

Mailing Date: MAR 03 2016

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 15-0837
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	BLCE Incident No. W09-491837
	:	
COLMAR CORPORATION, INC.	:	
T/A TRAXX SPORTS PUB	:	PLCB LID - 49406
102 BETHLEHEM PIKE	:	
HATFIELD TWP.	:	
COLMAR, PA 18915-9404	:	PLCB License No. H-SS-164
	:	
MONTGOMERY COUNTY	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

**ROY HARKAVY, ESQ.**

FOR THE LICENSEE:

**EX PARTE**

**BEFORE: JUDGE WRIGHT**

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on May 13, 2015, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Colmar Corporation, Inc., t/a Traxx Sports Pub, License Number H-SS-164 (hereinafter "Licensee").

An Administrative hearing was held on Tuesday, October 27, 2015, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

The citation charges Licensee with violation of Section 474.1(a) of the Liquor Code, 47 P.S. §4-474.1(a) and Section 7.31(a) of the Liquor Control Board Regulations, 40 Pa. Code §7.31(a), in that Licensee, by its servants, agents or employees, failed to return the hotel liquor license and wholesale liquor purchase permit cards to the Board after the licensed establishment had not been in operation for a period of fifteen (15) consecutive days between March 2 and April 8, 2015.

FINDINGS OF FACT:

1. The Bureau conducted an investigation of the licensed premises which began on February 17, 2015 and ended on April 13, 2015. A notice of violation letter dated April 14, 2015, was sent to the licensed premises by certified mail, return receipt requested. That mailing was returned to the sender unclaimed and could not be forwarded. A citation dated May 13, 2015, was sent to the licensed premises by certified mail, return receipt requested. That mailing was returned unclaimed and unable to be forwarded. The Office of Administrative Law Judge sent a citation hearing notice to the corporate officer, James Jacketti on September 9, 2015 by certified mail, return receipt requested, and by first class mail. The certified mail was returned unclaimed (N.T. 6-8 and Exhibits B-1 and B-2).

2. An officer from the Bureau conducted an investigation of the licensed premises, after receiving a complaint for sales after hours and sales to minors. The officer went to the premises on March 13, 2015 and found the establishment closed and locked, with the lights out. There was a for sale sign outside the premises. The officer remained in the vicinity for some time to see if anyone would come in and open the premises. He departed the area around 9:16 p.m. (N.T. 9).

3. On March 24, 2015, the officer contacted the Pennsylvania Liquor Control Board to determine whether the license was in safekeeping. The officer also attempted to contact James Jacketti, a corporate officer. The officer identified himself and asked when the bar was last opened. On April 8, 2015, the officer received an email from Mr. Jacketti, explaining that the bar had been closed since March 2, 2015. The officer explained to him that he needed to place the license in safekeeping (N.T. 9-11).

4. An Attestation from the Pennsylvania Liquor Control Board, Bureau of Licensing indicates that the Hotel License was not in safekeeping from March 2, 2015 through April 8, 2015 (N.T. 12 and Exhibits B-3).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

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Licensee, by its servants, agents or employes, failed to return the hotel liquor license and wholesale liquor purchase permit cards to the Board after the licensed establishment had not been in operation for a period of fifteen (15) consecutive days between March 2 and April 8, 2015, in violation of Section 474.1(a) of the Liquor Code, 47 P.S. §4-474.1(a) and Section 7.31(a) of the Liquor Control Board Regulations, 40 Pa. Code §7.31(a).

PRIOR RECORD:

Licensee has been licensed since June 27, 2002, and has a record of prior violations as follows:

In Re:

Citation No. 07-0270. \$400.00 fine. Fine not paid and license suspended for one day and thereafter until fine paid.

1. Failed to require patrons to vacate the premises not later than one-half hour after the required time.
2. Permitted patrons to possess or remove alcoholic beverages after 2:30 a.m.

Citation No. 07-2855X. \$100.00 fine.

1. Issued worthless checks in payment for malt or brewed beverages.

Citation No. 09-2479. \$350.00 fine.

1. Possessed or operated gambling devices or permitted gambling on the licensed premises.  
September 16, 2009.

Citation No. 14-1586. \$1,300.00 fine. Fine not paid and license suspended for one day and thereafter until fine paid.

1. Failed to require patrons to vacate the premises not later than one-half hour after the required time.  
January 26, February 23 and April 5, 2014.
2. Permitted patrons to possess or remove alcoholic beverages after 2:30 a.m.  
January 26, February 23 and April 5, 2014.
3. Sales between 2:00 a.m. and 7:00 a.m. and on Sunday between 2:00 a.m. and 11:00 a.m.  
January 26, February 23 and April 5, 2014.

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Citation No. 14-2454. \$150.00 fine. Fine not paid and license suspended for one day and thereafter until fine paid.

1. Failed to clean malt or brewed beverage dispensing system at least once every 7 days.  
September 9 through November 10, 2014.

DISCUSSION:

Licensees are responsible for notifying the Liquor Control Board as to a change in their status. In this instance, the Licensee closed the premises and was obliged to place the license in safekeeping within fourteen (14) days, but failed to do so. Under the circumstances, a moderate 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.

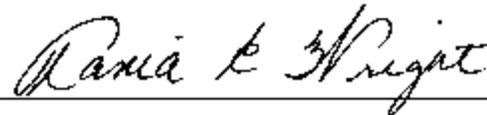
Accordingly, we issue the following:

ORDER

THEREFORE, it is hereby Ordered that Licensee, Colmar Corporation, Inc., t/a Traxx Sports Pub, License Number H-SS-164, 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 2<sup>ND</sup> 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.

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

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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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