

Mailing Date: **FEB 25 2015**

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

PENNSYLVANIA STATE POLICE, BUREAU OF LIQUOR CONTROL ENFORCEMENT (BLCE)	:	In Re Citation No.: 14-1760
	:	
	:	BLCE Incident No.: W03-482194
	:	
v.	:	
	:	
T-N-KEIFFER'S BRICKHOUSE, LP 3095 TURKEY VALLEY RD. MT. PLEASANT MILLS, PA 17853	:	PLCB LID No.: 62115
	:	
	:	PLCB License No.: R-AP-SS-21470
	:	
JUNIATA COUNTY	:	

ADJUDICATION

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: John H. Pietrzak, Esquire

LICENSEE: Ex Parte

BACKGROUND:

This proceeding arises out of a citation, containing one count, that was issued on September 4, 2014, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against T-N-Keiffer's Brickhouse, LP (Licensee).

The citation charges Licensee with a violation of Section 5.23(c) of the Liquor Control Board Regulations [40 Pa. Code §5.23(c)]. The charge is that Licensee, by your servants, agents, or employees, failed to notify the Board within fifteen (15) days of a change of manager, during the period April 24 through July 16, 2014.

I presided at an evidentiary hearing on January 15, 2015 at 2221 Paxton Church Road, Harrisburg, Pennsylvania.

Therefore, I make the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT:

1. The Office of Administrative Law Judge sent a notice of hearing on December 2, 2014, by certified mail, return receipt requested and first class mail. The certified mail notice was returned unclaimed. The first class notice was not returned.
2. The Bureau began its investigation on July 21, 2014 and completed it on August 1, 2014. (N.T. 21)
3. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on August 13, 2014. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 19)
4. Licensee installed a new Manager. During the period charged, Licensee failed to submit the required documents to the Pennsylvania Liquor Control Board to register the change. (N.T. 25-30)

CONCLUSION(S) OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. I sustain the violation as charged.

PRIOR ADJUDICATION HISTORY:

Licensee has been licensed since September 15, 2009, and has the following Adjudication history:

In Re Citation No.: 11-1679. Fine \$2,000.00.

1. Possessed or operated gambling devices or permitted gambling on the licensed premises (Nascar pools) on June 27 and 28, 2011.

2. Smoked and/or permitted smoking in a public place where smoking was prohibited on June 27 and 28, 2011.

In Re Citation No.: 14-1543X. Fine \$150.00.
Issued worthless checks for payment of malt or brewed beverages dated April 21 and 28, 2014.

PENALTY ASSESSMENT CRITERIA:

Mandatory Requirement(s)

Liquor Code Section 471 [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 the violation found herein.

Discretionary Component(s)

I impose a \$500.00 fine and a one day suspension continuing thereafter until Licensee submits the required documents to the Pennsylvania Liquor Control Board to register a change of manager.

ORDER:

Imposition of Fine

Licensee must pay a \$500.00 fine within twenty days of the mailing date of this Adjudication. The mailing date is located on this Adjudication's first page, upper left corner. If Licensee fails to comply, the Liquor Code requires that I suspend or revoke the license.

Suspension Length and Date(s)

I suspend the license indefinitely for at least one day, as well as all other permits or licenses issued by the Pennsylvania Liquor Control Board attendant to the subject license, beginning Monday, April 6, 2015, 7:00 a.m., and continuing thereafter until I issue a further Order terminating the suspension.

Instructions to Post Notice of Suspension Placard

Licensee shall post a Notice of Suspension Placard (PLCB Form 1925) in a conspicuous place on the outside of the licensed premises, or in a window plainly visible from the outside of the licensed premises, on or before Monday, April 6, 2015, 7:00 a.m. and continuing thereafter until I issue a further Order terminating the suspension.

Consequence of Failing to Comply With This Order

In addition to any other consequence at law, if Licensee does not comply with all conditions herein, the Bureau may issue an additional citation alleging Licensee has violated this Order. Alternatively, the Bureau may assert the same claim by requesting this Adjudication be reopened.

Requirement to Submit Written Notice of Documentation submitted for a Change of Manager

Licensee must submit the attached Certification, addressed to: Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661, in which Licensee is to identify the date documentation was submitted to the Pennsylvania Liquor Control Board for a change of manager.

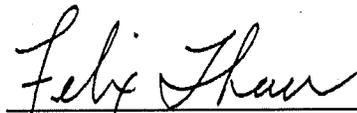
License Suspension to Continue Until Further Order Issued

I will then issue an Order terminating the thereafter portion of the suspension. Licensee shall not resume operating, pursuant to the license, until I issue an Order saying so.

Retaining Jurisdiction

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 18th day of February, 2015.



Felix Thau, A.L.J.

bc

General Information

This Adjudication is a legal document. It affects your rights, privileges, and obligations. The information which follows is a general guide. If you have not already done so, it may be prudent for you to consult with an attorney.

Applying for Reconsideration

If you want the Administrative Law Judge to reconsider this Adjudication, you must submit a written application and a nonrefundable \$25.00 filing fee. Both must be received by the Office of Administrative Law Judge, (PLCB - Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661) within fifteen days of this Adjudication's mailing date. Your application must describe the reasons for reconsideration. The full requirements for reconsideration can be found in Title 1 Pa. Code §35.241.

Appeal Rights

If you wish to appeal this Adjudication, you must file an appeal within thirty days of the mailing date of this Adjudication by contacting the Office of Chief Counsel of the Pennsylvania Liquor Control Board (717-783-9454). For further information, visit www.lcb.state.pa.us. The full requirements for an appeal can be found in 47 P.S. §4-471.

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

The fine must be paid by cashier's check, money order, or an attorney's check who is licensed to practice law 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

Credit/debit cards may be used: visit www.lcb.state.pa.us scroll over LEGAL and then click on Office of ALJ for instructions. Your LID/USER NAME is **62115** and your password is **YY8Q3M**.

