. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on January 10, 2013 in the Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. On December 31, 2011, an officer of the Bureau entered the Licensee hotel, went to the lounge area and took a seat at the bar (N.T. 8-9).
2. At approximately 1:40 a.m., the officer ordered a Miller Lite beer which was served to her by the female bartender. She paid for the drink, and the sale was rung up on the cash register (N.T. 10-11).
3. At approximately 1:50 a.m., the bartender announced last call. She then walked around the bar counter asking people if they wanted another drink (N.T. 10-11).
4. At 2:15 a.m., the bartender again approached the officer and asked her if she wanted another beer. The officer said yes and ordered and was served the beer. She paid \$3.00 for the purchase which was rung up on the cash register (N.T. 12-13).
5. The officer left the licensed premises at 2:40 a.m. (N.T. 14).

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

DISCUSSION:

Licensee presented the bartender to dispute the testimony of the investigating officer who was the only witness for the Bureau. However, the bartender does not remember the officer or the incident. I, therefore, find the testimony of the officer to be convincing and conclude that the Bureau has sustained its burden. Consequently, the charge in the citation is sustained.

PRIOR RECORD:

Licensee has been licensed since October 13, 2010, and has had one prior violation:

IN RE:

Citation No. 11-1708X. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages. July 7, 2011.

PENALTY:

Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or 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.

Under the circumstances of this case, the penalty imposed shall be a fine of \$1,250.00.

ORDER

THEREFORE, it is hereby ordered that Licensee METRO BRUNSWICK HOTEL, LLC, pay a fine of \$1,250.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee's license shall be suspended or revoked.

Jurisdiction is retained.

Dated this 6TH day of February, 2013.

A handwritten signature in cursive script, reading "Daniel T. Flaherty, Jr.", written over a horizontal line.

Daniel T. Flaherty, Jr., J.

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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.

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 CHIEF COUNSEL'S OFFICE AT 717-783-9454.

Detach here and submit 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.** Make 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

IN RE: CITATION NO. 12-1004
METRO BRUNSWICK HOTEL LLC