

Mailing Date: OCT 07 2016

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

|                            |   |                                 |
|----------------------------|---|---------------------------------|
| PENNSYLVANIA STATE POLICE, | : | In Re Citation No.: 16-0102     |
| BUREAU OF LIQUOR CONTROL   | : |                                 |
| ENFORCEMENT (BLCE)         | : |                                 |
|                            | : | BLCE Incident No.: W02-505407   |
| v.                         | : |                                 |
|                            | : |                                 |
| FUNETE, LLC                | : | PLCB LID No.: 53852             |
| 219 W. MARY ST.            | : |                                 |
| OLD FORGE, PA 18518-1547   | : |                                 |
|                            | : | PLCB License No.: R-AP-SS-17473 |
| LACKAWANNA COUNTY          | : |                                 |

**ADJUDICATION**

BEFORE: Ember S. Jandebour, Administrative Law Judge

FOR BLCE: Craig A. Strong, Esquire

LICENSEE: Pro Se

**BACKGROUND:**

This proceeding arises out of a citation, containing one count that was issued on January 29, 2016, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Funete, LLC (Licensee).

The citation charges Licensee with a violation of Section 499(a) of the Liquor Code [47 P.S. §4-499(a)]. The charge is that Licensee, by your servants, agents, or employees, failed to require patrons to vacate that part of the premises habitually used for the service of alcoholic beverages not later than one-half hour after the required time for the cessation of the service of alcoholic beverages, on December 27, 2015.

I presided at an evidentiary hearing on September 15, 2016 at 100 Lackawanna Avenue, Scranton, Pennsylvania.

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

**FINDINGS OF FACT:**

1. The Bureau began its investigation on December 27, 2015 and completed it on January 12, 2016. (N.T. 6)

2. The Bureau sent a notice of the alleged violation to Licensee at the licensed premises by certified mail, return receipt requested, on January 14, 2016. The notice was subsequently sent out by first class mail on February 5, 2016. The notice alleged the violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 5)

3. On January 29, 2016, the Bureau of Liquor Control Enforcement issued a citation against Funete, LLC for failing to require patrons to leave the premises. (Commonwealth Exhibit No. C-2)

4. Funete, LLC does not possess an Extended Hours Food permit. (N.T. 9)

5. On December 27, 2015, Officer Richard Stegman and Officer Nathan Manning visited Funete, LLC, at 2:50 in the morning. (N.T. 5, 7, 10)

6. On December 27, 2015, at 2:50 a.m., four people were seated at the bar and there was a bartender. (N.T. 8, 12)

7. The bartender stated the people were “hanging out while he cleaned up.” (N.T. 8)

**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.

**DISCUSSION:**

Here, there is no dispute that people were on the premises well after 2:30 a.m. Mr. Michael Lettieri testified on behalf of Funete, LLC that he didn't "see the violation." (N.T. 15)

Section 4-499 of the Liquor statute states unequivocally that "all patrons of a licensee shall be required to leave that part of the premises habitually used for the serving of liquor... not later than one-half hour after the time the licensee is required... to cease serving liquor..." 47 P.S. §4-499. "Patron" includes "any person on the licensed premises except those actually engaged in employment related activity." 47 P.S. §1-102.

Section 4-499 and the definition of patron are evidence that there was a violation on December 27, 2015.

**PRIOR ADJUDICATION HISTORY:**

Licensee has been licensed since December 28, 2004, and has the following Adjudication history:

In Re Citation No.: 05-2433. Fine \$1,250.00 and three days suspension.

1. Failed to require patrons to vacate the premises not later than one-half hour after the required time on October 15, 2005.
2. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 a.m. on October 15, 2005.
3. Sales between 2:00 a.m. and 7:00 a.m. on October 15, 2005.
4. Sales after the license expired and had not been renewed and/or validated on September 30, 2005.

In Re Citation No.: 14-1191. Fine \$500.00.

1. Failed to require patrons to vacate the premises not later than one-half hour after the required time on May 11, 2014.
2. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 a.m. on May 11, 2014.

**PENALTY ASSESSMENT CRITERIA:**

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.

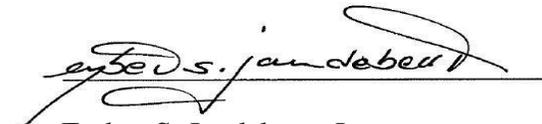
I impose a \$250.00 fine.

**ORDER:**

Licensee must pay a \$250.00 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.

I retain Jurisdiction to ensure compliance with this Adjudication.

Dated this 5<sup>TH</sup> day of October, 2016.



Ember S. Jandebaur, J.

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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.

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**

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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

**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](mailto:RA-LBLICENSINGMOD@pa.gov).