

Mailing Date: OCT 10 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-2612
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-362446
v.	:	
	:	LID - 52559
SCRANTON HOSPITALITY, LLC	:	
300 MEADOW AVE.	:	
SCRANTON, PA 18505-2137	:	
	:	
	:	
	:	
LACKAWANNA COUNTY	:	
LICENSE NO. H-AP-SS-5811	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Craig Strong, Esquire

For Licensee
Chris Deegan, Esquire

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on November 21, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against SCRANTON HOSPITALITY, LLC, License Number H-AP-SS-5811 (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 October 1, 2007, Licensee, by its servants, agents or employes, sold alcoholic beverages after the hotel liquor license expired on September 30, 2007, and had not been renewed and/or validated.

The investigation which gave rise to the citation began on October 1, 2007 and was completed on October 2, 2007; and notice of the violation was sent to Licensee by Certified Mail on October 17, 2007. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on July 24, 2008 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 hotel liquor license expired on September 30, 2007, and, as of October 1, 2007, Licensee did not possess a current hotel liquor license nor did it have authority to dispense alcoholic beverages (N.T. Exhibit C-3).

2. On October 1, 2007 an officer of the Bureau entered the licensed premises and sat down at the bar. She ordered a rum and coke from the barmaid for which she paid \$4.25. After paying for the drink, she identified herself to the barmaid (N.T. 9-10).

3. Licensee received temporary authority to operate on October 2, 2007 (N.T. 11).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since March 2, 2004, and has had no prior violations. Licensee is, therefore, entitled to be treated as a first time offender.

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 suspension of license for a period of one day.

ORDER

THEREFORE, IT IS HEREBY ORDERED that the hotel liquor license (including all permits) of SCRANTON HOSPITALITY, LLC, License No. H-AP-SS-5811 be suspended for a period of one day **BEGINNING** at 7:00 a.m. on Tuesday, December 2, 2008 and **ENDING** at 7:00 a.m. on Wednesday, December 3, 2008.

Licensee is directed on December 2, 2008 at 7:00 a.m. to place the enclosed placard of notice of suspension (identified as Form No. PLCB-1925 and as printed with red and black ink) in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises and to remove said license from the wall and place it in a secure location.

Licensee is advised if replacement placards are needed for any reason they are available at all Pennsylvania Liquor Stores/Wine & Spirits Shoppes.

The Bureau is directed to visit and monitor the aforementioned licensed premises for compliance with this Order.

Licensee is authorized on December 3, 2008 at 7:00 a.m. to remove the placard of suspension and return his license to its original wall location.

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 7th day of October, 2008.

Daniel T. Flaherty, Jr., J.

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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.