

Mailing Date: DEC 06 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-0305
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W05-324371
v.	:	
	:	LID - 20333
THE GINGERBREAD MAN	:	
OF JOHNSTOWN, INC.	:	
800-802 SCALP AVE.	:	
JOHNSTOWN, PA 15904-2553	:	
	:	
	:	
	:	
CAMBRIA COUNTY	:	
LICENSE NO. R-AP-SS-EHF-19537	:	

ADJUDICATION

BEFORE: JUDGE THAU

BACKGROUND:

This proceeding arises out of a citation that was issued on February 22, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against The Gingerbread Man of Johnstown, Inc. (Licensee), License Number R-AP-SS-EHF-19537.

The citation charges Licensee with a violation of Section 15.62(a) of the Pennsylvania Liquor Control Board Regulations [40 Pa. Code §15.62(a)]. The charge is that on January 9, 2006, Licensee, by servants, agents or employes, failed to post in a conspicuous place on the outside of the licensed premises, or in a window plainly visible from the outside of the premises, a Notice of Suspension.

Licensee has executed a Statement of Waiver, Admission and Authorization in which Licensee: admits to the violation(s) charged in the citation and that the Bureau complied with the applicable investigatory and notice requirements of the Liquor Code, authorizes the Administrative Law Judge to enter an Adjudication without a hearing based on a summary of facts and prior citation history as provided by the Bureau, and waives the right to appeal this Adjudication.

Based upon the admission(s) of Licensee and the summary of facts provided by the Bureau, I make the following Findings of Fact and reach the following Conclusions of Law.

FINDINGS OF FACT:

On the date charged, a Bureau Enforcement Officer arrived at the licensed premises to conduct a suspension check as Licensee was ordered to pay a fine and serve a one day suspension, beginning at 7:00 a.m., Monday, January 9, 2006 and ending at 7:00 a.m., Tuesday, January 10, 2006. The Officer found the premises locked, closed and empty. However, the Notice of Suspension placard was not posted anywhere.

CONCLUSIONS OF LAW:

The citation is **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since June 15, 1988, and has had nine prior violations:

Adjudication No. 93-1988. Fine \$1,800.00.

1. Sales to visibly intoxicated persons.
2. Sales of liquor and/or malt or brewed beverages between 2:00 A.M. and 7:00 A.M.
3. Failed to require patrons to vacate the premises not later than one-half hour after the required time.
4. Permitted patrons to possess and/or remove liquor or malt or brewed beverages after 2:30 A.M.

Adjudication No. 94-2741. Fine \$850.00.

Sales to visibly intoxicated persons.

Adjudication No. 99-0153. Fine \$200.00.

Transported malt or brewed beverages in a vehicle not registered with the Pennsylvania Liquor Control Board. October 9, 1998.

Adjudication No. 01-0155. Fine \$325.00.

1. Failed to require patrons to vacate the premises not later than one-half hour after the required time.
December 30, 2000.
2. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 A.M.
December 30, 2000.

Adjudication No. 01-1831. Fine \$2,000.00.

1. Failed to require patrons to vacate the premises not later than one-half hour after the required time.
June 3, 2001.
2. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 A.M.
June 3, 2001.
3. Permitted patrons to enter that portion of the premises habitually used for the service of alcoholic beverages between 2:30 A.M. and 7:00 A.M. when you did not possess an extended hours food permit.
June 3, 2001.

Adjudication No. 02-1694. Fine \$1,500.00.

1. Sales to a minor.
August 18, 2002.
2. Failed to require patrons to vacate the premises not later than one-half hour after the required time.
August 18, 2002.
3. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 A.M.
August 18, 2002.

Adjudication No. 03-0433. Fine \$1,300.00.

Sales to a minor.
January 8, February 3 and 4, 2003.

Adjudication No. 03-1033. Fine \$1,500.00 and 1 day suspension.

Sales to minors.
April 1, 2003.

Adjudication No. 05-1418. Fine \$1,800.00 fine and 1 day suspension.

Sales to a minor.
May 13, 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 this case.

I adopt the jointly recommended penalty of a \$300.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$300.00 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 22nd day of November, 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.