

Mailing Date: SEP 21 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-2616
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-341271
v.	:	
	:	LID - 53039
SEM HOSPITALITY, INC.	:	
RR 3, BOX 3019	:	
HONESDALE, PA 18431-9714	:	
	:	
	:	
WAYNE COUNTY	:	
LICENSE NO. R-AP-SS-2731	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Craig A. Strong, Esquire

For Licensee
NO APPEARANCE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on November 13, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against SEM HOSPITALITY, INC., License Number R-AP-SS-2731 (hereinafter "Licensee").

The citation charges Licensee with violation 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)] in that on October 7, 2006, Licensee, by its servants, agents or employes, sold alcoholic beverages after its Restaurant Liquor License expired on September 30, 2006, and had not been renewed and/or validated.

The investigation which gave rise to the citation began on October 7, 2006 and was completed on October 7, 2006; and notice of the violation was sent to Licensee by Certified Mail on October 23, 2006. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on April 11, 2007 in the Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Pennsylvania. No one appeared on behalf of Licensee. A citation hearing notice was sent to Licensee(s) at its address of record, RR 3, Box 3019, Honesdale, PA 18431-9714, by certified mail, return receipt requested and by first class mail on February 28, 2007. The notice set forth the date and time of the hearing as April 11, 2007 at 11:00 a.m., and the place of hearing as Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, PA 18503.

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. Licensee did not have authority to dispense alcoholic beverages on October 7, 2006 (N.T. Exhibit C-5).
2. On October 7, 2006 an officer of the Bureau visited the licensed premises in an undercover capacity (N.T. 6-7).
3. The officer arrived at 8:30 p.m. and proceeded to the bar area where he observed a female bartender serving two patrons. There were approximately 10-15 patrons in the dining room area (N.T. 7).
4. During this visit the officer ordered, purchased and was served a draft Miller Lite beer paying \$2.00 to the bartender (N.T. 7).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since July 16, 2004, and has had one prior violation:

Citation No. 06-1543. Fine \$1,250.00 and RAMP training mandated.

1. Sales to a minor. May 18, 2006.

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 this case.

Under the circumstances of this case, the penalty imposed shall be a fine of \$1,250.00.

ORDER

THEREFORE, it is hereby ordered that Licensee SEM HOSPITALITY, INC., pay a fine of \$1,250.00 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.

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 13th day of September, 2007.

Daniel T. Flaherty, Jr., J.

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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.