

Mailing Date: MAR 21 2014

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

PENNSYLVANIA STATE	:	In re Citation No. 13-1165C
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W01-461020
	:	
v.	:	PLCB LID No. 61439
	:	
LA TAMBORA CAFÉ RESTAURANT, INC.	:	PLCB License No. R-AP-SS-EHF-6312
738-40 ADAMS AVE.	:	
PHILADELPHIA, PA 19124-2318	:	

JUDGE SHENKLE
BLCE COUNSEL: Andrew Britt, Esq.
LICENSEE COUNSEL: John J. McCreesh, III, Esq.

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on June 11, 2013. The citation alleges that Licensee violated §493(1) of the Liquor Code, 47 P.S. §4-493(1), on May 2, 2013, by selling, furnishing, and/or giving or permitting such sale, furnishing or giving of alcoholic beverages to one minor, nineteen years of age.

A hearing was held on February 6, 2014, in Plymouth Meeting, Pennsylvania. The parties stipulated to the timely service of the notice letter and citation.

FINDINGS OF FACT:

1. On May 2, 2013, Bureau officers conducted an underage compliance detail at the licensed premises. At about 10:10 p.m. an undercover officer entered the premises and took a seat at the bar. About five minutes later a person working with the Bureau's age compliance check program entered the premises and sat at the bar to the undercover officer's left (N.T. 6-7).

2. The person is a man whose birth date was April 17, 1994, so he was nineteen at the time. When he sat at the bar he asked for a beer and the bartender asked for identification. The man presented his current and valid Pennsylvania junior driver's license. The bartender looked at it and asked what the man wanted again. He said "Miller Lite" and a bottle of it was served to him for \$4. When it was served, the man grasped the bottle of beer momentarily. He then left the premises without drinking any of it (N.T. 8-28, Exhibit B-5).

3. After the man left the premises a liquor enforcement supervisor entered and informed Licensee's bartender of the violation (N.T. 30-32).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since November 18, 2009, and has had two prior violations:

In re Citation No. 12-0208. \$1,650.00 fine.

1. Loudspeakers could be heard outside. November 18, 24, December 18 and 31, 2011.
2. Sales between 2:00 a.m. and 7:00 a.m. December 31, 2011.
3. Permitted patrons to possess alcoholic beverage after 2:30 a.m. December 31, 2011.

In re Citation No. 12-0825. 2 days suspension.

1. Sales between 2:00 a.m. and 7:00 a.m. March 31, 2012.

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 the type found in this case. Since this is Licensee's third violation in a four-year period of a provision mentioned in 47 P.S. §4-471(b), the law requires that the penalty include license suspension or revocation. Mandatory R.A.M.P. – certification is also required by 47 P.S. §4-471(d) in these circumstances.

ORDER

THEREFORE, it is hereby ORDERED that the restaurant liquor license of Licensee, La Tambora Café Restaurant, Inc., License No. R-AP-SS-EHF-6312, shall be suspended for a period of three (3) days (including all permits and Licensee Discount Card) BEGINNING at 7:00 a.m. on Monday, May 12, 2014, and ENDING at 7:00 a.m. on Thursday, May 15, 2014.

Licensee is directed on Monday, May 12, 2014, at 7:00 a.m. to place the enclosed placard of notice of suspension (identified as Form No. PLCB-1925 and as printed with red and black ink) in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises and to remove said license from the wall and place it in a secure location. Jurisdiction is retained.

Licensee is advised if replacement placards are needed for any reason they are available at all Pennsylvania Liquor Stores/Wine & Spirits Shoppes.

The Bureau is directed to visit and monitor the premises for compliance with this order.

Licensee is authorized on Thursday, May 15, 2014, at 7:00 a.m. to remove the placard of suspension and return the license to its original wall location.

IT IS FURTHER ORDERED that Licensee shall comply with the requirements set forth in Liquor Code Section 471.1, pertaining to Responsible Alcohol Management in the following manner. The Licensee is directed to contact the Bureau of Alcohol Education, Pennsylvania Liquor Control Board (toll free telephone: 1-866-275-8237; www.lcb.state.pa.us) within thirty (30) days of the mailing date of this adjudication in order to receive assistance in the compliance process.

Licensee must receive certification within ninety (90) days of the mailing date of this adjudication. Licensee must remain in compliance for a period of one year from the date such certification is issued. The Bureau of Liquor Control Enforcement is further directed to monitor compliance with this adjudication.

Failure to comply with this order will be grounds for modification of penalty in this case. Failure to comply may also constitute grounds for issuance of a new citation as authorized by Section 471(d) of the Liquor Code, 47 P.S. Section 4-471(d).

Dated this 14th day of MARCH, 2014.



David L. Shenkle, J.

jb

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.