

Mailing Date: SEP 9 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-2593
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-362361
v.	:	
	:	LID - 51103
M.T.M., INC.	:	
4957 BIRNEY AVE.	:	
MOOSIC, PA 18507-1205	:	
	:	
	:	
	:	
LACKAWANNA COUNTY	:	
LICENSE NO. D-SS-2525	:	

BEFORE: JUDGE THAU

APPEARANCES:

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

For Licensee
Michael A. Pendolphi, Esq.
1041 Wyoming Avenue
Forty Fort, PA 18704

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on November 14, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against M.T.M., Inc. (Licensee), License Number D-SS-2525.

The citation¹ charges Licensee with a violation of Sections 492(3) and 493(16) of the Liquor Code [47 P.S. §4-492(3) and §4-493(16)]. The charge is that on October 1, 2007, Licensee, by servants, agents or employees, sold alcoholic beverages after its Distributor License expired on September 30, 2007, and had not been renewed and/or validated.

An evidentiary hearing was conducted on July 17, 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 October 1, 2007 and completed it on October 9, 2007. (Commonwealth Exhibit No. C-1, N.T. 14)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on October 11, 2007. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 14)
3. On October 1, 2007, Licensee sold alcoholic beverages after its Distributor License expired on September 30, 2007.

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, N.T. 14.

PRIOR RECORD:

Licensee has been licensed since June 25, 2003, 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.

I impose a \$1,000.00 fine, as Licensee corrected the deficiency immediately and the error was inadvertent.

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 26th day of August, 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.

Detach Here and Return Stub with Payment

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

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M.T.M., INC.