

Mailing Date: DEC 15 2005

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 05-0911
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-308635
v.	:	
	:	LID - 48711
ALFORTENE GOLF LINKS, INC.	:	
310 BUCK BLVD.	:	
WHITE HAVEN, PA 18661	:	
	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. PGE-13	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Craig A. Strong, Esquire
Pennsylvania State Police
8320 Schantz Road, Second Floor
Breinigsville, PA 18031

For Licensee
Ex-Parte

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on May 17, 2005, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Alfortene Golf Links, Inc. (Licensee), License Number PGE-13.

The citation¹ charges Licensee with violations of Section 7.31(a) of the Pennsylvania Liquor Control Board Regulations [40 Pa. Code §7.31(a)]. The charge is that Licensee, by servants, agents or employes, failed to return its Privately Owned Public Golf Course Eating Place License to the Board after its licensed establishment had not been in operation for a period of fifteen (15) consecutive days between March 29 and April 13, 2005.

An evidentiary hearing was conducted on November 3, 2005 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. No one appeared at the hearing on behalf of Licensee.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. A citation hearing notice was mailed by the Office of Administrative Law Judge on September 15, 2005 to Licensee by both certified receipt-return mail and first-class mail to the licensed premises. The notice notified Licensee of the date, time and place of the hearing. The Notice, sent by certified mail, was returned as being marked undeliverable as addressed.
2. On September 27, 2005, I issued a Pre-Hearing Order directing Licensee to submit its Pre-Hearing Memorandum to this Office. That Order reiterated the date, time and place of hearing.
3. The Bureau began its investigation on March 29, 2005 and completed it on April 14, 2005. (N.T. 7)
4. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on April 20, 2005. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 10)
5. A Bureau Enforcement Officer went to the premises on March 29, 2005. He arrived at 6:00 p.m. The premises was closed. The doors were locked. Lights were extinguished. There were no vehicles in the area and no activity. (N.T. 10-12)

1. Commonwealth Exhibit No. C-2, N.T. 10.

6. The Officer continued visiting the premises to determine whether it was open. He visited on the following dates and times: March 30, 2005 – 12:00 p.m.; March 31, 2005 – 6:40 p.m.; April 1, 2005 – 9:15 p.m.; April 2, 2005 – 12:45 p.m.; April 3, 2005 – 7:30 p.m.; April 4, 2005 – 2:30 p.m.; April 5, 2005 – 2:15 p.m.; April 6, 2005 – 7:20 p.m.; April 7, 2005 – 6:15 p.m.; April 11, 2005 – 4:00 p.m.; April 12, 2005 – 7:45 p.m.; April 13, 2005 – 10:15 p.m. On all of the occasions, there was no activity. The bar was closed. The doors were locked. Lights were extinguished. There were no vehicles in the area. (N.T. 11-13)

7. A second Officer visited the premises as follows: April 8, 2005 – 8:15 p.m.; April 9, 2005 – 7:35 p.m.; April 10, 2005 – 11:00 a.m. On each of the three occasions, the premises was closed and no indication Licensee was operating. (N.T. 16-18)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. The citation is **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since April 10, 2002, and has had one prior violation:

Citation No. 02-1759. 1 day suspension.
Sales after your Public Golf Course Eating Place license expired on August 31, 2002 and had not been renewed and/or validated.
September 8, 2002.

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 \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

I am growing increasingly impatient with licensees who do not come to hearings. This is a rather minor violation which drains inordinate resources. Therefore, I impose a \$1,000.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,000.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee's license shall be suspended or revoked.

The fine must be paid by Treasurer's Check, Cashier's Check, Certified Check or Money Order. **Personal checks, which include business-use personal checks, are not acceptable.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail to:

PLCB - Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg, Pennsylvania 17110-9661

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 8th day of December, 2005.

Felix Thau, A.L.J.

pm

MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER TO THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE FILING FEE.