

Mailing Date: NOV 22 2013

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	IN RE: CITATION NO. 12-1724
LIQUOR CONTROL ENFORCEMENT	:	
	:	BLCE INCIDENT NO. W03-449571
	:	
	:	
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: NO APPEARANCE**

BACKGROUND:

This proceeding arises out of a citation that was issued on December 20, 2012, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against METRO BRUNSWICK HOTEL, LLC, License Number H-AP-SS-EHF-6241 (hereinafter "Licensee").

The citation contains three counts.

The first count charges Licensee with violation of Sections 471 and 611 of the Liquor Code [47 P.S. §§4-471 and 6-611] in that on August 20, 2012, the Court of Common Pleas, Lancaster County, Pennsylvania, issued an injunction padlocking the premises as a public nuisance.

The second count charges Licensee with violation of Section 471 of the Liquor Code [47 P.S. §4-471] and Section 7202 of the Tax Reform Code of 1971 [72 P.S. §7202] in that Licensee, Metro Brunswick Hotel, LLC, failed and/or refused to remit, in a timely manner, to the Commonwealth of Pennsylvania, Department of Revenue, sales tax due and owing for the period March 2012 through July 2012 in the amount of \$22,154.11.

The third count charges Licensee with violation of Section 471 of the Liquor Code [47 P.S. §4-471] and Sections 7215, 7216 and 7217 of the Tax Reform Code of 1971 [72 P.S. §§7215, 7216 and 7217] in that Licensee, Metro Brunswick Hotel, LLC, failed and/or refused to file, in a timely manner, sales tax returns with the Commonwealth of Pennsylvania, Department of Revenue, for the period August 2012 through September 2012.

On May 13, 2013, counsel for the Bureau filed a Motion to Withdraw Counts 2 and 3 of the Citation. The Motion was granted.

The investigation which gave rise to the citation began on July 12, 2012 and was completed on November 7, 2012; and notice of the violation was sent to Licensee by Certified Mail on November 27, 2012. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on September 24, 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 August 17, 2012, the Office of District Attorney for Lancaster County, Pennsylvania filed a Motion for Temporary Restraining Order pursuant to Section 611(b) of the Liquor Code [47 P.S. §6-611(b)] in the Court of Common Pleas of Lancaster County, Pennsylvania against Licensee requesting a temporary restraining order requiring defendant licensee to cease any sale, delivery, barter or transportation of liquor, alcohol or brewed beverages at its business address (N.T. Exhibit C-5).

2. On August 20, 2012, the Court of Common Pleas of Lancaster County issued a temporary restraining order against Licensee declaring that a nuisance existed at the licensed premises and restraining Licensee from conducting or permitting the continuance of business until conclusion of the proceedings. The Order restrained Licensee from removing and/or in any way interfering with the liquids, beverages or other things used in connection with the violation in question which constituted the nuisance. Licensee was further directed that no liquor, alcohol or malt or brewed beverages shall be manufactured, offered for sale, transported, bartered or furnished at the licensed address pending further order of the court (N.T. Exhibit C-6).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since October 13, 2010, and has had two prior violations:

IN RE:

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

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

Citation No. 12-1004. Fine \$1,250.00.

1. Sales between 2:00 a.m. and 7:00 a.m. December 31, 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 \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

This office takes notice that this license has been revoked at Citation No. 12-1004 and is currently in history status.

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

ORDER

THEREFORE, IT IS HEREBY ORDERED that Liquor License No. H-AP-SS-EHF-6241, issued to METRO BRUNSWICK HOTEL, LLC, 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 status 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 13TH day of November, 2013.



Daniel T. Flaherty, Jr., J.

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.