

Mailing Date: APR 26 2013

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 12-1398
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W02-447239
v.	:	
	:	
KC'S PUB, LLC	:	PLCB LID No.: 55007
T/A KC'S PUB	:	
1946 W. MAIN ST.	:	
STROUDSBURG, PA 18360-1030	:	PLCB License No.: R-AP-SS-16222

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 September 17, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against KC's Pub, LLC (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 to the Board after your licensed establishment had not been in operation for a period of fifteen (15) consecutive days between July 1 and August 20, 2012.

I presided at an evidentiary hearing on March 19, 2013 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 January 24, 2013, by certified mail, return receipt requested. The notice was received and signed for on January 28, 2013.

2. The Bureau began its investigation on May 29, 2012 and completed it on August 27, 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 August 29, 2012. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 9)

4. Licensee completely ceased operations effective July 1, 2012, and did not place the license into safekeeping. (N.T. 10-19)

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 July 19, 2005, and has the following Adjudication history:

In Re Citation No.: 08-1071X. Fine \$150.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

Issued worthless checks in payment for malt or brewed beverages dated April 1, 2008.

In Re Citation No.: 08-1197X. Fine \$200.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

Issued worthless checks in payment for malt or brewed beverages dated April 1, 2008.

In Re Citation No.: 08-1364X. Fine \$250.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

Issued worthless checks in payment for malt or brewed beverages dated April 14, 2008.

In Re Citation No.: 08-1505X. Fine \$350.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

Issued worthless checks in payment for malt or brewed beverages dated April 17 and May 2, 2008.

In Re Citation No.: 08-1694X. Fine \$400.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

Issued worthless checks in payment for malt or brewed beverages dated May 19, 2008.

In Re Citation No.: 08-2572. Fine \$1,250.00. Fine not paid and license suspended 2 days and thereafter until fine paid. Due to bankruptcy proceedings, all previous orders vacated and license suspended 3 days.

Sales after the license expired and had not been renewed and/or validated on October 1, 2008.

In Re Citation No.: 09-0001X. Fine \$500.00.

Issued worthless checks in payment for malt or brewed beverages dated October 27, November 19, 24 and 28, 2008.

In Re Citation No.: 09-0156X. Fine \$600.00.

Issued worthless checks in payment for malt or brewed beverages dated November 22, 24 and December 1, 2008.

In Re Citation No.: 09-0380. Fine \$1,250.00 and 1 day suspension.

1. Sales during a time when the license was suspended on February 9, 2009.
2. Failed to post in a conspicuous place on the outside of the licensed premises a notice of suspension on February 9, 2009.

In Re Citation No.: 09-2909. Fine \$200.00.

1. Smoked and/or permitted smoking in a public place where smoking was prohibited on September 22 and November 5, 2009.
2. Failed to post signage as required by the Clean Indoor Air Act on September 22 and November 5, 2009.

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)

As Licensee has abandoned the business, it is not likely that Licensee would pay a fine. Moreover and because Licensee is not operating, imposing a suspension is also meaningless. Accordingly, I revoke the license. Otherwise, I would have imposed a \$200.00 fine.

ORDER:

In Re Citation No.: 12-1398; Licensee, KC's Pub, LLC; PLCB LID No.: 55007;
PLCB License No.: R-AP-SS-16222

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, Monday, June 10, 2013.

Retaining Jurisdiction

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 17TH day of April, 2013.



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.