

Mailing Date: SEP 17 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-2507
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-359882
v.	:	
	:	LID - 55303
R & S ENTERTAINMENT, INC.	:	
T/A THE BIG UGLY'S	:	
165 N. WILKES-BARRE BLVD.	:	
WILKES-BARRE, PA 18702-5326	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-SS-3632	:	

**BEFORE:** JUDGE THAU

APPEARANCES:

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

For Licensee  
William J. Shehwen, III, Esq.  
22 West Gay Street  
Suite 2  
West Chester, PA 19380

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on November 7, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against R & S Entertainment, Inc., t/a The Big Ugly's (Licensee), License Number R-AP-SS-3632.

The citation<sup>1</sup> charges Licensee with a 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)]. The charge is that on September 2, 2007, Licensee, by servants, agents or employees, sold alcoholic beverages after its Restaurant Liquor license expired on August 31, 2007, and had not been renewed and/or validated.

An evidentiary hearing was conducted on August 14, 2008 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania.

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 August 22, 2007 and completed it on October 1, 2007. (N.T. 10)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on October 1, 2007. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 9)
3. Licensee's Restaurant liquor license expired on August 31, 2007. On September 2, 2007, a Bureau Enforcement Officer arrived at the licensed premises in the afternoon. Licensee was open and in operation selling alcoholic beverages. (N.T. 5-11)
4. The Officer called a Corporate Official on the telephone advising Licensee could not serve alcoholic beverages until the liquor license was renewed. (N.T. 12-13)

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.

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1. Commonwealth Exhibit No. C-2, N.T. 9.

PRIOR RECORD:

Licensee has been licensed since September 1, 2005, and has had no prior violations.

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.

Licensee argues that the application was timely filed and the delay was caused by the Pennsylvania Liquor Control Board. Consequently, so the argument goes, Licensee ought not be held responsible. The record indicates Licensee filed the application via internet, on Thursday, August 30, 2007. The following Monday, September 3, 2007, was Labor Day. The application was approved on September 4, 2007. Accordingly, the Pennsylvania Liquor Control Board processed this application within a maximum of two work days.

Since Licensee was laboring under the misapprehension that the filing was sufficient and had filed before the expiration date of the license, albeit rather late, I impose a \$1,000.00 fine.

ORDER:

**Imposition of Fine**

THEREFORE, it is hereby ordered that Licensee 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.

**Retaining Jurisdiction**

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 11th day of September, 2008.

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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.**

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. 07-2507  
R & S ENTERTAINMENT, INC.