

Mailing Date: OCT 22 2014

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

PENNSYLVANIA STATE	:	In re Citation No. 14-0125
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W01-467827
	:	
v.	:	PLCB LID No. 20430
	:	
RICK PALLADINO'S, INC.	:	PLCB License No. R-AP-SS-19663
305 VIRGINIA AVE.	:	
MILMONT PARK, PA 19033-3217	:	Delaware County

JUDGE SHENKLE
BLCE COUNSEL: Andrew R. Britt, Esq.
LICENSEE: John J. Palladino

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on February 4, 2014. There are four counts in the citation.

The first count alleges that Licensee violated the Liquor Code, 47 P.S. §4-499(a), on October 6 and December 1, 2013, by failing to require patrons to vacate that part of the premises habitually used for the service of alcoholic beverages not later than one-half hour after such service is required to cease.

The second count alleges that Licensee violated the Liquor Code, 47 P.S. §4-499(a), on October 6 and December 1, 2013, by permitting patrons to possess alcoholic beverages in and/or remove them from that part of the premises habitually used for the service of alcohol after 2:30 a.m.

The third count alleges that Licensee violated Liquor Code, 47 P.S. §4-499(a), on December 1, 2013, by permitting patrons to enter that portion of the premises habitually used for the service of alcoholic beverages between 2:30 a.m. and 7:00 a.m., without an Extended Hours – Food permit.

The fourth count alleges that Licensee violated the Liquor Code, 47 P.S. §§4-406(a)(3) and 4-493(16), on October 6 and December 1, 2013, by selling, furnishing and/or giving alcoholic beverages on Sunday between 2:00 a.m. and 11:00 a.m.

A hearing was held on July 23, 2014, in Plymouth Meeting, Pennsylvania. The parties stipulated to the timely service of the notice letter and citation.

FINDINGS OF FACT:

1. On October 6, 2013, a liquor enforcement officer entered the licensed premises at 1:40 a.m. An employee was checking patron identifications. There were about 60 patrons present. At 1:55 a.m. "last call" was announced. The lights were turned up and patrons began to leave. The officer, who had been standing, took a seat at the bar. He saw service of alcoholic beverages at 2:05, 2:07, and 2:11 a.m. The officer purchased beer at 2:20 a.m., and he remained in possession of it until he left the premises at 2:45 a.m. (N.T. 6-8).

2. On December 1, 2013, the officer arrived at the premises at 12:40 a.m. He saw people he thought were youthful and, shortly afterwards, a detail of uniformed officers entered the premises and requested identification from the youthful people. All of the patrons were adults. The detail of officers left a little after 1:20 a.m. and the undercover officer remained. At 1:55 a.m. "last call" was announced. The lights were turned up and patrons began to leave. The officer purchased beer at 2:20 a.m., and was still in possession of it at 2:40 a.m. When he left the premises at 3:00 a.m. there was one patron at the bar and, as he was leaving, a man entered and was greeted by bar staff (N.T. 9-12).

3. The Bureau's investigation began on September 21, 2013, and was completed on December 11, 2013. Notice of the result of the investigation was mailed to Licensee on January 2, 2014 (N.T. 13, Exhibit B-1).

4. This citation was filed on February 4, 2014, and a copy of it was received by Licensee on February 6, 2014 (N.T. 13-14, Exhibit B-2).

5. Licensee did not possess an extended hours food permit on October 6, 2013, or December 1, 2013 (Exhibit B-3).

6. The person who entered the licensed premises at 3:00 a.m. on December 1, 2013, was not a patron, but an employee coming to work at his job cleaning the premises (N.T. 39-40).

CONCLUSIONS OF LAW:

1. Licensee violated the Liquor Code, 47 P.S. §4-499(a), on October 6 and December 1, 2013, by failing to require patrons to vacate that part of the premises habitually used for the service of alcoholic beverages not later than one-half hour after such service is required to cease.

2. Licensee violated the Liquor Code, 47 P.S. §4-499(a), on October 6 and December 1, 2013, by permitting patrons to possess alcoholic beverages in and/or remove them from that part of the premises habitually used for the service of alcoholic beverages after 2:30 a.m.

