

Mailing Date: OCT 16 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-0665
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-348551
v.	:	
	:	LID - 51554
NORTHAMPTON ALEHOUSE	:	
INVESTORS, INC.	:	
475 E. NORTHAMPTON ST.	:	
WILKES BARRE, PA 18702-6325	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-8462	:	

**BEFORE:** JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement  
Craig Strong, Esquire

For Licensee  
NO APPEARANCE

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on April 6, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against NORTHAMPTON ALEHOUSE INVESTORS, INC., License Number R-AP-8462 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 474.1(a) of the Liquor Code [47 P.S. §4-474.1(a)] and Section 7.31(a) of the Liquor Control Board Regulations [40 Pa. Code §7.31(a)] in that Licensee, by its servants, agents or employees, failed to return the restaurant liquor license and wholesale liquor purchase permit cards to the Board after the licensed establishment had not been in operation for a period of fifteen consecutive days between February 12, 2007 and February 27, 2007.

The investigation which gave rise to the citation began on February 13, 2007 and was completed on February 28, 2007; and notice of the violation was sent to Licensee by Certified Mail on March 6, 2007. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on June 21, 2007 in the Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Pennsylvania. No one appeared at the hearing on behalf of Licensee. A citation hearing notice was sent to Licensee(s) at its address of record, 475 E. Northampton Street, Wilkes Barre, PA 18702-6325 by certified mail, return receipt requested and by first class mail on May 11, 2007. The notice set forth the date and time of the hearing as June 21, 2007 at 9:30 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. On Monday, February 12, 2007 an officer of the Bureau began a check of the licensed premises to see if it was open for business (N.T. 7).
2. The officer began the check on February 12, 2007 at 4:15 p.m. He checked it every day for 16 consecutive days until Tuesday, February 27, 2007 at 12:30 p.m. (N.T. 7).
3. On each of the days during the 16 day period, the licensed premises was never found open. The doors were locked; and the lights were extinguished (N.T. 7).
4. On each of the aforementioned days the officer went to the licensed premises during normal operating hours. Some of the visits were made at night and some in the afternoon. On all occasions the bar was definitely closed (N.T. 8).
5. The officer checked with the liquor stores in the area of the licensed premises and found that they did not have Licensee's wholesale liquor purchase permit card (N.T. 8).
6. Licensee did not place its restaurant liquor license in safekeeping at any point during the period from February 12, 2007 through February 27, 2007 (N.T. 8 and Exhibit C-5).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since August 4, 2003, and has had two prior violations:

Citation No. 06-1096. Fine \$150.00. Fine not paid and license suspended 1 day and thereafter until fine paid. Fine not paid after 60 days and license revoked effective February 20, 2007.

1. Issued a worthless check in payment for malt or brewed beverages. January 13, 2006.

Citation No. 06-2734. Revocation without bond forfeiture.

1. Issued a worthless check in payment for malt or brewed beverages. September 15, 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 \$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 \$500.00.

ORDER

THEREFORE, it is hereby ordered that Licensee NORTHAMPTON ALEHOUSE INVESTORS, INC., pay a fine of \$500.00 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 26<sup>th</sup> day of September, 2007.

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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.**