

Mailing Date: DEC 22 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-0509
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-369352
	:	
7217 INC.	:	
7217 FRANKFORD AVE.	:	LID - 51133
PHILADELPHIA PA 19135-1010	:	
	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-3708	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

**JAMES E. DAILEY, ESQ.**

FOR THE LICENSEE:

**EX PARTE**

**BEFORE: JUDGE WRIGHT**

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on March 11, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against 7217, Inc., License Number R-AP-SS-3708 (hereinafter "Licensee").

An Administrative hearing was held on Tuesday, August 26, 2008, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

The citation charges Licensee with violation of Sections 491(1), 492(2) and 493(16) of the Liquor Code, 47 P.S. Sections 4-491(1), 4-492(2) and 4-493(16), in that on February 7, 2008, Licensee, by its servants, agents or employes, sold alcoholic beverages after the Restaurant Liquor License expired on October 31, 2007 and had not been renewed and/or validated.

FINDINGS OF FACT:

1. The Bureau conducted an investigation of the licensed premises which began February 7, 2008 and ended February 16, 2008. A notice of violation letter dated February 15, 2008 was sent to the licensed premises by certified mail, return receipt requested. The mailing was signed as received on February 20, 2008. A citation dated March 11, 2008 was mailed to the licensed premises by certified mail, return receipt requested. The mailing was signed as received on February 20, 2008. A citation dated March 11, 2008 was sent to the licensed premises by certified mail, return receipt requested. The mailing was signed as received on March 13, 2008. A citation hearing notice was sent to the licensed premises by certified mail, return receipt requested and by first class mail. That mailing was signed as received (N.T. 8-9 and Exhibits B-1 and B-2).

2. Certified records of the Liquor Control Board dated February 27, 2008 indicate that the Licensee's license expired on October 31, 2007 and that they did not have authority to operate on February 7, 2008 (N.T. 9 and Exhibit B-3).

3. Officer Spera visited the licensed premises on February 7, 2008 in order to conduct an inspection of the premises. When he arrived at approximately 1:00 p.m., the premises was open and operating. Officer Spera was accompanied by Officers Gall and Mullen. There were three patrons inside (N.T. 5-6).

4. There was a white male bartender on duty. Officer Spera entered the premises in an undercover capacity and ordered a twelve ounce bottle of Miller Lite beer. He paid three dollars and was given twenty-five cents in change from the register. The cash register was operational. The officer took possession of the beer and identified himself (N.T. 6-7).

5. The officer told the bartender that the license had expired on October 31, 2007. The bartender directed his attention towards an individual sitting at the end of the bar named Jimmy O'Connor. Jimmy O'Connor is the husband of the treasurer of the corporation, Kristin O'Connor (N.T. 7).

6. The officer asked Mr. O'Connor if he knew that the license had expired in October, 2007. He stated that he was aware that the license had expired and his accountant was awaiting financial proceeds for his renewal application. The officer instructed him that he would have to cease service of alcoholic beverages until he had a license (N.T. 7-8).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

On February 7, 2008, Licensee, by its servants, agents or employes, sold alcoholic beverages after the Restaurant Liquor License expired on October 31, 2007 and had not been renewed and/or validated, in violation of Sections 491(1), 492(2) and 493(16) of the Liquor Code, 47 P.S. Sections 4-491(1), 4-492(2) and 4-493(16).

PRIOR RECORD:

Licensee has been licensed since July 8, 2003, and has a record of prior violations as follows:

Citation No. 04-0665. \$1,250.00 fine.

1. Sales to minors.  
March 23, 2004.
2. Minors frequenting.  
March 23, 2004.

DISCUSSION:

Certified records from the Liquor Control Board indicate that the Licensee had no authority to operate on February 7, 2008. Under the circumstances, a monetary penalty shall be imposed. It is noted that the Licensee has one prior violation for an unrelated matter. Therefore, a \$1,000.00 penalty shall be imposed.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of 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.

Accordingly, we issue the following

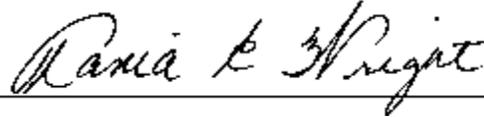
ORDER:

THEREFORE, it is hereby Ordered that Licensee, 7217, Inc., License Number R-AP-SS-3708, pay a fine of One Thousand Dollars (\$1,000.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

7217, Inc.  
Citation No. 08-0509

**In order to insure compliance with this Order, jurisdiction of this matter is retained.**

Dated this 16TH day of DECEMBER, 2008.



Tania E. Wright, J.

**NOTE:** 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.

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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, along with any required documentation, to:

PLCB - Office of Administrative Law Judge  
Brandywine Plaza  
2221 Paxton Church Road  
Harrisburg, PA 17110-9661

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