

Mailing Date: JUN 17 2016

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	IN RE: CITATION NO. 14-1625
LIQUOR CONTROL ENFORCEMENT	:	BLCE INCIDENT NO. W06-480759
	:	
v.	:	
	:	
	:	PLCB LID - 49466
JNH ENTERPRISES I, LLC	:	
T/A DIGGER'S DIVERSION	:	PLCB LICENSE NO. R-AP-SS-EHF-19806
2617 RTE. 487	:	
ORANGEVILLE, PA 17859	:	
	:	
COLUMBIA COUNTY	:	

**ADJUDICATION**

**BEFORE: DANIEL T. FLAHERTY, JR., ALJ**  
**BUREAU COUNSEL: JOHN H. PIETRZAK**  
**LICENSEE: J. NEVIN HARTMAN, PRO SE**

**BACKGROUND:**

This proceeding arises out of a citation that was issued on August 21, 2014, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against JNH ENTERPRISES I, LLC, (hereinafter "Licensee").

The citation charges Licensee with violation of Section 491(10) of the Liquor Code [47 P.S. §4-491(10)] in that on July 13, 2014, Licensee, by its servants, agents or employees, refilled liquor bottles.

The investigation which gave rise to the citation began on June 23, 2014 and was completed on July 22, 2014; and notice of the violation was sent to Licensee by Certified Mail on July 23, 2014. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on January 13, 2016 at the Lysock Complex, 542 County Farm Road, Suite 2, Montoursville, Pennsylvania.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. On July 13, 2014, two officers of the Bureau arrived at the licensed premises to conduct a routine inspection (N.T. 10).

2. Upon entry, the officers spoke with the bartender, Danielle Morris. Ms. Morris contacted the sole corporate officer, Mr. Hartman. Mr. Hartman then arrived at the licensed premises (N.T. 10-11).

3. One of the officers examined the area behind the bar counter. On the lowest shelf in this area he observed partially depleted 1.75 liter bottles of liquor of various types and brands. He also observed that 750 ml bottles of liquor of the same types and brands were found on the speed rack (N.T. 11).

4. The officers observed that the 750 ml bottles on the speed rack were over filled (N.T. 11).

5. The officers identified seven brands of liquor having partially depleted 1.75 liter bottles on the lower shelf and 750 ml over filled bottles on the speed rack. These brands were Captain Morgan, Jack Daniels, Jim Beam, Jose Cuervo, Southern Comfort, Admiral Nelson and Three Olives Grape vodka (N.T. 13).

6. Mr. Hartman indicated to the officers that the small bottles in the speed rack had been refilled. He also signed a short written statement in which he admitted that 750 ml liquor bottles had been refilled from 1.75 liter bottles. He further indicated that this had been going on for six months (N.T. 14 and Exhibit C-3).

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

PRIOR RECORD:

Licensee has been licensed since May 20, 2002, and has had five prior violations:

IN RE:

Citation No. 05-1297. Fine \$1,250.00.

1. Sales on Sunday between 2:00 a.m. and 11:00 a.m.

Citation No. 09-3035. Fine \$1,700.00 and RAMP training mandated.

1. Sales to a visibly intoxicated person. December 11, 2009.

Citation No. 10-0761. Fine \$2,200.00.

1. Sales to a visibly intoxicated person. March 21, 2010.
2. Loudspeakers. March 21, 2010.

Citation No. 10-2059. Fine \$600.00.

1. Sold malt or brewed beverages in excess of 192 fluid ounces for consumption off premises. July 4, 2010.
2. Loudspeakers. August 23 and 28, 2010.

Citation No. 11-0377. Fine \$2,000.00, 3 days suspension and RAMP compliance.

1. Sales to a visibly intoxicated person. February 4, 2011.

PENALTY:

Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or a fine of not less than \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

Under the circumstances of this case, the penalty imposed shall be a fine of \$500.00.

ORDER

THEREFORE, it is hereby ordered that Licensee JNH ENTERPRISES I, LLC, pay a fine of \$500.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee's license shall be suspended or revoked.

Jurisdiction is retained.

Dated this 10<sup>TH</sup> day of June, 2016.



Daniel T. Flaherty, Jr., J.

**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.**

**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 CHIEF COUNSEL'S OFFICE AT 717-783-9454.**

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

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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.** Please make your guaranteed check 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

IN RE: CITATION NO. 14-1625  
JNH ENTERPRISES I, LLC

**Credit/Debit Cards may be used:** If have already registered with PLCB+ you should be able to pay by Credit/Debit card; if you have not registered with PLCB+ you may obtain the information on how to register by sending an email message to: [RA-LBLICENSINGMOD@pa.gov](mailto:RA-LBLICENSINGMOD@pa.gov)