

Mailing Date: FEB 26 2016

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

PENNSYLVANIA STATE	:	In re Citation No. 15-0372C
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W01-491112
	:	
v.	:	PLCB LID No. 9994
	:	
MULLEN'S TAVERN, INC.	:	PLCB License No. R-AP-SS-1459
1720 W. MOYAMENSING AVE.	:	
PHILADELPHIA, PA 19145-4820	:	Philadelphia County

JUDGE SHENKLE
BLCE COUNSEL: Erik S. Shmukler, Esq.
LICENSEE: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on March 10, 2015. The citation alleges that Licensee violated the Liquor Code, 47 P.S. §4-493(1), on January 29, 2015, by selling, furnishing, and/or giving or permitting such sale, furnishing or giving of alcoholic beverages to one minor, years of age.

At the hearing scheduled for January 12, 2016, in Plymouth Meeting, Pennsylvania, there was no appearance by for the Licensee; therefore, the case was heard *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period January 29 through February 4, 2015, and sent it written notice of the results on February 18, 2015 (N.T. 8-9, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on March 10, 2015 (N.T., Exhibit B-2).
3. A Notice of Hearing was mailed to Licensee on December 1, 2015.
4. On January 29, 2015, a liquor enforcement officer entered Licensee's premises at 5:50 p.m. He saw that there were three patrons attended by one bartender, and since the environment appeared safe he notified officers waiting outside that the underage buyer who was working with them could be sent into the premises (N.T. 5-6).
5. The underage buyer was a man whose birth date was December 3, 1994. He entered the premises and ordered a bottle of beer. He handed the bartender a ten dollar bill. The bartender returned seven dollars in change and supplied the beer requested. The minor then left the premises. Another liquor enforcement officer then entered and informed Licensee's owner of the violation (N.T. 7-14, Exhibit B-3).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since October 18, 1961, and has had prior violations since July 1, 1987, the date of establishment of the Office of Administrative Law Judge, as follows:

In re Citation No. 94-2401. \$350.00 fine.

1. Gambling (machine). June 17 and September 10, 1994.

In re Citation No. 95-1666. \$1,000.00 fine.

1. Sales to minors. May 19, 1995.
2. Minors frequenting. May 19, 1995.

In re Citation No. 97-0325. \$50.00 fine and 3 days suspension.

1. Sold liquor for consumption off premises. November 9, 1966.
2. Gambling (horse bets and machine). November 13, 1996, January 16 and 17, 1997.

In re Citation No. 98-1444. 3 days suspension.

1. Sales to a minor. July 2, 1998.
2. Minor frequenting. July 2, 1998.

In re Citation No. 00-2167. 3 days suspension.

1. Loudspeakers could be heard outside. June 3 and July 24, 2000.
2. Gambling (machines). August 24 and October 25, 2000.

In re Citation No. 09-2729. \$250.00 fine.

1. Smoking where smoking was prohibited. September 17, 23 and October 10, 2009.
2. Failed to post signage, as required. September 17, 23 and October 10, 2009.

In re Citation No. 11-1729. \$500.00 fine.

1. Smoking where smoking was prohibited. August 11 and 20, 2011.
2. Failed to post signage, as required. August 11 and 20, 2011.

In re Citation No. 14-1742. \$200.00 fine.

1. Operated without valid health permit. May 2, 2013 through July 22, 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 \$1,000.00 to \$5,000.00 range, or both, for violations of this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Mullen's Tavern, Inc., License No. R-AP-SS-1459, shall pay a fine of fourteen hundred dollars (\$1,400.00) 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 23RD day of February, 2016.



David L. Shenkle, J.

jb

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

In re Citation No. 15-0372C
Mullen's Tavern, Inc.