

Mailing Date: SEP 23 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-0334
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-366954
v.	:	
	:	LID - 54353
ROSVAND ENTERPRISES, LLC	:	
47 BELMONT ST.	:	
CARBONDALE, PA 18407-1642	:	
	:	
	:	
LACKAWANNA COUNTY	:	
LICENSE NO. R-AP-SS-1563	:	

**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 March 5, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Rosvand Enterprises, LLC (Licensee), License Number R-AP-SS-1563.

This citation<sup>1</sup> contains two counts.

The first count charges Licensee with violations of Section 15.62(a) of the Pennsylvania Liquor Control Board Regulations [40 Pa. Code §15.62(a)]. The charge is that on January 29, 30 and 31, 2008, 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.

The second count charges Licensee with violations 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 January 30 and 31, 2008, Licensee, by servants, agents or employes, sold, furnished and/or gave alcoholic beverages during a time when its Restaurant Liquor license was suspended at Citation No. 07-0322.

An evidentiary hearing was conducted on August 13, 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 at the hearing.

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

FINDINGS OF FACT:

1. A citation hearing notice was mailed by the Office of Administrative Law Judge on June 26, 2008 to Licensee by both certified receipt-return mail and first-class mail to the licensed premises. The notices notified Licensee of the date, time and place of the hearing. The Notice, sent by certified mail, was signed for by Cynthia Rosar on June 30, 2008. (N.T. 11)
2. On June 26, 2008, I issued a Pre-Hearing Order, by first class mail, directing Licensee to submit its pre-hearing memorandum. That Order reiterated the date, time and place of hearing. (N.T. 11)
3. The Bureau began its investigation on December 26, 2007 and completed it on February 4, 2008. (N.T. 31)
4. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on February 6, 2008. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 30)

---

1. Commonwealth Exhibit No. C-2, N.T. 30.

Count Nos. 1 and 2:

5. Pursuant to Adjudication No. 07-0322, Licensee was ordered to pay a fine of \$250.00. Licensee failed to pay the fine. By virtue of Supplemental Order, Licensee was to be suspended for failure to pay fine beginning Monday, January 28, 2008 at 7:00 a.m., for one day and continuing thereafter until the fine was paid. A Bureau Enforcement Officer conducted a suspension check of the premises on January 28, 2008 at approximately 7:00 p.m. Licensee was not operating and a suspension placard was posted. The Officer returned to the premises the following day, January 29, 2008 at noon. There was no suspension placard posted. Licensee paid the original fine and the suspension was vacated effective February 4, 2008. (N.T. 29-34)

6. A second Bureau Enforcement Officer conducted a suspension check on January 31, 2008 at 6:30 p.m., finding there was no suspension placard posted and Licensee was open and operating selling alcoholic beverages. Licensee was also open and operating selling alcoholic beverages on January 30, 2008. (N.T. 28-35)

CONCLUSIONS OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since March 11, 2005, and has had eight prior violations, (Commonwealth Exhibit No. C-4, N.T. 33):

Adjudication No. 05-1907. Fine \$500.00 and 1 day suspension with thereafter conditions.

1. Sold alcoholic beverages on credit in contravention of the provisions of the Liquor Code and Title 40 of the Pennsylvania Code.  
On 12 dates between June 26 and July 27, 2005.
2. Not a bona fide restaurant in that food items were insufficient.  
July 28, 2005.
3. Permitted entertainment after 2:00 a.m.  
June 4, 2005.

Adjudication No. 06-0848. Fine \$250.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

Used loudspeakers or devices whereby music could be heard outside.

February 25, 2006.

Adjudication No. 06-2333. Fine \$300.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

Used loudspeakers or devices whereby music could be heard outside.

May 26, 2006.

Adjudication No. 06-2577. Fine \$1,250.00.

Sales after the restaurant liquor license expired on September 30, 2006 and had not been renewed and/or validated.

October 5, 2006.

Adjudication No. 07-0322. Fine \$350.00.

1. Failed to require patrons to vacate the premises not later than one-half hour after the required time.

December 9, 2006.

2. Permitted patrons to enter that portion of the premises habitually used for the service of alcoholic beverages between 2:30 a.m. and 7:00 a.m. when you did not possess an extended hours food

license.

December 9, 2006.

Adjudication No. 07-1563. Fine \$400.00. Fine not paid and license suspended for 1 day suspension and continuing thereafter until fine paid.

Used loudspeakers or devices whereby music could be heard outside.

April 14 and 28, 2007.

Adjudication No. 07-1904. Fine \$500.00. Fine not paid and license suspended for 1 day and continuing thereafter until fine paid.

Used loudspeakers or devices whereby music could be heard outside.

July 19, 2007.

Adjudication No. 07-2096. Fine \$200.00. Fine not paid and license suspended for 1 day and continuing thereafter until fine paid.

1. Failed to maintain coil cleaning records.  
July 25, 2007.
2. Failed to clean coils at least once every 7 days.  
July 25, 2007.

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 Count No. 1 and 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 Count No. 2 in this case.

Licensee has failed to appear at the hearing or obey process. Further, I conclude Licensee either has no concern for the law or has insufficient knowledge of the restrictions placed upon a licensee. I therefore must impose a severe sanction.

Count No. 1 – 10 days suspension.  
Count No. 2 - \$2,500.00 fine.

ORDER:

**Imposition of Fine**

THEREFORE, it is hereby ordered that Licensee pay a fine of \$2,500.00 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.

**Imposition of Suspension**

IT IS FURTHER ORDERED that the Restaurant liquor license (including all permits) of Rosvand Enterprises, LLC, License No. R-AP-SS-1563, be suspended for a period of ten days, **BEGINNING** at 7:00 a.m., on Monday, November 10, 2008, and **ENDING** at 7:00 a.m., on Thursday, November 20, 2008.

Licensee is directed, on Monday, November 10, 2008, at 7:00 a.m., to place a 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 Thursday, November 20, 2008, at 7:00 a.m., to remove the placard of suspension and return its license to its original wall location.

**Retaining Jurisdiction**

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 18th day of September, 2008.

\_\_\_\_\_  
Felix Thau, A.L.J.

pm

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, Pennsylvania 17110-9661

Citation No. 08-0334  
ROSVAND ENTERPRISES, LLC