

Mailing Date: DEC 19 2016

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

PENNSYLVANIA STATE	:	In re Citation No. 15-1124
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W09-494093
	:	
v.	:	PLCB LID No. 69800
	:	
J-B REAL ESTATE ENTERPRISES, INC.	:	PLCB License No. H-AP-SS-EHF-3952
T/A CURRAN HOTEL	:	
155 SUNBURY ST.	:	Schuylkill County
MINERSVILLE, PA 17954-1442	:	

JUDGE SHENKLE
BLCE COUNSEL: Roy Harkavy, Esq.
LICENSEE COUNSEL: Gary D. Marchalk, Esq.

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on June 26, 2015. The citation alleges that Licensee violated the Liquor Code, 47 P.S. §4-499(a), on April 19, 2015, by permitting patrons to possess alcoholic beverages in and/or remove them from that part of the premises habitually used for the service of alcoholic beverages after 2:30 a.m.

A hearing was held on October 26, 2016, in Allentown, Pennsylvania. The parties stipulated to the timely service of the notice letter and citation.

FINDINGS OF FACT:

1. A liquor enforcement officer arrived in the area of the licensed premises at about 1:30 a.m. on April 19, 2015, and began conducting outside surveillance. From that time until 2:50 a.m. he saw people entering and exiting the premises multiple times. Some were outside smoking. One person was seen to enter at 2:32 a.m. At 2:45 a.m. the officer contacted the local police, and when an officer arrived the two officers approached the premises (N.T. 7-8).

2. The liquor enforcement officer looked through a window of the licensed premises and saw five people inside. Two of them were counting money at the bar. Two other people were standing at the bar with what appeared to be draft beer in front of them, and one other person standing at the bar had his hand on the beverage (N.T. 8-9).

3. The liquor enforcement officer identified himself to Licensee's manager and determined that all of the people present were Licensee's employees. While they were talking, the officer noticed that the beer that had been on the bar was gone. He walked around and saw that it had been taken from the bar top and placed on the foot rest of the bar. No one present admitted having possession of any alcoholic beverage (N.T. 10-11).

4. The officer did not see anyone purchase or consume any alcoholic beverage, nor did he see who caused the beer to be placed on the foot rest of the bar. The officer had no evidence that the people in the establishment were anything other than employees (N.T. 14-15).

5. The person seen entering the premises at 2:32 a.m. was an employee who had gone outside to help carry birthday presents to the vehicle of a former employee (N.T. 18-19).

CONCLUSIONS OF LAW:

Licensee violated the Liquor Code, 47 P.S. §4-499(a), on April 19, 2015, by permitting patrons to possess alcoholic beverages in that part of the premises habitually used for the service of alcoholic beverages after 2:30 a.m.

DISCUSSION:

I find that the person standing at the bar with his hand in contact with an alcoholic beverage had possession of it. Possession of the alcoholic beverage made him a patron, notwithstanding his employment status. Patrons may not possess alcoholic beverages in a licensed premise later than one-half hour after the service of alcoholic beverages is required to cease; i.e., 2:30 a.m. in this case.

PRIOR RECORD:

Licensee has been licensed since July 2, 2014, and has had no prior violations.

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 \$50.00 to \$1,000.00 range, or both, for violations of this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, J-B Real Estate Enterprises, Inc., t/a Curran Hotel, License No. H-AP-SS-EHF-3952, shall pay a fine of two hundred dollars (\$200.00) 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 5TH day of December, 2016.



David L. Shenkle, J.

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

Credit/debit cards may be used: if you have already registered with PLCB+ you should be able to pay by Credit/Debit card; if you have not registered with PLCB+ you may obtain the information on how to register by sending an email message to:

RA-LBLICENSINGMOD@pa.gov.