

Mailing Date: DEC 21 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-0952
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W08-344806
v.	:	
	:	LID - 50561
PEGGY SUE RAIFORD	:	
T/A OLDE THYME SUBS & PIZZA	:	
26729 RTE 99	:	
EDINBORO PA 16412	:	
	:	
	:	
CRAWFORD COUNTY	:	
LICENSE NO. R-AP-SS-EHF-8115	:	

**BEFORE:** JUDGE RODERICK FRISK

APPEARANCES:

For Bureau of Enforcement  
Emily Gustave, Esquire

For Licensee  
No Appearance

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on May 11, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against Peggy Sue Raiford, t/a Olde Thyme Subs & Pizza, License Number R-AP-SS-EHF-8115 (hereinafter Licensee).

The citation contains five counts.

The first count charges Licensee with violation of Section 493(12) of the Liquor Code [47 P.S. §4-493(12)] and Section 5.52 of the Liquor Control Board Regulations [40 Pa. Code §5.52], in that during the period January 4, 2006 through January 4, 2007, Licensee, by her servants, agents or employees, failed to maintain coil cleaning records.

The second count charges Licensee with violation of Section 5.16 of the Liquor Control Board Regulations [40 Pa. Code §5.16], in that during the period November 23, 2006 through January 4, 2007, Licensee's manager failed to devote full time and attention to the operation of the licensed business.

The third count charges Licensee with violation of Section 493(12) of the Liquor Code [47 P.S. §4-493(12)], in that during the period January 4, 2006 through January 4, 2007, Licensee, by her servants, agents or employees, failed to keep records on the licensed premises.

The fourth count charges Licensee with violation of Section 11.7(a)(1) of the Liquor Control Board Regulations [40 Pa. Code §11.7(a)(1)], in that during the period April 22, 2006 through March 14, 2007, Licensee, by her servants, agents or employees, designated as authorized agents on Wholesale Liquor Purchase Permit Card and/or permitted to act as an agent persons who are not regularly employed in the business or establishment.

The fifth count 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 her servants, agents or employees, failed to return its 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 5 and March 14, 2007.

An administrative hearing was conducted on October 30, 2007, at 2084 Interchange Road, Erie, Pennsylvania. The Bureau was represented by Emily Gustave, Esquire. Licensee did not appear personally or through legal counsel.

After hearing the testimony presented, and upon review of the evidence submitted, the following Findings of Fact and Conclusions of Law are entered:

FINDINGS OF FACT:

1. The Bureau commenced its investigation of Licensee's premises on December 13, 2006, and completed its investigation on March 19, 2007. (Exhibit C-1)
2. The Bureau notified Licensee of the nature of the alleged violation(s) disclosed by its investigation by letter dated March 22, 2007, which was sent by certified mail and received by Licensee on March 23, 2007. (Exhibit C-2)

3. The citation was issued on May 11, 2007, and was sent by certified mail on May 11, 2007 which was returned unclaimed and by first class mail on June 11, 2007. (Exhibits C-3, C-4)

4. The notice relative to the date, time and place of the evidentiary hearing was mailed to Licensee's premises September 26, 2007 by certified mail as well as first class mail.

5. The aforementioned certified mailing of the notice of hearing was returned unclaimed. The first class mailing was not returned.

COUNTS 1, 2 AND 3  
December 23, 2006

6. On December 23, 2006 at 2:22 p.m., Liquor Enforcement Officer Patrick O'Neill entered Licensee's premises and identified himself to Brian Strucker who was tending bar and in charge of the premises. At this time, the premises was open for business, but there were no patrons present. (N.T. 10-11)

7. Officer O'Neill advised Mr. Strucker that he was present to conduct a routine inspection of the premises and requested to speak with Licensee Peggy Sue Raiford. Mr. Strucker advised that Ms. Raiford was not available and had not been on the premises for approximately two weeks. (N.T. 11-12)

January 4, 2007

8. On January 4, 2007 at 2:00 p.m., Officer O'Neill returned to Licensee's premises for the purpose of reviewing its business records and observed a female bartender identified as Nicole Fisher rendering service of alcoholic beverages to three patrons. Robert Fisher was also present and identified himself to Officer O'Neill as the person in charge. (N.T. 12-14)

9. Mr. Fisher then furnished Officer O'Neill with the available business records relating to the operation of Licensee's premises requested by Officer O'Neill during his earlier visit of December 23, 2006. (N.T. 14)

