

Mailing Date: FEB 13 2015

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

PENNSYLVANIA STATE	:	In re Citation No. 14-1079
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W01-474899
	:	
v.	:	PLCB LID No. 55418
	:	
19135 VANDIKE ENTERPRISES, INC.	:	PLCB License No. R-AP-SS-953
7356-7358 FRANKFORD AVE.	:	
PHILADELPHIA, PA 19136-3829	:	Philadelphia County

JUDGE SHENKLE
BLCE COUNSEL: Andrew R. Britt, Esq.
LICENSEE: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on June 3, 2014. There are two counts in the citation.

The first count alleges that Licensee violated the Liquor Code, 47 P.S. §4-499(a), on March 29, 2014, 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 the service of alcoholic beverages is required to cease.

The second count alleges that Licensee violated the Liquor Code, 47 P.S. §4-499(a), on March 29, 2014, 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.

At the hearing scheduled for December 16, 2014, in Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the case was heard *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period February 26 through April 26, 2014, and sent it written notice of the results on May 12, 2014 (N.T. 8-10, Exhibit B-1).
2. A copy of this citation was mailed to Licensee June 3, 2014 (N.T. 9-10, Exhibit B-2).
3. A Notice of Hearing was mailed to Licensee on October 27, 2014.
4. On March 29, 2014, a liquor enforcement officer arrived at Licensee's premises at 2:30 a.m. He parked directly in front of the windows of the license premises, through which he could see approximately 35 patrons in two barrooms. Most of the patrons were in possession of alcoholic

beverages. The officer maintained an outside surveillance until 2:50 a.m., at which point one of the barrooms had been vacated completely and the other one held eight people who were not in possession of alcoholic beverages, but were seated at the bar, talking. No one entered the premises during this time (N.T. 5-7).

CONCLUSIONS OF LAW:

Licensee violated the Liquor Code, 47 P.S. §4-499(a), on March 29, 2014, 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 the service of alcoholic beverages is required to cease.

Licensee violated the Liquor Code, 47 P.S. §4-499(a), on March 29, 2014, by permitting patrons to possess alcoholic beverages in that part of the premises habitually used for the service of alcoholic beverages after 2:30 a.m.

PRIOR RECORD:

Licensee has been licensed since November 1, 2005, and has had prior violations as follows:

In re Citation No. 08-0157. \$300.00 fine.

1. Unlimited alcoholic beverages for a fixed price. December 30, 2007.

In re Citation No. 08-0573. \$200.00 fine.

1. Loudspeakers could be heard outside. February 10, 2008.

In re Citation No. 09-0670. \$1,250.00 fine and R.A.M.P. – certification mandated.

1. September 21, 2008.

In re Citation No. 09-1053. \$300.00 fine.

1. Loudspeakers could be heard outside. March 14, 2009.

In re Citation No. 09-1542C. 2 days suspension.

1. Sales to a minor. May 28, 2009.

In re Citation No. 09-2648X. \$100.00 fine.

1. Bad checks for malt or brewed beverages. September 11 and 25, 2009.

In re Citation No. 10-0602. \$300.00 fine.

1. Failed to post a notice of suspension. March 1 and 2, 2010.

In re Citation No. 10-1029. \$400.00 fine.

1. Loudspeakers could be heard outside. March 6, 2010.

In re Citation No. 11-0056X. \$150.00 fine.

1. Bad checks for malt or brewed beverages. November 7, 2010.

In re Citation No. 11-0756X. \$200.00 fine.

1. Bad checks for malt or brewed beverages. February 25 and March 17, 2011.

In re Citation No. 11-1287X. \$250.00 fine.

1. Bad checks for malt or brewed beverages. March 17 and 18, 2011.

In re Citation No. 11-1941X. \$300.00 fine. License suspended 1 day for late payment.

1. Bad checks for malt or brewed beverages.

In re Citation No. 13-1437. \$500.00 fine, 3 day suspension and R.A.M.P. certification.

1. Sales to minors. April 27, 2013.
2. Minors frequenting. April 17 and 28, 2013.
3. Failed to require patrons to vacate the premises by the required time. March 30, 2013.
4. Permitted patrons to possess alcoholic beverages after 2:30 a.m. March 30, 2013.
5. Permitted patrons to enter the premises between 2:30 a.m. and 7:00 a.m. when the Licensee did not possess an extended hours food permit. March 30, 2013.

In re Citation No. 14-0286. \$2,500.00 fine. One day suspension for late payment, deferred.

1. Sales on Sunday between 2:00 a.m. and 11:00 a.m.
2. Failed to require patrons to vacate by the required time. January 5, 2014.
3. Permitted patrons to possess alcoholic beverages after 2:30 a.m. January 5, 2014.
4. Permitted patrons to enter the premises between 2:30 a.m. and 7:00 a.m. when the Licensee did not possess an extended hours food permit. January 5, 2014.

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 \$50.00 to \$1,000.00 range, or both, for violations of this type. Penalties are assessed as follows:

Count No. 1 – a fine of \$750.00.

Count No. 2 – a fine of \$750.00.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, 19135 Vandike Enterprises, Inc., License No. R-AP-SS-953, shall pay a fine of one thousand five hundred dollars (\$1,500.00) 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 30TH day of JANUARY, 2015.



David L. Shenkle, J.

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.