

Mailing Date: MAR 29 2016

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 14-1994
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W09-483026
	:	
VIA MARCONI PIZZA PUB, INC.	:	
T/A VIA MARCONI PIZZA PUB	:	PLCB LID - 58070
190 FORTY FOOT RD.	:	
SUITE 114-118	:	
HATFIELD TWP.	:	PLCB License No. R-AP-SS-EHF-18974
HATFIELD, PA 19440	:	
	:	
MONTGOMERY COUNTY	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

ROY HARKAVY, ESQ.

FOR THE LICENSEE:

**TOMAS VICKERMAN
PRO SE**

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on October 1, 2014, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Via Marconi Pizza Pub, Inc., t/a Via Marconi Pizza Pub, License Number R-AP-SS-EHF-18974 (hereinafter "Licensee").

Via Marconi Pizza Pub, Inc.
t/a Via Marconi Pizza Pub
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An Administrative hearing was held on Tuesday, April 28, 2015, pursuant to requisite and appropriate hearing notice. The parties stipulated to the service and receipt of the notice letter and the citation.

The citation charges Licensee with violation of Section 5.51(c) of the Liquor Control Board Regulations, 40 Pa. Code §5.51(c), in that during the period January 1 through August 17, 2014, Licensee, by its servants, agents or employes, failed to clean malt or brewed dispensing system at least once every seven (7) days.

FINDINGS OF FACT:

1. On Sunday, August 17, 2014, an officer from the Bureau conducted a routine inspection of the premises in the presence of Maria Nieves, the manager of the premises. The officer had been assigned to investigate the premises for illegal happy hours (N.T. 7-8).

2. The officer observed that the premises has fifty-six draft beers on tap. The officer inspected the coil cleaning records which reflected that the entire draft system is cleaned every seven days. The officer spoke to Tomas Vickerman, president, secretary, treasurer, director and stockholder of the licensed premises, via telephone. Mr. Vickerman confirmed that a company cleans the coils every seven days, but only half of the coils are done each time. Mr. Vickerman informed the officer that this has been done since the beginning of 2014 (N.T. 9-10).

3. Mr. Vickerman presented a receipt in Court of bar cleaning equipment that he purchased January 22, 2014. Mr. Vickerman presented evidence to demonstrate how he regularly cleans the taps in order that they be cleaned every seven days (N.T. 5-10).

CONCLUSIONS OF LAW:

There is insufficient evidence to conclude that during the period January 1 through August 17, 2014, Licensee, by its servants, agents or employes, failed to clean malt or brewed dispensing system at least once every seven (7) days, in violation of Section 5.51(c) of the Liquor Control Board Regulations, 40 Pa. Code §5.51(c).

DISCUSSION:

The records indicate that the coils are cleaned weekly. Mr. Vickerman confirmed that a company cleans the coils every seven days, but only half of the coils are done each time. With that information, the officer concluded that the coils were being cleaned every fourteen days instead of every seven as required. Mr. Vickerman testified in-Court that the cleaning is supplemented by his own cleaning and he presented a receipt for a cleaning system and demonstrated its use. However, he had never shown these additional records to the officer.

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It was Mr. Vickerman's explanation to the officer which caused him to conclude as he did. The Court will give Mr. Vickerman the benefit of the doubt, however, Mr. Vickerman is well advised to utilize a cleaning system which insures that the coils are cleaned weekly and that his records clearly reflect the actual cleaning events. Failing to follow the prescribed cleaning schedule could result in health risks to its patrons.

Under the circumstances, this matter is **DISMISSED**.

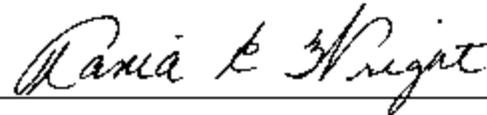
Accordingly, we issue the following:

ORDER

THEREFORE, it is hereby Ordered that Citation No. 14-1994 is **DISMISSED**.

Jurisdiction of this matter is retained.

Dated this 23RD day of MARCH, 2016.



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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