3. The evidence did not prove that Licensee violated Liquor Code, 47 P.S. §4-499(a), on December 1, 2013, by permitting patrons to enter that portion of the premises habitually used for the service of alcoholic beverages between 2:30 a.m. and 7:00 a.m.

4. Licensee violated the Liquor Code, 47 P.S. §§4-406(a)(3) and 4-493(16), on October 6 and December 1, 2013, by selling alcoholic beverages on Sunday between 2:00 a.m. and 11:00 a.m.

PRIOR RECORD:

Licensee has been licensed since August 29, 1966, and has had prior violations since July 1, 1987, the date of establishment of the Office of Administrative Law Judge, as follows:

In re Citation No. 94-0334. \$1,000.00 fine.

1. Sales to minors. January 13, 1994.

In re Citation No. 95-1630. 1 day suspension.

1. Sales during prohibited hours on an election day. May 16, 1995.

In re Citation No. 96-2353. 1 day suspension.

1. Sales to a minor. October 5, 1996.

In re Citation No. 97-0532. 2 days suspension.

1. Sales to a minor. February 14, 1997.
2. Minor frequenting. February 14, 1997.

In re Citation No. 01-0761. \$2,000.00 fine.

1. Sales to a minor.
2. Minor Frequenting.

In re Citation No. 02-0263. \$300.00 fine.

1. Failed to require patrons to vacate the premises by the required time.

In re Citation No. 03-1624. \$1,000.00 fine and 2 days suspension.

1. Sales to minors. August 22, 2003.
2. Minors frequenting. August 22, 2003.

In re Citation No. 06-2560C. \$1,250.00 fine and R.A.M.P. – certification mandated.

1. Sales to a minor. October 5, 2006.

In re Citation No. 07-2632X. \$200.00 fine.

1. Bad checks for malt or brewed beverages. July 11, 18, 24 and August 7, 2007.

In re Citation No. 07-2964X. \$200.00 fine.

1. Bad checks for malt or brewed beverages. September 18, 2007.

In re Citation No. 08-2016. \$100.00 fine.

1. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of 2 years preceding July 14, 2008.

In re Citation No. 08-2657X. \$300.00 fine.

1. Bad checks for malt or brewed beverages. September 17, 2008.

In re Citation No. 08-2969X. \$400.00 fine.

1. Bad checks for malt or brewed beverages. October 1, 2008.

In re Citation No. 09-0171X. \$450.00 fine.

1. Bad checks for malt or brewed beverages. November 13, 2008.

In re Citation No. 09-1334X. \$500.00 fine. License suspended one day for late payment.

1. Bad checks for malt or brewed beverages. April 16, 2009.

In re Citation No. 09-2058X. \$600.00 fine.

1. Bad checks for malt or brewed beverages. July 2, 2009.

In re Citation No. 09-2357. \$500.00 fine.

1. Gambling (machine). August 31, 2009.

In re Citation No. 09-2683X. \$700.00 fine.

1. Bad checks for malt or brewed beverages. August 6, 2009.

In re Citation No. 10-0162X. \$650.00 fine.

1. Bad checks for malt or brewed beverages. November 18, 2009.

In re Citation Nos. 10-2331X & 10-2752X (consolidated). \$700.00 fine.

1. Bad checks for malt or brewed beverages. August 13 and November 4, 2010.

In re Citation No. 11-1258X. 1 day suspension.

1. Bad checks for malt or brewed beverages. November 19, 2010.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine, or both, for violations of the type found in this case. For violations of the type found in the fourth count any fine must be in the \$1,000.00 to \$5,000.00 range. For violations of the type found in the other counts any fine must be in the \$50.00 to \$1,000.00 range. Penalties are assessed as follows:

Count Nos. 1 & 2 (penalty merged) – a fine of \$200.00.

Count No. 3 – DISMISSED.

Count No. 4 – a fine of \$1,000.00.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Rick Palladino's, Inc., License No. R-AP-SS-19663, 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 8TH day of October, 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.

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 account of an attorney licensed in Pennsylvania. **Personal and business checks are NOT acceptable unless bank certified.** If you are paying by guaranteed check, please make it 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

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