

Mailing Date: MAY 21 2015

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 14-0210
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-472075
	:	
Q & D, INC.	:	
T/A LAMPLIGHTER	:	PLCB LID - 19019
8 CAMPBELL AVE.	:	
HAVERFORD TWP.	:	
HAVERTOWN, PA 19083-1523	:	PLCB License No. R-AP-SS-EHF-17928
	:	
DELAWARE 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 February 18, 2014, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Q & D, Inc., t/a Lamplighter, License Number R-AP-SS-EHF-17928 (hereinafter "Licensee").

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An Administrative hearing was held on Thursday, September 18, 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 December 1 through 31, 2013, Licensee, by its servants, agents or employees, sold alcoholic beverages after the Restaurant Liquor License expired on November 30, 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 20, 2013 and ended on January 9, 2014. A notice of violation letter dated January 13, 2014 was sent to the licensed premises by certified mail, return receipt requested. That mailing was signed as received on January 14, 2014. A citation dated February 18, 2014 was sent to the licensed premises by certified mail, return receipt requested. The citation was remailed on April 18, 2014 and was signed as received on April 21, 2014. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on July 31, 2014 by certified mail, return receipt requested, and by first class mail. That mailing was returned unclaimed (N.T. 9-11 and Exhibits B-1 and B-2).

2. An officer from the Bureau has been employed with the Bureau for approximately four years. He conducted an investigation of the licensed premises as the result of a complaint for sales with an expired license. On Tuesday, December 31, 2013 at 7:15 p.m., the officer visited the licensed premises and verified that the premises was open (N.T. 5-7).

3. The officer recognized the president of the corporation from having reviewed the licensing file. The officer observed fifteen patrons sitting at the bar. The officer asked to sit at the bar. John Quinn, the corporate president, came over to the officer and asked if he could get him a drink. The undercover officer ordered a twelve ounce bottle of Coors Light beer. He then watched Mr. Quinn go to the cooler, retrieve the Coors Light beer and placed it in front of him. Mr. Quinn then took five dollars that the officer had placed in front of him at the bar. Mr. Quinn rang the sale up on the cash register and brought the officer one dollar and twenty-five cents back in change (N.T. 7-8).

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4. Immediately after the sale was rung up on the cash register and the officer was given his change, he got up from his seat and walked outside to his vehicle and obtained a blank witness statement. The officer then returned, identified himself to Mr. Quinn, who stated that he was currently working with his accountant to obtain temporary authority to operate. The officer had Mr. Quinn fill out a statement and was told he could remain open selling food, but could not sell alcoholic beverages until he had obtained temporary authority to operate. The officer advised him that if he continued to sell, he would face additional administrative and criminal charges. He signed a statement and the officer left the premises (N.T. 8, 11-13 and Exhibit B-2).

5. An attestation from the Bureau indicates that the liquor license had expired on November 30, 2013 and had not been renewed as of December 31, 2013 (N.T. 14-15 and Exhibit B-4).

6. The Licensee indicates that he was aware that his license had expired November 30, 2013 and that he continued to operate and sell alcoholic beverages after the license expired (Exhibit B-3).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

During the period December 1 through 31, 2013, Licensee, by its servants, agents or employes, sold alcoholic beverages after the Restaurant Liquor License expired on November 30, 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 May 20, 1971, and since July 1, 1987, the date of establishment of the Office of Administrative Law Judge, has a record of prior violations as follows:

In Re:

Citation No. 95-2680. \$350.00 fine.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries on the licensed premises.

Citation No. 97-0766. \$100.00 fine.

1. Issued worthless checks in payment for malt or brewed beverages.

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Citation No. 02-1512. \$1,000.00 fine.

1. Sales to minors.

Citation No. 09-1080X. \$150.00 fine.

1. Issued worthless checks in payment for malt or brewed beverages.
March 13, 2009.

Citation No. 13-2332. \$500.00 fine.

1. Possessed or operated gambling devices or permitted gambling or lotteries on the licensed premises.
October 5 and 9, 2013.

DISCUSSION:

During the period December 1 to 31, 2013, the Licensee continued to sell alcoholic beverages after the Restaurant Liquor License expired on November 30, 2013 and had not been renewed and no temporary authority to operate had been issued. A review of Licensee's prior history indicates that there are three violations from 1995 to 2002, a 2009 violation for issuing worthless checks and more recently a 2013 violation for gambling. After a review of the prior history, a monetary penalty shall be imposed. Licensee is advised to renew timely its license in order to avoid future enforcement action.

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

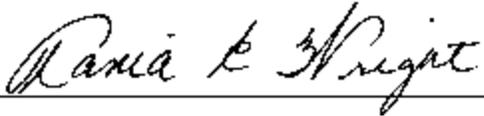
ORDER:

THEREFORE, it is hereby Ordered that Licensee, Q & D, Inc., t/a Lamplighter, License Number R-AP-SS-EHF-17928, 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.

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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 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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