

Mailing Date: SEP 07 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-0246
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-323028
v.	:	
	:	LID - 11905
PETRAGNANI'S SALOON, INC.	:	
400 LINCOLN AVE.	:	
PROSPECT PARK, PA 19076-2422	:	
	:	
	:	
DELAWARE COUNTY	:	
LICENSE NO. R-AP-SS-5553	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
James E. Dailey, Esquire
Erik S. Shmukler, Esquire
Pennsylvania State Police
6901 Woodland Avenue
Philadelphia, PA 19142

For Licensee
Mark Colangelo
General Manager

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on February 14, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Petragnani's Saloon, Inc. (Licensee), License Number R-AP-SS-5553.

The citation¹ charges Licensee with a violation of Section 491(10) of the Liquor Code [47 P.S. §4-491(10)]. The charge is that on December 28, 2005, Licensee, by servants, agents or employes, refilled liquor bottles.

An evidentiary hearing was conducted on August 7, 2006 at the Philadelphia State Office Building, 1400 W. Spring Garden Street, Philadelphia, Pennsylvania. Licensee was represented by its General Manager, Mr. Mark Colangelo.

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 December 2, 2005 and completed it on January 3, 2006. (Commonwealth Exhibit No. B-1, N.T. 17)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on January 12, 2006. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. B-1, N.T. 17)
3. On the date in question, Bureau Enforcement Officers inspected the premises finding that Licensee was refilling liquor bottles i.e., pouring the contents of the appropriate product from a larger container into a smaller one. Licensee did so to save some money. (N.T. 14-19)

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 August 23, 1978, and has had no prior violations.

1. Commonwealth Exhibit No. B-2, N.T. 19.

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.

As this is Licensee's first citation in approximately 28 years of operation, I impose a \$100.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$100.00 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 30th day of August, 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.