

Mailing Date: MAR 23 2016

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 14-2193
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W01-484646
	:	
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:

ERIK S. SHMUKLER, ESQ.

FOR THE LICENSEE:

**JOHN P. QUINN
PRO SE**

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on November 4, 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").

Q & D, Inc.
t/a Lamplighter
In Re: Citation No. 14-2193

An Administrative hearing was held on Tuesday, June 2, 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 Sections 491(10) of the Liquor Code, 47 P.S. §4-491(10), in that on September 6, 2014, Licensee, by its servants, agents or employes, refilled liquor bottles.

FINDINGS OF FACT:

1. On Saturday, September 6, 2014 at 4:15 p.m., an officer from the Bureau arrived at the licensed premises. The premises had been granted a temporary extension to serve alcohol in their parking lot during the Haverford Music Festival. The officer observed two female bartenders and one male bartender rendering service of alcoholic beverages to seventy-five patrons in the parking lot. He then entered the premises and saw approximately twelve patrons inside. When it started getting stormy outside, it got busier inside (N.T. 7-10.)

2. While seated at the bar, the officer observed a bar back helping the bartender to restock the liquor behind the bar. The officer observed the bartender hand the bar back an empty large bottle of Banker's Club Gin along with a partially filled 1.75 ml bottle of the same brand. The bartender instructed him to refill the smaller liquor bottle from the larger one. The bar back took the bottles to a different room. When the bar back returned with the filled bottles, the bartender placed the filled bottles on the speed rack behind the bar. The officer exited the premises at 5:30 p.m. (N.T. 10-12).

3. On October 6, 2015, the officer sent or caused to be sent, a notice of violation letter, under the signature of Sergeant Daniel D. Steele, District Office Commander, to the Licensee (Exhibit B-3).

CONCLUSIONS OF LAW:

On September 6, 2014, Licensee, by its servants, agents or employes, refilled liquor bottles, in violation of Sections 491(10) of the Liquor Code, 47 P.S. §4-491(10).

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:

Q & D, Inc.
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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.

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.

Citation No. 14-0210. \$1,250.00 fine.

1. Sales after the license expired and had not been renewed and/or validated.
December 1 through 31, 2013.

DISCUSSION:

Licensee claims that this is not his usual practice, but the bartender did it because of the volume of drinks during the festival. It was explained to the Licensee that refilling liquor bottles poses a health risk and is not an acceptable practice. Under the circumstance, a monetary penalty shall be imposed.

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 \$50.00 or more than \$1,000.00, or both, for violations of the type found in this case.

Accordingly, we issue the following:

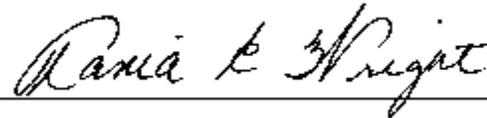
Q & D, Inc.
t/a Lamplighter
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ORDER

THEREFORE, it is hereby Ordered that Licensee, Q & D, Inc., t/a Lamplighter, License Number R-AP-SS-EHF-17928, pay a fine of Four Hundred Dollars (\$400.00) 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.

Jurisdiction of this matter is retained.

Dated this 11TH 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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Q & D, Inc.
t/a Lamplighter
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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

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