10. Mr. Fisher was only able to provide Officer O'Neill with copies of beer invoices for the prior two months. Mr. Fisher further advised Officer O'Neill that there were no other records available for inspection including the cleaning records for the beer tap system. (N.T. 14-15)

11. The records of the Board reveal that Licensee Peggy Sue Raiford was the Board-approved manager throughout the entire period of this investigation. (Exhibit C-9)

COUNT 4

12. On January 26, 2007, Officer O'Neill examined Licensee's Wholesale Purchase Permit Card for the license years expiring July 31, 2006 and July 31, 2007. (Exhibits C-5, C-6)

13. As the result of this investigation, Licensee's employees consist of Nicole Fisher and Peggy Sue Raiford. (Ex. C-7, N.T. 15, 18)

14. The authorized agents on Licensee's Wholesale Purchase Permit Cards for the license years expiring July 31, 2006 and July 31, 2007 consist of individuals in addition to those authorized, which include Nicole Fisher and Peggy Sue Raiford. (Exhibits C-5, C-6)

COUNT 5

15. On February 17, 2007 at 8:00 p.m., Officer O'Neill approached Licensee's premises and found it to be closed. (N.T. 19-20)

16. On March 14, 2007 at 7:30 p.m., Officer O'Neill again approached Licensee's premises and found it to be closed. At this time, Brian Strucker who was working near the premises approached Officer O'Neill. Upon questioning, Mr. Strucker indicated that the premises had not been in operation since February 14, 2007, as the pipes had burst and the premises was without water. (N.T. 20-23)

17. Licensee's restaurant liquor license had not been returned to the Board for safekeeping during the period February 14, 2007 through March 15, 2007. (Exhibit C-8, N.T. 23-25)

CONCLUSIONS OF LAW:

1. The notice provisions as prescribed by Section 471 of the Liquor Code [47 P.S. §4-471] have been satisfied.

2. During the period January 4, 2006 through January 4, 2007, Licensee, by her servants, agents or employees, failed to maintain coil cleaning records, in violation of Section 493(12) of the Liquor Code, and Section 5.52 of the Liquor Control Board Regulations.

3. During the period November 23, 2006 through January 4, 2007, Licensee's manager failed to devote full time and attention to the operation of the licensed business, in violation of Section 5.16 of the Liquor Control Board Regulations.

4. During the period January 4, 2006 through January 4, 2007, Licensee, by her servants, agents or employees, failed to keep records on the licensed premises, in violation of Section 493(12) of the Liquor Code.

5. During the period April 22, 2006 through March 14, 2007, Licensee, by her servants, agents or employees, designated as authorized agents on Wholesale Liquor Purchase Permit Card and/or permitted to act as an agent persons who are not regularly employed in the business or establishment, in violation of Section 11.7(a)(1) of the Liquor Control Board Regulations.

6. Licensee, by her servants, agents or employees, failed to return her 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 15 consecutive days between February 15 and March 14, 2007, in 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)].

DISCUSSION:

Upon thorough review of the testimony and evidence presented, this court is of the opinion that the Bureau has established the violations as charged in counts one, through five of this citation by a clear preponderance of the evidence. *Pennsylvania Liquor Control Board v. Leggens*, 542 A.2d 653 (Pa. Cmwlth. 1988); *Omicron Enterprises*, 449 A.2d 857 (Pa. Cmwlth. 1982).

PENALTY:

With respect to Counts one through five, 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.

Licensee's failure to comply with the Notice of this court to submit a pre-hearing memorandum as well as her failure to appear at the administrative hearing held in this matter demonstrates a clear lack of interest in this liquor license.

The records of the Board reveal that Licensee's restaurant liquor license is currently inactive having expired on July 31, 2007.

For the foregoing reasons, the following penalties shall be imposed:

Count one - \$200.00.

Count two - \$500.00.

Count three - \$300.00.

Count four - \$300.00.

Count five - \$300.00.

ORDER:

THEREFORE, it is hereby ordered that Peggy Sue Raiford, t/a Olde Thyme Subs & Pizza, License Number R-AP-SS-EHF-8115, pay a fine of \$1,600.00 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.

Jurisdiction is retained to ensure compliance with this Order.

Dated this 11<sup>th</sup> day of December, 2007.

---

Roderick Frisk, J.

bg

NOTE: 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.

PEGGY SUE RAIFORD  
Citation Number 07-0952

Detach Here and Return Stub with Payment

---

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 PA 17110-9661

Citation No. 07-0952, Peggy Sue Raiford