

Mailing Date: AUG 08 2013

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 12-1201
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-447219
	:	
WELTONS QUEEN INC.	:	
53-55-57-59 GARRETT RD. BSMT.	:	PLCB LID - 64502
UPPER DARBY TWP.	:	
UPPER DARBY PA 19082-2302	:	
	:	PLCB License No. R-AP-SS-5518
	:	
	:	
DELAWARE COUNTY	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

**ERIK S. SHMUKLER, ESQ.**

FOR THE LICENSEE:

**JOHN J. McCREESH, III, ESQ.**

**BEFORE: JUDGE WRIGHT**

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on August 14, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Weltons Queen, Inc., License Number R-AP-SS-5518 (hereinafter "Licensee").

An Administrative hearing was held on Tuesday, January 29, 2013, pursuant to requisite and appropriate hearing notice. The parties stipulated to the service and receipt of the notice letter and the citation.

The citation contains two counts.

The first count 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 June 15, 2012, Licensee, by its servants, agents or employes, sold, furnished and/or gave alcoholic beverages between 2:00 a.m. and 7:00 a.m.

The second count charges Licensee with violation of Section 499(a) of the Liquor Code, 47 P.S. Section 4-499(a), in that on June 15, 2012, Licensee, by its servants, agents or employes, permitted patrons to possess and/or remove alcoholic beverages from that part of the premises habitually used for the service of alcoholic beverages after 2:30 a.m.

COUNT NOS. 1 AND 2

FINDINGS OF FACT:

1. An officer from the Bureau of Enforcement conducted an investigation of the licensed premises located in Upper Darby, Delaware County, PA. The officer visited the premises on June 2, 2012 arriving at approximately 1:25 a.m. At the front door, there were two individuals checking for identification cards and weapons. A third person was collecting a twenty dollar cover charge. Once the officer paid the cover charge, he proceeded down a flight of steps where he saw a bartender and four patrons (N.T. 7-8).

2. The officer observed a disc jockey playing music, however, the officer found no violations and departed the premises at 2:35 a.m. (N.T. 8-9).

3. On June 15, 2012, the officer again visited the premises arriving at approximately 1:55 a.m. The officer observed security personnel at the front door checking for identification and weapons. The officer paid a cover charge of ten dollars and went downstairs where he saw a female bartender and approximately ten patrons (N.T. 9).

4. At approximately 2:24 a.m., the officer ordered a Heineken beer, for which he paid five dollars. The bartender placed the money in an unknown area behind the bar. He did not ring the sale up in a cash register. The officer gave her a ten dollar bill. She returned five dollars to him in change (N.T. 9-10).

5. Between 2:30 a.m. and 3:00 a.m., the officer made observations at the premises. Before departing the premises at 3:00 a.m., he noted that there were still 46 to 50 people in the premises and of that number, fifteen patrons were still in possession of alcoholic beverages (N.T. 10-11).

6. The officer noted that some of the patrons had mixed drinks and others had Corona or Guinness' beer (N.T. 12).

CONCLUSIONS OF LAW:

Count No. 1 - On June 15, 2012, Licensee, by its servants, agents or employes, sold, furnished and/or gave alcoholic beverages between 2:00 a.m. and 7:00 a.m., in violation of Sections 406(a)(2) and 493(16) of the Liquor Code, 47 P.S. §§4-406(a)(2) and 4-493(16).

Count No. 2 - On June 15, 2012, Licensee, by its servants, agents or employes, permitted patrons to possess and/or remove alcoholic beverages from that part of the premises habitually used for the service of alcoholic beverages after 2:30 a.m., in violation of Section 499(a) of the Liquor Code, 47 P.S. Section 4-499(a).

PRIOR RECORD:

Licensee has been licensed since April 11, 2011, and has a record of prior violations as follows:

In Re:

Citation No. 11-2112. \$250.00 fine.

1. Sales on Sunday between 2:00 a.m. and 11:00 a.m.  
August 21, 2011. (Withdrawn)
2. Failed to require patrons to vacate the premises not later than one-half hour after the required time.  
July 5 and August 21, 2011.
3. Permitted patrons to possess or remove alcoholic beverages after 2:30 a.m. (Withdrawn)  
August 21, 2011.

DISCUSSION:

The Licensee sold alcoholic beverages after 2:00 a.m. on June 15, 2012 and, in addition, allowed patrons to remain in the possession of alcoholic beverages after 2:30 a.m. On a prior visit to the licensed premises, the officer found no violations.

In reviewing the Licensee's prior history, it is noted that in August of 2011, they were found in violation for failing to require patrons to vacate the premises not later than one-half hour after the required time, for which they paid a \$250.00 monetary fine. Under the circumstances, a substantial monetary fine shall be imposed. Licensee is warned to abide by the rules and regulations of the Liquor Code.

Weltons Queen, Inc.  
In Re: Citation No. 12-1201

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 \$50.00 or more than \$1,000.00, or both, for violations of the type found in Count No. 2 of this case.

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 Count No. 1 of this case.

Therefore, penalties shall be assessed as follows:

Count No. 1 - \$1,100.00.  
Count No. 2 - \$400.00.

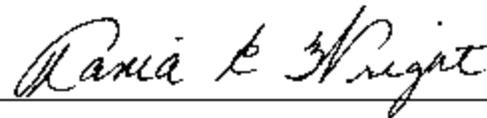
Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, Weltons Queen, Inc., License Number R-AP-SS-5518, 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.

**Jurisdiction of this matter is retained.**

Dated this 1<sup>ST</sup> day of AUGUST, 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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Weltons Queen, Inc.  
In Re: Citation No. 12-1201

Detach Here and Return Stub with Payment

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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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