

Mailing Date: MAR 18 2016

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	IN RE: CITATION NO. 15-0858
LIQUOR CONTROL ENFORCEMENT	:	
	:	BLCE INCIDENT NO. W03-492388
	:	
v.	:	
	:	
	:	PLCB LID - 62115
T-N-KEIFFER'S BRICKHOUSE, LP	:	
3095 TURKEY VALLEY RD.	:	PLCB LICENSE NO. R-AP-SS-21470
MT. PLEASANT MILLS, PA 17853	:	
	:	
JUNIATA COUNTY	:	

ADJUDICATION

BEFORE: DANIEL T. FLAHERTY, JR., ALJ
BUREAU COUNSEL: JOHN H. PIETRZAK
LICENSEE: NO APPEARANCE

BACKGROUND:

This proceeding arises out of a citation that was issued on May 14, 2015, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against T-N-KEIFFER'S BRICKHOUSE, LP, (hereinafter "Licensee").

The citation charges Licensee with violation of Sections 491(1), 492(2) and 493(16) of the Liquor Code [47 P.S. §§4-491(1), 4-492(2) and 4-493(16)] in that on April 6, 2015, Licensee, by its servants, agents or employees, sold, furnished and/or gave alcoholic beverages during a time when its restaurant liquor license was suspended at Citation No. 14-1760.

The investigation which gave rise to the citation began on February 27, 2014 and was completed on April 7, 2015; and notice of the violation was sent to Licensee by Certified Mail on April 30, 2015. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on August 19, 2015 in the Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. A citation hearing notice was sent to Licensee(s) at its address of record, 3095 Turkey Valley Road, Mt. Pleasant Mills, PA 17853 by certified mail on July 1, 2015. The notice set forth the date and time of the hearing as August 19, 2015 at 1:45 p.m., and the place of hearing as Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. Pursuant to an Adjudication issued by Administrative Law Judge Thau at Citation No. 14-1760, Licensee's restaurant liquor license was suspended from 7:00 a.m., April 6, 2015 until 4:00 p.m., April 7, 2015 (N.T. Exhibit C-5 and C-6).

2. On April 6, 2015, at 1:51 p.m., an officer of the Bureau arrived at the licensed premises (N.T. 8).

3. Upon arrival, the officer could find no suspension placard posted on the licensed premises (N.T. 8).

4. The officer observed that the licensed premises was open for business and there were two patrons inside consuming bottles of Bud Light beer (N.T. 9).

5. The officer observed that Kathy Metzger, the manager of the licensed premises was tending bar. The officer asked her if she knew the licensed premises was suspended for that day. She informed the officer that the president, Keith Schaffer, did not inform her that the license was suspended that day (N.T. 9).

6. Upon request, Metzger gave the officer a printout from the cash register that indicated there were beer sales on April 6, 2015 (N.T. 9 and Exhibit C-8).

7. Metzger also gave a written statement in which she indicated that the licensed business was open on April 6, 2015 and that sales of alcoholic beverages were made on that date (N.T. 10 and Exhibit C-7).

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

PRIOR RECORD:

Licensee has been licensed since September 15, 2009, and has had five (5) prior violations:

IN RE:

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

1. Gambling (NASCAR pools). June 27 and 28, 2011.
2. Smoked and/or permitted smoking in a public place where smoking was prohibited. June 27 and 28, 2011.

Citation No. 14-1057. Fine \$850.00.

1. Smoked and/or permitted smoking in a public place where smoking was prohibited. April 8, 2014.
2. Failed to notify the Board within 15 days of a change of manager. August 17, 2013 through April 8, 2014.

Citation No. 14-1543X. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages. April 21 and 28, 2014.

Citation No. 14-1760. Fine \$500.00 and 1 day suspension and thereafter until conditions corrected.

1. Failed to notify the Board within 15 days of a change of manager. April 24 through July 16, 2014.

Citation No. 14-1796X. Fine \$250.00.

1. Issued worthless checks in payment for malt or brewed beverages. June 23, 2014.

PENALTY:

Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or a fine of not less than \$1,000.00 or more than \$5,000.00 or both for violations of the type found in this case.

Under the circumstances of this case, the penalty imposed shall be suspension of license for a period of three days.

ORDER

IT IS HEREBY ORDERED that the restaurant liquor license (including all permits and Licensee Discount Card) of T-N-KEIFFER'S BRICKHOUSE, LP, License No. R-AP-SS-21470 be suspended for a period of three days **BEGINNING** at 7:00 a.m. on Monday, May 2, 2016 and **ENDING** at 7:00 a.m. on Thursday, May 5, 2016.

Licensee is directed on May 2, 2016 at 7:00 a.m. to place the enclosed Notice of Suspension Placard (Form No. PLCB-1925, printed with red and black ink) in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises and to remove said license from the wall and place it in a secure location.

Licensee is advised if replacement placards are needed for any reason they are available at all Pennsylvania Liquor Stores/Fine Wine & Good Spirits stores.

The Bureau is directed to visit and monitor the aforementioned licensed premises for compliance with this Order.

Licensee is authorized on May 5, 2016 at 7:00 a.m. to remove the suspension placard and return the license to its original wall location.

Jurisdiction is retained.

Dated this 8TH day of March, 2016.



Daniel T. Flaherty, Jr., J.

an

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.

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 CHIEF COUNSEL'S OFFICE AT 717-783-9454.