

Mailing Date: DEC 29 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-1982
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-357031
	:	
DNJ ENTERPRISES INC.	:	
T/A EDDIE'S CAFE	:	LID - 42628
1100 MORTON AVE.	:	
CHESTER PA 19013-6331	:	
	:	
	:	
DELAWARE COUNTY	:	
LICENSE NO. R-10214	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

**JAMES E. DAILEY, ESQ.**

FOR THE LICENSEE:

**EX PARTE**

**BEFORE: JUDGE WRIGHT**

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on September 7, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against DNJ Enterprises, Inc., t/a Eddie's Cafe, License Number R-10214 (hereinafter "Licensee").

An Administrative hearing was held on Tuesday, March 12, 2008, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

The citation charges Licensee with violation of Sections 491(1) and 492(2) and 493(16) of the Liquor Code, 47 P.S. Sections 4-491(1), 492(2) and 4-493(16), in that on June 30, 2007, Licensee, by its servants, agents or employes, sold alcoholic beverages after the Restaurant Liquor License expired on November 20, 2006, and had not been renewed and/or validated.

FINDINGS OF FACT:

1. The Bureau of Enforcement sent a notice of violation letter to the licensed premises on July 31, 2007 indicating that they had conducted an investigation which began on June 30, 2007 and ended July 13, 2007. That notice was sent by certified mail, return receipt requested and was returned unclaimed. An amended letter was sent to the licensed premises indicating that the investigation began June 30, 2006 and ended on August 6, 2006. The amended letter was dated August 7, 2007 and was sent to the licensed premises by certified mail, return receipt requested. That mailing was also returned unclaimed. The mailing was sent to Donna Fleming, 129 Popular Road, Newtown Square, PA 19073. That mailing was signed as received on October 22, 2007. A citation hearing notice was sent to the licensed premises on January 6, 2008 by the Office of Administrative Law Judge. That mailing was sent by certified mail, return receipt requested and by first class mail. That certified mailing was returned unclaimed (N.T. 10-16 and Exhibits B-1 and B-2).

2. On June 30, 2007, Officer Brown from the Bureau of Enforcement visited the licensed premises at approximately 1:30 p.m. He was accompanied by the Gloucester Police Department. When he went inside, he observed a male bartender rendering service to approximately eight patrons. All the patrons were in possession of alcoholic beverages. There was a cash register, which was on the premises and operational. There was a male on the premises who purported to be the owner and later verified the information with the records from the Bureau. There was an employee on the premises, John Gilmore, who was cleaning (N.T. 8-9).

3. There was no liquor license posted on the premises (N.T. 9-10).

4. The records of the Liquor Control Board verified that the license was inactive on June 30, 2007 in that it expired on November 30, 2006 (Exhibit B-3).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

DNJ Enterprises, Inc.  
t/a Eddie's Café  
Citation No. 07-1982

On June 30, 2007, Licensee, by its servants, agents or employes, sold alcoholic beverages after the Restaurant Liquor License expired on November 20, 2006, and had not been renewed and/or validated, in violation of Sections 491(1) and 492(2) and 493(16) of the Liquor Code, 47 P.S. Sections 4-491(1), 492(2) and 4-493(16).

PRIOR RECORD:

Licensee has been licensed since July 8, 1998, and has a record of prior violations as follows:

Citation No. 00-1475. \$1,300.00 fine.

1. Sales between 2:00 a.m. and 7:00 a.m.  
August 5, 2000.
2. Failed to require patrons to vacate the premises not later than one-half hour after the required time.  
August 5, 2000.
3. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 a.m.  
August 5, 2000.

Citation No. 02-1857. \$300.00 fine.

1. Not a bona fide restaurant in that food items were insufficient.  
September 4, 2002.

Citation No. 03-0772. \$500.00 fine and two days suspension.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on the licensed premises.  
March 19, 2003.
2. Not a bona fide restaurant in that food items, dishes, eating utensils and seating were insufficient.  
March 19, 2003.
3. Operated the licensed establishment without a valid health permit or license.  
March 6 and 19, 2003.
4. Sold, furnished or gave liquor for consumption off premises.  
March 6, 2003.

Citation No. 04-0745. \$300.00 fine. Fine not paid and license suspended 1 day and thereafter until fine paid.

1. Failed to post in a conspicuous place on the outside of the licensed premises a notice of suspension.  
March 22, 2004.

Citation No. 05-0779. \$800.00 fine and Verification conditions corrected.

1. Operated the licensed establishment without a valid health permit or license, which expired on December 31, 2004.  
March 23, 2005.
2. Not a bon fide restaurant in that food items and seating were insufficient.  
March 23, 2005.

Citation No. 06-1484. \$1,200.00 fine and R.A.M.P. training mandated.

1. Sales to a minor.  
May 17, 2006.

Citation No. 06-2179. \$4,000.00 fine, 60 days suspension and R.A.M.P. training mandated.

1. Aided, abetted or engaged in the traffic in, or sale of a controlled substance on the licensed premises.  
March 9, 2006
2. Possessed a controlled substance on the licensed premises.  
January 14, 2006.
3. Minors frequenting.  
May 6, 2006.

#### DISCUSSION:

Officers from the Bureau of Enforcement conducted an open inspection of the premises on June 30, 2007 and found the premises open and operating and serving alcoholic beverages to patrons. The restaurant liquor license expired on November 30, 2006 and had not been renewed or validated. The Licensee did not appear in Court. The Licensee's prior record includes a plethora of violations. Under the circumstances, a mandatory suspension shall be imposed, however, the suspension can not be served until the license is renewed.

DNJ Enterprises, Inc.  
t/a Eddie's Café  
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PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of 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.

Accordingly, we issue the following

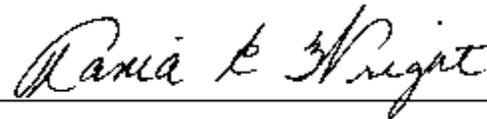
ORDER:

THEREFORE, it is hereby Ordered that the Restaurant Liquor License of DNJ Enterprises, Inc., t/a Eddie's Café, License Number R-10214, be suspended for a period of six (6) days. However, the suspension period is deferred pending the renewal of Licensee's license, at which time the suspension period will be fixed by further Order.

The Bureau of Licensing is directed to notify the Office of Administrative Law Judge of the renewal of the license so that an Order may be entered fixing the dates of suspension.

**In order to insure compliance with this Order, jurisdiction of this matter is retained.**

Dated this 17TH day of DECEMBER, 2008.



Tania E. Wright, J.

**NOTE:** 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.

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