

Mailing Date: MAR 19 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-2258
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-356058
v.	:	
	:	LID – 48255
PATRICK L. BURKE	:	
T/A THE BASIL LEAF	:	
RR #6 BOX 6021	:	
MONTROSE, PA 18801	:	
	:	
	:	
SUSQUEHANNA COUNTY	:	
LICENSE NO. H-SS-5727	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Craig A. Strong, Esquire
Pennsylvania State Police
7448 Industrial Parkway
Macungie, PA 18062

For Licensee
Ex-Parte

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on October 3, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Patrick L. Burke, t/a The Basil Leaf (Licensee), License Number H-SS-5727.

The citation¹ charges Licensee with a violation of Section 15.62(a) of the Pennsylvania Liquor Control Board Regulations [40 Pa. Code §15.62(a)]. The charge is that on August 14, 2007, Licensee, by servants, agents or employes, failed to post in a conspicuous place on the outside of the licensed premises, or in a window plainly visible from the outside of the premises, a Notice of Suspension.

An evidentiary hearing was conducted on February 4, 2008 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee did not appear personally or have any representation.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. The Bureau began its investigation on June 19, 2007 and completed it on August 14, 2007. (N.T. 12)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on September 5, 2007. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1 (07-2258), N.T. 13)
3. On August 14, 2007, Licensee failed to post in a conspicuous place on the outside of the licensed premises or in a window plainly visible from the outside of the premises, a Notice of Suspension pursuant to Adjudication No. 07-0056X.

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. The citation is **sustained** as charged.

1. Commonwealth Exhibit No. C-2 (07-2258), N.T. 13.

PRIOR RECORD:

Licensee has been licensed since September 20, 2001, and has had two prior violations:

Adjudication No. 07-0056. Fine \$100.00. Fine not paid and license revoked.

Issued worthless checks in payment for malt or brewed beverages.
November 24, 2006.

Adjudication No. 07-0596. Fine \$500.00. Fine not paid and License revoked.

Issued worthless checks in payment for malt or brewed beverages.
December 29, 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.

I impose revocation of the license.

ORDER:

Imposition of Revocation

THEREFORE, it is hereby ordered that the Hotel liquor license (including all permits), License No. H-SS-5727, issued to Patrick L. Burke, t/a The Basil Leaf, be **REVOKED**, effective at 7:00 a.m., on Monday, May 12, 2008. Any Wholesale Liquor Purchase Permit Card or discount card issued in connection with the aforementioned license is hereby **CANCELLED**.

Since Licensee's license has already been revoked, there is no license to be returned. Therefore, the Bureau of Licensing of the Pennsylvania Liquor Control Board is hereby directed to mark their records accordingly, that this license is revoked effective at 7:00 a.m., Monday, May 12, 2008.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 6th day of March, 2008.

Felix Thau, A.L.J.

pm

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.