

Mailing Date: SEP 22 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 05-1788
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W07-313764
v.	:	
	:	LID - 48845
ALFRED W. BABB	:	
T/A GEORGE'S	:	
333 MAIN ST.	:	
REYNOLDSVILLE, PA 15851-1248	:	
	:	
	:	
JEFFERSON COUNTY	:	
LICENSE NO. R-SS-EHF-10709	:	

**BEFORE:** JUDGE THAU

APPEARANCES:

For Bureau of Enforcement  
Michael C. Nickles, Esquire  
Pennsylvania State Police  
313 Mt. Nebo Road  
Pittsburgh, PA 15237-1305

For Licensee  
Ex-Parte

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on September 14, 2005, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Alfred W. Babb, t/a George's (Licensee), License Number R-SS-EHF-10709.

This citation<sup>1</sup> contains two counts.

The first count charges Licensee with violations of Sections 491(1), 492(2) and 493(16) of the Liquor Code [47 P.S. §4-491(1), §4-492(2) and §4-493(16)]. The charge is that on August 1 and 8, 2005, Licensee, by servants, agents or employes, sold alcoholic beverages after his Restaurant Liquor License expired on July 31, 2005, and had not been renewed and/or validated.

The second count charges Licensee with a violation of Section 5.16 of the Pennsylvania Liquor Control Board Regulations [40 Pa. Code §5.16]. The charge is that Licensee, by servants, agents or employes, failed to notify the Board within fifteen (15) days of a change of manager which occurred on June 27, 2005.

An evidentiary hearing was conducted on August 16, 2006 at the Hampton Inn, 180 Charlotte Drive, Altoona, Pennsylvania. Licensee did not appear at the hearing or have representation.

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 June 30, 2006 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 signed for by Alfred W. Babb. The first class mail was returned marked "unclaimed." On July 12, 2006, I issued a Pre-Hearing Order directing Licensee to submit its Pre-Hearing Memorandum. That Order reiterated the date, time and place of hearing.
2. The Bureau began its investigation on June 27, 2005 and completed it on August 9, 2005. (N.T. 15)
3. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on August 17, 2005. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 17)

Count No. 1:

4. The license expired on July 31, 2005. As of the date of the hearing, the license had yet to be renewed. (N.T. 15)

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1. Commonwealth Exhibit No. C-2, N.T. 17.

5. On August 1, 2005, a Bureau Enforcement Officer visited the premises at 12:55 p.m., noting that the premises was open and in operation selling alcoholic beverages. (N.T. 24)

6. A Bureau Enforcement Officer visited the premises on August 8, 2005, at approximately 3:20 p.m. Licensee was open and in operation selling alcoholic beverages. (N.T. 22)

Count No. 2:

7. The records of the Pennsylvania Liquor Control Board as of the date of the hearing indicate that the manager is a Ms. M. She ceased being same effective June 27, 2005. (N.T. 26)

CONCLUSIONS OF LAW:

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

2. Count Nos. 1 and 2 are **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since January 15, 2002, 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 of not less than \$1,000.00 or more than \$5,000.00 or both for violations of the type found in Count No. 1 and 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 Count No. 2 in this case.

I impose:

Count No. 1 – revocation of license.

Count No. 2 – revocation of license.

ORDER:

**Revocation of License**

THEREFORE, it is hereby ordered that Restaurant liquor license No. R-SS-EHF-10709, issued to Alfred W. Babb, be **REVOKED**, effective at 7:00 a.m., on Monday, November 6, 2006. Any Wholesale Liquor Purchase Permit Card or discount card issued in connection with the aforementioned license is hereby **CANCELLED**.

Since Licensee's Restaurant liquor license is in an inactive status, there is no license to be returned. Accordingly, the Department of Licensing of the Pennsylvania Liquor Control Board is hereby directed to mark their records, that this license is revoked, effective at 7:00 a.m., Monday, November 6, 2006.

**Retaining Jurisdiction**

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 14<sup>th</sup> day of September, 2006.

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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.**