

Mailing Date: MAY 22 2009

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

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|------------------------------|---|-------------------------|
| PENNSYLVANIA STATE | : | |
| POLICE, BUREAU OF | : | Citation No. 08-0767 |
| LIQUOR CONTROL ENFORCEMENT | : | |
| | : | Incident No. W02-371100 |
| v. | : | |
| | : | LID – 51130 |
| CATHY’S SCOTTS GROCERY, INC. | : | |
| T/A CATHY’S SCOTTS GROCERY | : | |
| 1308 MULBERRY ST. | : | |
| SCRANTON, PA 18510-2223 | : | |
| | : | |
| | : | |
| LACKAWANNA COUNTY | : | |
| LICENSE NO. E-SS-2704 | : | |

BEFORE: JUDGE THAU

APPEARANCES:

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

For Licensee
Christopher J. Osborne, Esq.
527 Linden Street
Scranton, PA 18505

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on April 25, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Cathy’s Scotts Grocery, Inc., t/a Cathy’s Scotts Grocery (Licensee), License Number E-SS-2704.

The citation¹ charges Licensee with a violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)]. The charge is that on March 15, 2008, Licensee, by servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one (1) male minor, twenty (20) years of age.

An evidentiary hearing was conducted on April 8, 2009 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 and completed its investigation on March 15, 2008. (Commonwealth Exhibit No. C-1, N.T. 60)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on March 19, 2008. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 60)
3. On the date charged, a twenty year old (born February 20, 1988), purchased beer at the subject premises using fake identification. (N.T. 60-63)

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 May 6, 2003, and has had three prior violations:

Adjudication No. 06-1374. Fine \$1,250.00 and RAMP training mandated.
Sales to minors.
May 6, 2006.

1. Commonwealth Exhibit No. C-2, N.T. 60.

Adjudication No. 07-0177. Fine \$200.00.
Failed to comply with the order of the ALJ
mandating RAMP training.
November 28, 2006 through January 12, 2007.

Adjudication No. 07-0617. Fine \$1,500.00.
Sales to minors.
February 16, 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 \$1,000.00 or more than \$5,000.00 or both for violations of the type found in this case.

Further, Section 471(c) of the Liquor Code [47 P.S. §4-471(c)] requires that the penalty imposed include license revocation or suspension where the violation in question is the third or subsequent violation of any of the offenses referred to in subsection 471(b) of the Liquor Code [47 P.S. §4-471(b)] and/or the Crimes Code within a four year period. The following Adjudications (06-1374 and 07-0617), in combination with the charge in this citation, requires that license revocation or suspension must be included as part of the penalty.

I impose a \$3,000.00 fine and five days suspension.

I also order Licensee to comply with the requirements set forth in Liquor Code Section 471.1 [47 P.S. §4-471.1], pertaining to Responsible Alcohol Management, for a period of one year.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$3,000.00 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.

Imposition of Suspension

IT IS FURTHER ORDERED that the Retail Dispenser Eating Place license (including all permits) of Cathy's Scotts Grocery, Inc., t/a Cathy's Scotts Grocery, License No. E-SS-2704, be suspended for a period of five days. However, the suspension period is deferred pending reactivation of Licensee's license from safekeeping at which time the suspension period will be fixed by further Order.

IT IS FURTHER ORDERED that the Bureau of Licensing is directed to notify the Office of Administrative Law Judge of the reactivation of the license so an Order may be entered fixing the dates for suspension.

R.A.M.P. Requirements

However, since the license is in the process of being transferred so much of this Adjudication as it relates to mandatory compliance with Liquor Code Section 471.1, pertaining to Responsible Alcohol Management, is suspended pending transfer. If the license is not transferred within 90 days of the mailing date of this Adjudication, I will review the Adjudication for further appropriate action.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 8TH day of May, 2009.


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. 08-0767
CATHY'S SCOTTS GROCERY, INC.