

Mailing Date: OCT 26 2006

[Appeal](#)

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-0827
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W06-325148
	:	
v.	:	LID - 49486
	:	
MCW, INC.	:	
T/A ALLEGHENY HOUSE	:	
253-255 ALLEGHENY ST.	:	
JERSEY SHORE, PA 17740-1422	:	
	:	
	:	
LYCOMING COUNTY	:	
LICENSE NO. H-AP-894	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Andrew J. Lovette, Esquire

For Licensee
NO APPEARANCE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on April 13, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against MCW, INC., License Number H-AP-894 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 15.62(a) of the Liquor Control Board Regulations [40 Pa. Code §15.62(a)] in that on February 13, 2006, Licensee, by its 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.

The investigation which gave rise to the citation began on January 11, 2006 and was completed on February 17, 2006; and notice of the violation was sent to Licensee by Certified Mail on March 3, 2006. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on August 24, 2006 in the PA Department of Agriculture, 2130 County Farms Road, Montoursville, Pennsylvania. Licensee(s) did not appear at the hearing, nor did anyone appear on its behalf. A citation hearing notice was sent to Licensee(s) at its address of record, 253-255 Allegheny Street, Jersey Shore, PA 17740-1422 by certified mail, return receipt requested and by first class mail on July 7, 2006. The notice set forth the date and time of the hearing as August 24, 2006 at 1:00 p.m., and the place of hearing as PA Dept. of Agriculture, 2130 County Farms Road, Montoursville, PA 17754-9685.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. On December 27, 2005 this office mailed an Adjudication at Citation No. 05-0090. This Adjudication imposed a penalty upon Licensee consisting of a fine of \$400.00 and suspension of Licensee's hotel liquor license for a period of one day beginning at 7:00 a.m. on Monday, February 13, 2006 and ending at 7:00 a.m. on Tuesday, February 14, 2006 and continuing thereafter until Licensee forwarded a certification verifying that the licensed premises is being operated as a bona fide hotel having at least seven bedrooms available and properly equipped as sleeping accommodations for the public together with appropriate hot and cold water, lavatory, commode, bath tub or shower and clothes closet; and further continuing until said certification was approved and the suspension terminated by further order (Administrative Notice, N.T. Exhibit C-5).
2. On February 13, 2006 at 1:25 p.m. an officer of the Bureau arrived at the licensed premises. He found the premises to be closed (N.T. 9).
3. The officer looked for a suspension placard and found that none had been posted on the licensed premises (N.T. 9).

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

PRIOR RECORD:

Licensee has been licensed since July 31, 2002, and has had seven prior violations:

Citation No. 03-0208. Fine \$500.00.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on the licensed premises (tickets). September 18, 2002.

Citation No. 03-0347. Fine \$1,850.00.

1. Discounted the price of alcoholic beverages between 12:00 midnight and 2:00 p.m. January 1, 2003.
2. Permitted dancing to a disc jockey until 2:15 a.m. January 1, 2003.
3. Sales to a visibly intoxicated person. December 31, 2002 and January 1, 2003.

Citation No. 03-0376. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages. December 31, 2002.

Citation No. 03-2031. Fine \$200.00.

1. Issued worthless checks in payment for malt or brewed beverages. September 11 and 25, 2003.

Citation No. 04-1170. Fine \$750.00 and 1 day suspension. Fine not paid and license suspended 2 additional days and thereafter until fine paid.

1. Issued worthless checks in payment for malt or brewed beverages. November 20, 26 and December 11, 2003.
2. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on the licensed premises (cards). March 13, 2004.

Citation No. 05-0090. Fine \$400.00.

1. Not a bona fide hotel in that bedrooms maintained for the accommodation of guests are insufficient in

number and/or inadequately equipped. December 29, 2004.

Citation No. 05-2086. 1 day suspension and thereafter until conditions corrected.

1. Not a bona fide hotel where the public may, for a consideration, obtain meals in that you failed to provide food upon request. July 19, 25 and August 4, 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.

Under the circumstances of this case, the penalty imposed shall be a fine of \$250.00 and suspension of Licensee's license for a period of two days.

ORDER

THEREFORE, it is hereby ordered that Licensee MCW, INC., pay a fine of \$250.00 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.

IT IS FURTHER ORDERED that the hotel liquor license of MCW, INC., License No. HAP-894 be suspended for a period of two days **BEGINNING** at 7:00 a.m. on Monday, January 8, 2007 and **ENDING** at 7:00 a.m. on Wednesday, January 10, 2007.

Licensee is directed on January 8, 2007 at 7:00 a.m. to place the enclosed placard of notice of suspension (identified as Form No. PLCB-1925 and as printed with red and black ink) in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises and to remove said license from the wall and place it in a secure location.

Licensee is advised if replacement placards are needed for any reason they are available at all Pennsylvania Liquor Stores/Wine & Spirits Shoppes.

The Bureau is directed to visit and monitor the aforementioned licensed premises for compliance with this Order.

MCW, INC.

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Licensee is authorized on January 10, 2007 at 7:00 a.m. to remove the placard of suspension and return his license to its original wall location.

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

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

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 18th day of October, 2006.

Daniel T. Flaherty, Jr., J. an

MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN 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.