

Mailing Date: JAN 31 2014

[Appeal](#)

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

PENNSYLVANIA STATE POLICE, : In Re Citation No.: 13-0839
BUREAU OF LIQUOR CONTROL :
ENFORCEMENT (BLCE) :
:
v. : CHECKERS
BISTRO LLC : T/A CHECKERS BISTRO
: 300-308 W. JAMES ST. :
:
LANCASTER, PA 17603-2912 : PLCB License No.: R-AP-SS-9338

BLCE Incident No.: W03-459253
PLCB LID No.: 58075

ADJUDICATION

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: John H. Pietrzak, Esquire

LICENSEE: Ex Parte

BACKGROUND:

This proceeding arises out of a citation, containing one count, that was issued on April 18, 2013, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Checkers Bistro LLC (Licensee).

The citation charges Licensee with violations of Sections 491(1), 492(2) and 493(16) of the Liquor Code [§§4-491(1), 4-492(2) and 4-493(16)]. The charge is that Licensee, by your servants, agents, or employees, sold alcoholic beverages after your restaurant liquor license expired on February 28, 2013, and had not been renewed and/or validated, on March 1, 2, 3, 5, 6, 7, 8, 9, 10 and 12, 2013.

I presided at an evidentiary hearing on December 10, 2013 at 2221 Paxton Church Road, Harrisburg, 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 to Licensee at the address of record on October 21, 2013, by certified mail, return receipt requested and first class mail. The certified mail notice was returned unclaimed, unable to forward. The first class notice was not returned.
2. The Bureau began its investigation on March 27, 2013 and completed it on April 4, 2013. (N.T. 45)
3. The Bureau sent a notice of the alleged violations to Licensee at the licensed premises by certified mail, return receipt requested, on April 9, 2013. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 43)
4. For the period charged, Licensee sold alcoholic beverages when it had no authority to do so. (N.T. 46-48)
5. Licensee's Co-Member, Mr. Payne, admitted that Licensee was selling alcoholic beverages after the license expired and had not been renewed. (N.T. 47)

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 violations as charged.

PRIOR ADJUDICATION HISTORY:

Licensee has been licensed since May 7, 2007, and has no prior Adjudications.

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 \$1,000.00, or more than \$5,000.00, or both for the violations found herein.

Discretionary Component(s)

Once again Licensee has operated outside the law with brazen intent. I must impose a severe sanction. I impose a \$1,000.00 fine and ten days suspension.

ORDER:

Imposition of Fine

Licensee must pay a \$1,000.00 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.

Suspension Length and Date(s)

I suspend the license, as well as all other permits or licenses issued by the Pennsylvania Liquor Control Board attendant to the license, for ten days, beginning Monday, March 3, 2014, 7:00 a.m., and ending Thursday, March 13, 2014, 7:00 a.m.

Instructions to Post Notice of Suspension Placard

Licensee shall post a Notice of Suspension Placard (PLCB Form 1925) in a conspicuous place on the outside of the licensed premises, or in a window plainly visible from the outside of the licensed premises, on or before Monday, March 3, 2014, 7:00 a.m. The Suspension Placard may not be removed until the suspension ends.

Consequence of Failing to Comply With This Order

In addition to any other consequence at law, if Licensee does not comply with all conditions herein, the Bureau may issue an additional citation alleging Licensee has violated this Order. Alternatively, the Bureau may assert the same claim by requesting this Adjudication be reopened.

Retaining Jurisdiction

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 27TH day of January, 2014.

A handwritten signature in cursive script that reads "Felix Thau". The signature is written in black ink and is positioned above a horizontal line.

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. If you have not already done so, it may be prudent for you 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

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