

Mailing Date: MAY 26 2015

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 14-0041
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-471645
	:	
BRANDEVJOR, INC.	:	
T/A GASLIGHT PUB	:	PLCB LID - 47163
3979 FORD RD.	:	
PHILADELPHIA, PA 19137-2807	:	
	:	PLCB License No. R-AP-SS-6253
	:	
PHILADELPHIA COUNTY	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

ANDREW R. BRITT, ESQ.

FOR THE LICENSEE:

EX PARTE

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on January 21, 2014, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Brandevjor, Inc., t/a Gaslight Pub, License Number R-AP-SS-6253 (hereinafter "Licensee").

An Administrative hearing was held on Tuesday, July 16, 2014, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

The citation charges Licensee with violation of Sections 491(1), 492(2) and 493(16) of the Liquor Code, 47 P.S. §§4-491(1), 4-492(2) and 4-493(16), in that during the period November 1 through December 11, 2013, Licensee, by its servants, agents or employes, sold alcoholic beverages after the Restaurant Liquor License expired on October 31, 2013 and had not been renewed and/or validated.

FINDINGS OF FACT:

1. The Bureau conducted an investigation of the licensed premises which began on December 13, 2013 and ended on December 23, 2013. A notice of violation letter dated January 2, 2014 was sent to the licensed premises by certified mail, return receipt requested. That mailing was signed as received. A citation dated January 21, 2014 was sent to the licensed premises by certified mail, return receipt requested. That mailing was returned unclaimed. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on May 28, 2014 by certified mail, return receipt requested, and by first class mail. That mailing was returned unclaimed (N.T. 9-10 and Exhibits B-1 and B-2).

2. An officer from the Bureau visited the licensed premises on December 9, 2013 at 2:30 a.m. and found the premises closed. On Wednesday, December 11, 2013, the officer went to the premises at 7:45 p.m. and they were open and operating. The officer visited the premises to investigate a complaint for sales while the license was expired (N.T. 5-6).

3. On Wednesday, December 11, 2013, the premises was open and operating and the officer sat at the bar and ordered two twelve ounce Miller Lite bottles of beer. The officer gave the bartender twenty dollars and received seventeen dollars back in change (N.T. 7).

4. The officer immediately identified himself and spoke to the female bartender and brought it to her attention that the license had expired and indicated that he needed to speak with the owner (N.T. 7).

5. The officer obtained the information for the owner and contacted the owner on December 12, 2013. The owner was Kimberly Derstine, whom he met at approximately 6:35 p.m. at the licensed premises (N.T. 7).

6. At that time, the officer informed the owner that the license had expired and they were not permitted to serve alcoholic beverages until the license was renewed or temporary authority was issued to operate (N.T. 8).

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7. The officer obtained a statement from her indicating that she was aware the licensed premises was open and operating without authority from November 1, 2013 to December 11, 2013 (N.T. 8 and Exhibit B-3).

8. An attestation from the Bureau indicates that the Licensee did not possess a valid Restaurant Liquor License or temporary authority to operate from November 1, 2013 through December 11, 2013 (N.T. 11 and Exhibit B-3).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

During the period November 1 through December 11, 2013, Licensee, by its servants, agents or employes, sold alcoholic beverages after the Restaurant Liquor License expired on October 31, 2013 and had not been renewed and/or validated, in violation of Sections 491(1), 492(2) and 493(16) of the Liquor Code, 47 P.S. §§4-491(1), 4-492(2) and 4-493(16).

PRIOR RECORD:

Licensee has been licensed since January 22, 2001, and has a record of prior violations as follows:

In Re:

Citation No. 01-2494. \$200.00 fine.

1. Sold alcoholic beverages after the Restaurant Liquor License expired and had not been renewed and/or validated.
November 5, 2001.

Citation No. 05-0566. \$1,000.00 fine.

1. Sold alcoholic beverages after the Restaurant Liquor License expired and had not been renewed and/or validated.
February 10 and 16, 2006.

Citation No. 06-2019. \$300.00 fine.

1. Operated the licensed establishment without a valid health permit or license.

DISCUSSION:

During the period November 1 through December 11, 2013, the Licensee operated the premises after the Restaurant Liquor License had expired on October 31, 2013. Under the circumstances, a moderate monetary penalty shall be imposed.

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PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of a fine of not less than \$1,000.00 or more than \$5,000.00, or both, for violations of the type found in this case.

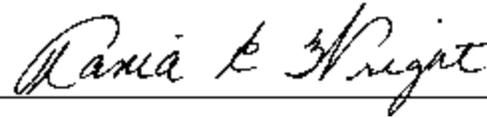
Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, Brandevjor, Inc., License Number R-AP-SS-6253, pay a fine of One Thousand Two Hundred Fifty Dollars (\$1,250.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

Jurisdiction of this matter is retained.

Dated this 14TH day of MAY, 2015.



Tania E. Wright, J.

NOTE: MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER TO THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE 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 the Office of the Chief Counsel of the Pennsylvania Liquor Control Board at 717-783-9454.

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

The fine must be paid by Treasurer’s Check, Cashier’s Check, Money Order or a check drawn on the business or trust account of an attorney, who must be licensed in Pennsylvania. **Personal and business checks are NOT acceptable unless they are certified by your bank.** If you are paying by guaranteed check, please make it payable to the Commonwealth of Pennsylvania and mail, along with any required documentation, to:

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

Credit/Debit Cards may be used: visit www.lcb.state.pa.us and look under LEGAL/Office of ALJ for instructions.

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