

Mailing Date: OCT 08 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-0410
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-366962
v.	:	
	:	LID - 53450
SHARON M. ROBERTS	:	
T/A SHARON'S SUBS	:	
123 N. MOUNTAIN BLVD.	:	
MOUNTAIN TOP, PA 18707-1148	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-SS-15088	:	

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 19, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Sharon M. Roberts, t/a Sharon's Subs (Licensee), License Number R-SS-15088.

The citation¹ charges Licensee with a violation of Section 15.62(a) of the Pennsylvania Liquor Control Board Regulations [40 Pa. Code §15.62(a)]. The charge is that on January 28, 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.

An evidentiary hearing was conducted on September 5, 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.

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 July 17, 2008 to Licensee by both certified receipt-return mail and first-class mail to the licensed premises. The notice notified Licensee of the date, time and place of the hearing. The Notice, sent by certified mail, was signed for by Licensee. (N.T. 4)
2. On July 23, 2008, I issued a Pre-Hearing Order directing Licensee to submit her pre-hearing memorandum to this Office and to Bureau Counsel. The Order reiterated the date, time and place of hearing. (N.T. 4)
3. The Bureau began its investigation on December 26, 2007 and completed it on January 29, 2008. (N.T. 6)
4. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on February 13, 2008. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 6)
5. Pursuant to Adjudication No. 07-2120X, Administrative Law Judge Flaherty imposed a \$200.00 fine. The fine was not paid and the license was suspended for a period of one day, beginning at 7:00 a.m., Monday, January 28, 2008, and continuing thereafter until the fine was paid.

1. Commonwealth Exhibit No. C-2, N.T. 6.

6. On Monday, January 28, 2008, a Bureau Enforcement Officer conducted a suspension check of the premises. He arrived at 2:30 p.m. The business was closed but there was no suspension placard posted anywhere. The Officer returned at 5:20 p.m. Licensee was open but selling food only. There was no suspension placard posted. Licensee was present. The Officer spoke to her. She advised she had no further intention of selling any alcoholic beverages. The Officer advised her there was a suspension in effect and that she was required to post a suspension placard. The Officer returned the following day. The suspension placard was posted. (N.T. 6-10)

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.

PRIOR RECORD:

Licensee has been licensed since August 31, 2004, and has had five prior violations:

Adjudication No. 06-1643X. Fine \$150.00.

Issued worthless checks in payment for purchases of malt or brewed beverages.
March 24, April 20 and 21, 2006.

Adjudication No. 07-2120X. Fine \$200.00.

Issued worthless checks in payment for purchases of malt or brewed beverages.
July 19, 2007.

Adjudication No. 07-2338. Fine \$1,250.00 and 3 days suspension and continuing thereafter.

Sales after your license expired and had not been renewed and/or validated.
September 1, 2007.

Adjudication No. 07-2901X. Fine \$350.00. Fine not paid and license revoked.

Issued worthless checks in payment for purchases of malt or brewed beverages.
August 23, 2007.

Adjudication No. 08-0052X. Revocation of license.
Issued worthless checks in payment for purchases
of malt or brewed beverages.
October 25, 26 and November 28, 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 this case.

I impose revocation of the license.

ORDER:

Imposition of Revocation

THEREFORE, it is hereby ordered that the Restaurant liquor license (including all permits) No. R-SS-15088, issued to Sharon M. Roberts, t/a Sharon's Subs, be **REVOKED**, effective at 7:00 a.m., on Monday, November 10, 2008. Any Wholesale Liquor Purchase Permit Card or discount card issued in connection with the aforementioned license is hereby **CANCELLED**.

As this license has already been revoked, there is no license to be returned. Accordingly, the Bureau of Licensing of the Pennsylvania Liquor Control Board is hereby directed to mark their records accordingly, that this license is revoked, effective at 7:00 a.m., Monday, November 10, 2008.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 30th day of September, 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.