

Mailing Date: AUG 23 2013

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

PENNSYLVANIA STATE : In re Citation No. 13-0257
POLICE, BUREAU OF :
LIQUOR CONTROL ENFORCEMENT : BLCE Incident No. W01-454773
 :
v. : PLCB LID No. 62438
 :
BELVEDERE SPECK, LLC, T/A AGIATO : PLCB License No. R-SS-6992
4357-59 MAIN ST, :
PHILADELPHIA, PA 19127-1415 :

JUDGE SHENKLE
BLCE COUNSEL: Erik S. Shmukler, Esq.
LICENSEE: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on February 19, 2013. The citation alleges that Licensee violated §§491(1), 492(2) and 493(16) of the Liquor Code, 47 P.S. §§4-491(1), 4-492(2) and 4-493(16), during the period November 1 through December 19, 2012, by selling alcoholic beverages after its Restaurant Liquor License expired on October 31, 2012, and had not been renewed and/or validated.

At the hearing scheduled for July 10, 2013, in Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the case was heard *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period December 9, 2012, through January 4, 2013, and sent it written notice of the results on January 10, 2013 (N.T. 9-10, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on February 19, 2013 (N.T. 10-11, Ex. B-2).
3. A Notice of Hearing was mailed to Licensee on May 17, 2013.
4. This license expired on October 31, 2012, and Licensee did not have authority to dispense alcoholic beverages during the period November 1 through December 19, 2012 (Ex. B-3).

5. A liquor enforcement officer entered the licensed premises in an undercover capacity at 4:55 p.m. on December 19, 2012. There were 10 to 15 patrons eating in the restaurant portion of the premises. The officer sat at the bar, the smallest part of the premises. He ordered a pint of Weihenstephaner beer, which was on tap, and paid \$8.80 for it as soon as it was served (N.T. 6-7).

6. The officer then identified himself to the bartender and later spoke to one of Licensee's owners, who said he was unaware that the license had expired. The owner admitted to the officer that the premises had been open every day, dispensing alcoholic beverages, during the period November 1 through December 19, 2012 (N.T.8-9).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since October 21, 2010, and has had prior violations as follows:

In re Citation No. 11-1168. \$1,000.00 fine.

1. Sales on Sunday between 2:00 a.m. and 11:00 a.m. June 5, 2011.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine in the \$1,000.00 to \$5,000.00 range, or both, for violations of this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Belvedere Speck, LLC, t/a Agiato, License No. R-SS-6992, shall pay a fine of one thousand two hundred dollars (\$1,200.00) within 20 days of the mailing date of this order. In the event the fine is not paid within 20 days, Licensee's license will be suspended or revoked. Jurisdiction is retained.

Dated this 13TH day of AUGUST, 2013.



David L. Shenkle, J.

NOTICE: 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.

WHETHER OR NOT RECONSIDERATION HAS BEEN REQUESTED, AGGRIEVED PERSONS MAY APPEAL TO THE PLCB, NORTHWEST OFFICE BUILDING, HARRISBURG, PA 17124 WITHIN 30 DAYS AFTER THE MAILING DATE OF THIS ORDER.

THE PLCB CHIEF COUNSEL'S TELEPHONE NUMBER IS 717-783-9454.

Detach Here and Return Stub with Payment; Note Citation Number on Check

The fine must be paid by cashier's check, money order, or a check drawn on the business or trust account of an attorney licensed in Pennsylvania. **Personal and business checks are not acceptable unless bank certified.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail it, along with any required documentation to:

PLCB-Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg PA 17110-9661