

Mailing Date: NOV 20 2015

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

PENNSYLVANIA STATE POLICE,	:	In Re Citation No.: 15-1194
BUREAU OF LIQUOR CONTROL	:	
ENFORCEMENT (BLCE)	:	
	:	BLCE Incident No.: W02-495219
v.	:	
	:	
MINI TAVA, INC.	:	PLCB LID No.: 68305
118 GROVE ST.	:	
WILKES-BARRE, PA 18702-4842	:	
	:	PLCB License No.: E-SS-2533
LUZERNE COUNTY	:	

**ADJUDICATION**

BEFORE: Felix Thau, Administrative Law Judge

FOR BLCE: Craig A. Strong, Esquire

LICENSEE: Ex Parte

**BACKGROUND:**

This proceeding arises out of a citation, containing one count, that was issued on July 22, 2015, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Mini Tava, Inc. (Licensee).

The citation charges Licensee with a violation of Section 15.62(a) of the Liquor Control Board Regulations [40 Pa. Code §15.62(a)]. The charge is that Licensee, by your servants, agents, or employees, failed to post in a conspicuous place on the outside of the licensed premises, or in a window plainly visible from the outside of the premises, a Notice of Suspension, on June 1, 2015.

I presided at an evidentiary hearing on October 22, 2015 at 100 Lackawanna Avenue, Scranton, Pennsylvania.

Therefore, I make the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT:**

1. The Office of Administrative Law Judge sent a notice of hearing on September 8, 2015, by certified mail, return receipt requested. The notice was received and signed for on September 11, 2015.

2. The Bureau began its investigation on April 26, 2015 and completed it on June 1, 2015. (N.T. 6)

3. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on June 17, 2015. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 7)

4. Pursuant to Adjudication, docketed at In Re Citation No.: 15-0100, the license was suspended for one day beginning June 1, 2015 and ending June 2, 2015. (N.T. 7)

5. On June 1, 2015, at 12:30 p.m., a Bureau Enforcement Officer arrived at the licensed premises. The Officer observed that no Notice of Suspension placard was posted anywhere on the outside of the premises. (N.T. 7-9)

6. On June 1, 2015, at 1:15 p.m., an undercover Bureau Enforcement Officer entered the licensed premises. He attempted to walk to the cooler and the clerk told him "no beer today," and pointed to the placard behind the counter. The Notice of Suspension Placard was posted on the wall. (N.T. 10)

**CONCLUSION(S) OF LAW:**

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.

2. I sustain the violation as charged.

**PRIOR ADJUDICATION HISTORY:**

Licensee has been licensed since August 22, 2013, and has the following Adjudication history:

In Re Citation No.: 14-1263X. Fine \$150.00. Fine not paid and license suspended one day and thereafter until fine paid.

Issued worthless checks in payment for malt or brewed beverages dated April 4, 2014.

In Re Citation No.: 14-2248X. Fine \$200.00.

Issued worthless checks in payment for malt or brewed beverages dated August 22, 2014.

In Re Citation No.: 15-0100. Fine \$1,400.00 and one day suspension.

1. Failed to post in a conspicuous place on the outside of the licensed premises a Notice of Suspension on December 1, 2014.
2. Failed to remove the license from display as ordered by the OALJ on December 1, 2014.
3. Sales during a time when the license was suspended on December 1, 2014.

**PENALTY ASSESSMENT CRITERIA:**

***Mandatory Requirement(s)***

Liquor Code Section 471 [47 P.S. §4-471] prescribes a penalty of license suspension, or revocation, or a fine of not less than \$50.00, or more than \$1,000.00, or both for the violation found herein.

***Discretionary Component(s)***

I impose a \$1,000.00 fine. I also impose a one day suspension as Licensee has yet to serve the suspension in the earlier Adjudication in an official manner.

**ORDER:**

***Imposition of Fine***

Licensee must pay a \$1,000.00 fine within twenty days of the mailing date of this Adjudication. The mailing date is located on this Adjudication's first page, upper left corner. If Licensee fails to comply, the Liquor Code requires that I suspend or revoke the license.

***Suspension Length and Date(s)***

I suspend the license, as well as all other permits or licenses issued by the Pennsylvania Liquor Control Board attendant to the license, for one day, beginning Monday, January 4, 2016, 7:00 a.m., and ending Tuesday, January 5, 2016, 7:00 a.m.

***Instructions to Post Notice of Suspension Placard***

Licensee shall post a Notice of Suspension Placard (PLCB Form 1925) in a conspicuous place on the outside of the licensed premises, or in a window plainly visible from the outside of the licensed premises, on or before Monday, January 4, 2016, 7:00 a.m. The Suspension Placard may not be removed until Tuesday, January 5, 2016, 7:00 a.m.

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

***Consequence of Failing to Comply With This Order***

In addition to any other consequence at law, if Licensee does not comply with all conditions herein, the Bureau may issue an additional citation alleging Licensee has violated this Order. Alternatively, the Bureau may assert the same claim by requesting this Adjudication be reopened.

***Retaining Jurisdiction***

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 16<sup>TH</sup> day of November, 2015.



Felix Thau, A.L.J.

bc

**General Information**

This Adjudication is a legal document. It affects your rights, privileges, and obligations. The information which follows is a general guide. If you have not already done so, it may be prudent for you to consult with an attorney.

**Applying for Reconsideration**

If you want the Administrative Law Judge to reconsider this Adjudication, you must submit a written application and a nonrefundable \$25.00 filing fee. Both must be received by the Office of Administrative Law Judge, (PLCB - Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661) within fifteen days of this Adjudication's mailing date. Your application must describe the reasons for reconsideration. The full requirements for reconsideration can be found in Title 1 Pa. Code §35.241.

**Appeal Rights**

If you wish to appeal this Adjudication, you must file an appeal within thirty days of the mailing date of this Adjudication by contacting the Office of Chief Counsel of the Pennsylvania Liquor Control Board (717-783-9454). For further information, visit [www.lcb.state.pa.us](http://www.lcb.state.pa.us). The full requirements for an appeal can be found in 47 P.S. §4-471.

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

---

The fine must be paid by cashier's check, money order, or an attorney's check who is licensed to practice law in Pennsylvania. **Personal and business checks are NOT acceptable unless bank certified.** Please make your guaranteed check 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