

Mailing Date: APR 09 2014

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	IN RE: CITATION NO. 12-1636
LIQUOR CONTROL ENFORCEMENT	:	
	:	BLCE INCIDENT NO. W06-451183
	:	
	:	
v.	:	
	:	
	:	PLCB LID - 19001
M.M.C., INC.	:	
T/A MUNCY VALLEY INN	:	PLCB LICENSE NO. R-AP-SS-17902
11971 ROUTE 42	:	
PO BOX 69	:	
MUNCY VALLEY, PA 17758	:	

ADJUDICATION

**BEFORE JUDGE FLAHERTY
BUREAU COUNSEL PIETRZAK
LICENSEE: NO APPEARANCE**

BACKGROUND:

This proceeding arises out of a citation that was issued on December 13, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against M.M.C., INC., License Number R-AP-SS-17902 (hereinafter "Licensee").

The citation charges Licensee with violation of Sections 491(1), 492(2), 492(3) and 493(16) of the Liquor Code [47 P.S. §§4-491(1), 4-492(2), 4-492(3) and 4-493(16)] in that on September 14 and October 14, 2012, Licensee, by its servants, agents or employees, sold alcoholic beverages after its restaurant liquor license expired on August 31, 2011, and had not been renewed and/or validated.

The investigation which gave rise to the citation began on September 12, 2012 and was completed on November 5, 2012; and notice of the violation was sent to Licensee by Certified Mail on November 8, 2012. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on January 14, 2014 in the Lysock Complex, Suite 2, 542 County Farm Road, Montoursville, Pennsylvania. No one appeared at the hearing on behalf of Licensee. A citation hearing notice was sent to Licensee(s) at its address of record, 11971 Route 42, PO Box 69, Muncy Valley, PA 17758 by certified mail on November 25, 2013. The notice set forth the date and time of the hearing as January 14, 2014 at 3:00 p.m., and the place of hearing as The Lysock Complex, 542 County Farm Road, Suite 2, Montoursville, PA 17754-9865.

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. September 14 and October 14, 2012, Licensee did not have a valid liquor license or temporary authority to operate (N.T. Exhibits C-5 and C-6).
2. On September 14, 2012 an officer of the Bureau arrived at the licensed premises. He found the premises to be open, and service being rendered by a female bartender (N.T. 8).
3. On September 14, 2012, the officer ordered a Miller Lite draft beer. The bartender served the Miller Lite draft beer to the officer and charged him \$2.00.
4. On October 14, 2012, the officer again arrived at the licensed premises. He entered and approached the bar. He found service being rendered by a female bartender (N.T. 9).
5. On October 14, 2012, the officer ordered a Miller Lite draft beer and was served the ordered beer and charged \$2.00. Later, the officer ordered a rum and Coke mixed alcoholic drink. He was served that drink and charged \$4.50. Then upon departure, the officer also ordered a six pack of Miller Lite bottles to go. He was provided with these bottles and charged \$8.50 (N.T. 9-10).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since February 25, 1986, and has had nine (9) prior violation(s) since July 1, 1987, the date of establishment of the Office of Administrative Law Judge:

IN RE:

Citation No. 91-2365. Fine \$600.00.

1. Licensed corporation was not the only one pecuniarily interested in the operation of the licensed business.
2. Failed to appoint a Board approved full time manager for the licensed premises.

Citation No. 96-2678. Fine \$100.00.

1. Issued worthless checks in payment for malt or brewed beverages.

Citation No. 97-2248. Fine \$300.00.

1. Sales after the restaurant liquor license expired and had not been renewed.

Citation No. 98-2167. 1 day suspension.

1. Issued worthless checks in payment for malt or brewed beverages.

Citation No. 00-0531. Fine \$50.00 and 1 day suspension.

1. Issued worthless checks in payment for malt or brewed beverages.

Citation No. 01-0851. Fine \$75.00 and 1 day suspension.

1. Issued worthless checks in payment for malt or brewed beverages.

Citation No. 01-2007. 1 day suspension.

1. Sales after the license expired and had not been renewed and/or validated.

Citation No. 10-0203X. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages. December 23, 2009.

Citation No. 11-1845. Fine \$2,000.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

1. Sales after license expired and had not been renewed and/or validated. September 24, 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.

This office takes notice that Licensee's license was revoked, effective February 11, 2013, at Citation No. 11-1845.

Under the circumstances of this case, the penalty imposed shall be revocation of the license.

ORDER

THEREFORE, IT IS HEREBY ORDERED that Restaurant Liquor License No. R-AP-SS-17902, issued to M.M.C., INC., be **REVOKED** effective with the mailing date of this Order. Any Wholesale Liquor Purchase Permit Card or discount card issued in connection with the aforementioned license is hereby CANCELLED.

Since the license is in history there is no license to return; therefore, the Bureau of Licensing is hereby directed to mark their records that this license has been **REVOKED**. The Licensee's right to renew his license is hereby CANCELLED.

Jurisdiction is retained.

Dated this 21ST day of March, 2014.



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.