

Mailing Date: AUG 22 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 05-1969
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-312499
v.	:	
	:	LID - 44650
BIG DADDY'S, INC.	:	
T/A COUSIN'S NORTH SIDE	:	
BAR & GRILL	:	
44-46 N. WYOMING ST.	:	
HAZLETON, PA 18201-6032	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-SS-2904	:	

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 October 4, 2005, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Big Daddy's, Inc., t/a Cousin's North Side Bar & Grill (Licensee), License Number R-AP-SS-2904.

This citation¹ contains two counts.

The first count 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 employees, failed to return its Restaurant Liquor License to the Board after its licensed establishment had not been in operation for a period of fifteen (15) consecutive days between August 8, 2005 and August 22, 2005.

The second count charges Licensee with a violation of Section 493(26) of the Liquor Code [47 P.S. §4-493(26)]. The charge is that Licensee, by servants, agents or employees, issued checks or drafts dated May 6, 2005, in payment for purchases of malt or brewed beverages, when Licensee had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

An evidentiary hearing was conducted on July 17, 2006 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee did not appear personally 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. The Bureau began its investigation on June 6, 2005 and completed it on August 27, 2005. (N.T. 6)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on September 7, 2005. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, 05-1969, N.T. 7)

Count No. 1:

3. During the fifteen days identified in Count No. 1, Bureau Enforcement Officers visited the premises at various times of the day. The premises was not in operation during any of those visits. Licensee did not place its license into safekeeping. (N.T. 10-15)

Count No. 2:

4. On the date charged, Licensee issued a check for the purchase of beer which was dishonored due to insufficient funds. (N.T. 15-17)

1. Commonwealth Exhibit No. C-2, 05-1969, N.T. 7.

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 July 20, 1999, and has had seven prior violations:

- Adjudication No. 99-1649. Fine \$100.00.
Sold and/or served an unlimited or indefinite amount of alcoholic beverages for a fixed price.
September 17, 1999.
- Adjudication No. 02-1293. Fine \$50.00.
Issued worthless checks in payment for malt or brewed beverages.
April 19 and 20, 2002.
- Adjudication No. 02-1804. Fine \$1,000.00.
Sales after the restaurant liquor license expired and had not been renewed and/or validated.
September 6, 2002.
- Adjudication No. 02-2044. Fine \$75.00.
Issued worthless checks in payment for malt or brewed beverages.
September 13, 2002.
- Adjudication No. 04-0669. Fine \$200.00.
Issued worthless checks in payment for malt or brewed beverages.
January 16 and February 13, 2004.

Adjudication No. 04-2169. Fine \$300.00.

Issued worthless checks in payment for malt or brewed beverages.
March 5, April 8, May 29, June 5, 11, July 28, October 29
and November 4, 2004.

Adjudication No. 05-0685. Fine \$350.00. Revocation of license for
failure to pay fine.

Issued worthless checks in payment for malt
or brewed beverages.
February 4 and 25, 2005.

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 Count Nos. 1 and 2 in this case.

I impose:

Count No. 1 – revocation of license.

Count No. 2 – revocation of license.

ORDER:

Imposition of Revocation

THEREFORE, it is hereby ordered that Restaurant liquor license No. R-AP-SS-2904, issued to Big Daddy's, Inc., t/a Cousin's North Side Bar & Grill, be **REVOKED**, effective at 7:00 a.m., on Monday, September 11, 2006. Any Wholesale Liquor Purchase Permit Card or discount card issued in connection with the aforementioned license is hereby **CANCELLED**.

As this license has already been revoked, there is no license to be returned. Accordingly, the Bureau of Licensing of the Pennsylvania Liquor Control Board is hereby directed to mark their records accordingly, that this license is **REVOKED** effective at 7:00 a.m., Monday, September 11, 2006.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 31st day of July, 2006.

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.