Mailing Date: DEC 04 2013

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 13-0826
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W02-457996
v.	:	
	:	
202, LLC	:	PLCB LID No.: 63865
T/A THE BEER GARAGE	:	
202 E. DIAMOND AVE.	:	
HAZLETON, PA 18201-5217	:	PLCB License No.: E-AM-SS-EHF-5248

ADJUDICATION

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: Craig A. Strong, Esquire

LICENSEE: Peter D'Amato, Member

BACKGROUND:

This proceeding arises out of a citation, containing one count, that was issued on April 19, 2013, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against 202, LLC (Licensee).

The citation charges Licensee with a violation of Section 102 of the Liquor Code [47 P.S. §1-102]. The charge is that, Licensee's licensed premises was not a bona fide eating place in that Licensee, by your servants, agents, or employees, maintained insufficient food items and seating, on February 26, 2013.

I presided at an evidentiary hearing on October 17, 2013 at 100 Lackawanna Avenue, Scranton, Pennsylvania.

Therefore, I make the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT:

1. The Bureau began its investigation on February 26, 2013 and completed it on February 26, 2013. (N.T. 6)

2. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on March 5, 2013. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 7)

3. On the date charged, a Bureau Enforcement Officer conducted an administrative inspection of the premises when Licensee was open and in business finding that Licensee maintained virtually no food and had not purchased food for quite some time. (N.T. 5-14)

CONCLUSION(S) 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 ADJUDICATION HISTORY:

Licensee has been licensed since September 1, 2010, and has the following Adjudication history:

> In Re Citation No.: 11-0052C. Fine $1,250.00 and RAMP training mandated.
> Sales to a minor on December 8, 2010.

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)

I impose a $250.00 fine as Licensee has corrected the condition which caused the citation to issue.

ORDER:

Imposition of Fine

Licensee must pay a $250.00 fine within twenty days of the mailing date of this Adjudication. The mailing date is located on this Adjudication's first page, upper left corner. If Licensee fails to comply, the Liquor Code requires that I suspend or revoke the license.

Retaining Jurisdiction

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 22ND day of November, 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.

Detach Here and Return Stub with Payment

The fine must be paid by a check drawn on the business or trust account of your attorney, who must be licensed in this Commonwealth, a treasurer's check, cashier's check, or money order. **Personal and business checks are not acceptable unless they are certified by your bank.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail, along with any required documentation (please use the Return Stub when mailing payment or write your citation number on the check).

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

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