

Mailing Date: JUN 24 2016

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

PENNSYLVANIA STATE	:	In re Citation No. 15-1997
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W01-502220
	:	
v.	:	PLCB LID No. 67630
	:	
PA BROAD BEER, INC.	:	PLCB License No. D-SS-2767
2750 N. BROAD ST.	:	
PHILADELPHIA, PA 19132-2721	:	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 November 17, 2015. The citation alleges that License violated the Liquor Code, 47 P.S. §4-493(12) and two Liquor Control Board regulations, 40 Pa. Code §§9.101 and 9.104, by failing to maintain complete and truthful records covering the operation of the licensed business for a period of two years immediately preceding September 24, 2015.

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

FINDINGS OF FACT:

1. The Bureau investigated Licensee on September 24, 2015, and sent it written notice of the results on October 19, 2015 (N.T. 7, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on November 17, 2015 (N.T. 7, Ex. B-2).
3. A Notice of Hearing was mailed to Licensee on March 24, 2016.
4. On September 24, 2015, a liquor enforcement officer inspected the licensed premises and found that Licensee was not keeping an inventory. Licensee's employee-in-charge told the officer that he kept inventory just by looking at the pallets and seeing how much beer is available; he could not provide any numbers (N.T. 5-6).

CONCLUSIONS OF LAW:

Sustained as charged.

DISCUSSION:

The regulations involved provide as follows:

§ 9.101. Records to be maintained.

A distributor and importing distributor shall maintain and keep on the licensed premises, in hard copy or electronic media, complete and truthful records in columnar form or other compatible configuration consistent with generally accepted accounting procedures, covering in detail transactions in malt or brewed beverages and other items, particularly items described in §§ 9.102—9.107 for a period of at least 2 years under section 493(12) of the Liquor Code (47 P. S. § 4-493(12)). The records shall be open to inspection by authorized representatives of the Board and the State Police, Bureau of Liquor Control Enforcement, under sections 211 and 493(21) of the Liquor Code (47 P. S. §§ 2-211 and 4-493(21)). A record system utilized by the licensee shall have the capability to provide for the reconciling of required data. Entries shall be verifiable by supporting documentation—original documents. Records shall be clearly identifiable to the licensed operation.

§ 9.104. Perpetual inventory record.

(a) A perpetual inventory record shall be maintained for inventory control purposes of all stock of malt or brewed beverages. The record is the control of stock on hand and shall be used in compiling figures for the monthly report. The record shall:

(1) Be separated according to container size (such as full barrels or half-barrels, cases of pints, quarts, cans, splits, etc.).

(2) Show the number of units of each size on hand at the beginning of each business day.

(3) Show the total units purchased as shown on the purchase register and the total units sold as shown on the sales register for each business day.

(4) Show the closing inventory of each size and the reconciliation of the inventory with the physical inventory of stock on hand in the warehouse.

(b) The daily totals of the purchase and sales columns shall be totaled monthly.

PRIOR RECORD:

Licensee has been licensed since June 5, 2013, and has had prior violations as follows:

In re Citation No. 14-0603. \$100.00 fine.

1. Manager failed to complete O/M RAMP. January 28 through March 3, 2014.

In re Citation No. 14-2319C. \$1,250.00 fine and RAMP certification mandated. License suspended for late payment.

1. Sales to a minor. October 10, 2014.

In re Citation No. 14-2588. \$1,000.00 fine. License suspended for late payment.

1. Sales after license expired. November 1 through December 10, 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 \$50.00 to \$1,000.00 range, or both, for violations of this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, PA Broad Beer, Inc., License No. D-SS-2767, shall pay a fine of three hundred dollars (\$300.00) 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 20TH day of JUNE, 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

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.