

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-2312
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-360810
	:	
v.	:	
	:	LID - 54136
	:	
NORTHEAST CONCESSIONS, LP	:	
1280 STATE HWY. RTE. 315	:	
WILKES BARRE, PA 18702-7002	:	
	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-SS-EHF-15046	:	

**BEFORE JUDGE FLAHERTY  
BUREAU COUNSEL STRONG  
LICENSEE: FRANCIS X. O'BRIEN, ESQUIRE**

**ADJUDICATION**

**BACKGROUND:**

This proceeding arises out of a citation that was issued on October 5, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against NORTHEAST CONCESSIONS, LP, License Number R-AP-SS-EHF-15046 (hereinafter "Licensee").

The citation charges Licensee with violation of Sections 491(1), 492(2) and 493(16) of the Liquor Code [47 P.S. §§4-491(1), 4-492(2) and 4-493(16)] in that on September 1, 2, 3 and 4, 2007, Licensee, by its servants, agents or employes, sold alcoholic beverages after its Restaurant Liquor license expired on August 31, 2007, and had not been renewed and/or validated.

The investigation which gave rise to the citation began on September 4, 2007 and was completed on September 11, 2007; and notice of the violation was sent to Licensee by Certified Mail on September 11, 2007. The notice of violation was received by Licensee.

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An evidentiary hearing was held on this matter on July 22, 2009 in the Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Pennsylvania.

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. Licensee's restaurant liquor license expired on August 31, 2007. Licensee did not receive authority to operate until after noon on September 4, 2007 (N.T. 16 and Exhibit L-3).
2. Licensee continued to sell alcoholic beverages on September 2, 2007 (N.T. 26-27).
3. On September 4, 2007 at 11:00 a.m., an officer of the Bureau entered the licensed premises. He went to a bar and ordered a Coors Light draft beer. The officer was charged \$3.50 for the beer, and the sale was rung up on the cash register behind the bar (N.T. 8).

CONCLUSION OF LAW:

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

DISCUSSION:

The record establishes that Licensee continued to sell alcoholic beverages after its liquor license expired on August 31, 2007 and before authority to dispense alcoholic beverages was given on September 4, 2007. Clearly, therefore, the charge in the citation has been sustained.

PRIOR RECORD:

Licensee has been licensed since January 25, 2005, and has had one prior violation:

Citation No. 07-0316. Fine \$250.00.

1. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 a.m. November 28, 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 \$1,000.00 or more than \$5,000.00 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 \$1,000.00.  
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ORDER

THEREFORE, it is hereby ordered that Licensee NORTHEAST CONCESSIONS, LP, pay a fine of \$1,000.00 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 pending final resolution of the penalty in this matter.

Dated this 8<sup>TH</sup> day of February, 2010.



Daniel T. Flaherty, Jr., J. an

**MOTIONS FOR RECONSIDERATION CANNOT BE ACTED UPON UNLESS THEY ARE IN WRITING AND RECEIVED BY THE OFFICE OF ADMINISTRATIVE LAW JUDGE WITHIN 15 DAYS AFTER THE MAILING DATE OF THIS ORDER, ACCOMPANIED BY A \$25.00 FILING FEE.**

**Detach here and submit stub with payment**

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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

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Northeast Concessions, LP