

Mailing Date: FEB 20 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-1347
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-371318
v.	:	
	:	LID - 58407
GEORGIES POYNTELLE INN, INC.	:	
T/A GEORGIES	:	
700 CROSSTOWN HWY.	:	
POYNTELLE, PA 18454	:	
	:	
WAYNE COUNTY	:	
LICENSE NO. H-AP-SS-6096	:	

BEFORE: JUDGE THAU

APPEARANCES:

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

For Licensee
Cy Woodmansee
Sole Corporate Officer

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on June 23, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Georgies Poyntelle Inn, Inc., t/a Georgies (Licensee), License Number H-AP-SS-6096.

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 May 12, 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 from the outside of the premises, a Notice of Suspension.

An evidentiary hearing was conducted on January 29, 2009, at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee was represented by its Sole Corporate Officer, Mr. Cy Woodmansee. I advised Mr. Woodmansee of Licensee's right to counsel, to cross-examine witnesses and to present testimony. Mr. Woodmansee acknowledged that he understood those rights and that he was prepared to go forward without an attorney. (N.T. 5)

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 its investigation on March 19, 2008 and completed it on May 13, 2008. (N.T. 7)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on May 20, 2008. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 7)
3. Pursuant to Adjudication No. 07-1897, I imposed a \$1,000.00 fine and a one day suspension which was effective Monday, May 12, 2008 and ending at 7:00 a.m., Tuesday, May 13, 2008.
4. On May 12, 2008, a Bureau Enforcement Officer conducted a suspension check at the premises at 12:00 noon. The premises was closed. The doors were locked and the interior lights were off. The Officer inspected the outside of the entire premises but saw no Suspension Placard posted. (N.T. 11)

1. Commonwealth Exhibit No. C-2, N.T. 8.

5. Licensee's Sole Corporate Officer, Mr. Cy Woodmansee, posted the placard on the inside of a window, facing the outside. He placed the placard on the inside of the window rather than on the outside because he was concerned about possible winds dislodging it. (N.T. 17-19).

6. Mr. Cy Woodmansee, placed the placard on the window using cellophane tape on all four corners. When Mr. W. returned to the premises to remove the placard after the suspension period ended, it was still in place. (N.T. 20-22)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.

2. The Bureau has **failed** to prove that on May 12, 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.

DISCUSSION:

I believe both witnesses were truthful. It is impossible however for me to reconcile the two. Nonetheless, given my belief in the truthfulness of Licensee's testimony, I will accord those statements significant weight.

ORDER:

NOW THEREFORE, it is ordered that Citation No. 08-1347 issued against Georgies Poyntelle Inn, Inc., t/a Georgies, is hereby DISMISSED.

Dated this 19th day of February, 2009.



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.