

Mailing Date: APR 02 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-2044
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W04-358195
v.	:	
	:	LID - 45231
BOTTOMS UP SALOON INC	:	
T/A BOTTOMS UP SALOON	:	
314 HELEN STREET	:	
MCKEES ROCKS PA 15136-2873	:	
	:	
	:	
ALLEGHENY COUNTY	:	
LICENSE NO. R-AP-SS-13477	:	

**BEFORE:** JUDGE RODERICK FRISK

APPEARANCES:

For Bureau of Enforcement  
Nadia Vargo, Esquire

For Licensee  
Steven Taylor,  
Sole Corporate Officer,  
Pro Se

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on September 12, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against Bottoms Up Saloon, Inc., t/a Bottoms Up Saloon, License Number R-AP-SS-13477 (hereinafter Licensee).

The citation charges Licensee with violation of Section 3.52(b) of the Liquor Control Board Regulations [40 Pa. Code §3.52(b)], in that on August 2 and 6, 2007, Licensee's premises had an inside passage or communication to or with another business conducted by the licensee without Board approval.

An administrative hearing was conducted on February 5, 2008, at Two Parkway Center, 875 Greentree Road, Pittsburgh, Pennsylvania. The Bureau was represented by Nadia Vargo, Esquire. Licensee sole Corporate Officer Steven Taylor appeared on behalf of Licensee corporation.

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 July 24, 2007, and completed its investigation on August 6, 2007. (Exhibit C-1)
2. The Bureau notified Licensee of the nature of the alleged violation(s) disclosed by its investigation by letter dated August 13, 2007, which was sent by certified mail and received by Licensee on August 23, 2007. (Exhibit C-2)
3. The citation was issued on September 12, 2007, and was sent by certified mail and received by Licensee on September 14, 2007. (Exhibits C-3, C-4)
4. On August 2, 2007 at 2:30 p.m., Liquor Enforcement Officer B. J. Brallier arrived at Licensee's premises for the purpose of conducting a routine inspection. (N.T. 9)
5. During the course of this inspection, Officer Brallier observed a doorway, which provided an interior connection between the kitchen area of Licensee's premises to a Laundromat. Officer Brallier discussed this passageway with Licensee's sole Corporate Officer and Manager Steven Taylor who was present. (N.T. 9)
6. Upon questioning Mr. Taylor about this passageway between the businesses, he advised Officer Brallier that he also was the owner and operator of the Laundromat. (N.T. 9-10)
7. Subsequent to the August 2, 2007 visit to Licensee's premises, Officer Brallier reviewed Board records and determined that there was no approval by the Board for the passageway between Licensee's premises and the Laundromat. (N.T. 10-12)

8. On August 6, 2007 at 11:00 a.m., Officer Brallier accompanied by fellow Enforcement Officer Zimmerman returned to Licensee's premises and reviewed the Board records and diagrams with Mr. Taylor and further advised him that he must file the appropriate documents to obtain Board approval for the passageway in question. (N.T. 10-12)

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. On August 2 and 6, 2007, Licensee's premises had an inside passage or communication to or with another business conducted by the licensee without Board approval, in violation of Section 3.52(b) of the Liquor Control Board Regulations.

DISCUSSION:

Upon thorough review of the testimony and evidence presented, this court is of the opinion that the Bureau has established the violation as charged 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).

PRIOR RECORD:

Licensee has been licensed since March 20, 2000, and has had seven prior violations, to wit:

Citation No. 03-0966. Fine \$75.00.

1. Issued worthless checks in payment for malt or brewed beverages.  
April 9, 2003.

Citation No. 03-1856. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages.  
September 24, 2003.

Citation No. 05-0559. Fine \$600.00.

1. Illegal gambling (machines).  
December 30, 2004 and February 16, 2005.

BOTTOMS UP SALOON, INC.

Citation Number 07-2044

Citation No. 05-1879. Fine \$1,000.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

1. Illegal gambling (machines).  
May 13 and July 13, 2005.

Citation No. 06-1186. Fine \$1,000.00 and 6 days suspension.

1. Illegal gambling (machines and sports pools).  
January 18 and April 17, 2006.

Citation No. 06-2215. Fine \$1,450.00 and 1 day suspension.

1. Sold alcoholic beverages during a time when its restaurant liquor license was suspended.  
August 14 and 15, 2006.
2. Failed to post in a conspicuous place on the outside of the licensed premises, a Notice of Suspension.  
August 14 and 15, 2006.

Citation No. 06-2986. Two day suspension.

1. Sales during a time when the license was suspended.  
November 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.

At the administrative hearing, Licensee's sole Corporate Officer and Manager Steven Taylor testified that effective January 31, 2008, he has ceased operation of the Laundromat, which is adjacent to his licensed premises, and has no intention to reopen that business until Board approval is sought for the interior passageway, which is the subject of this citation.

For the foregoing reasons, a penalty shall be imposed in the amount of \$100.00.

BOTTOMS UP SALOON, INC.  
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ORDER:

THEREFORE, it is hereby ordered that Bottoms Up Saloon, Inc., t/a Bottoms Up Saloon, License Number R-AP-SS-13477, pay a fine of \$100.00 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 26<sup>th</sup> day of March, 2008.

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Roderick Frisk, J.

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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.

Detach Here and Return Stub with Payment

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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. 07-2044, Bottoms Up Saloon, Inc.