

Mailing Date: FEB 18 2009

[Appeal](#)

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-1965
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W04-375724
	:	
v.	:	
	:	LID - 49727
	:	
706 ALLEGHENY RIVER BLVD INC	:	
T/A THE GRAY GOOSE	:	
706 ALLEGHENY RIVER BLVD	:	
VERONA PA 15147-1302	:	
	:	
	:	
ALLEGHENY COUNTY	:	
LICENSE NO. R-AP-SS-12998	:	

BEFORE: JUDGE RODERICK FRISK

APPEARANCES:

For Bureau of Enforcement For Licensee Nadia Vargo, Esquire No appearance.

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on August 20, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against 706 Allegheny River Blvd., Inc., t/a The Gray Goose, License Number R-AP-SS-12998 (hereinafter Licensee).

The citation charges Licensee with violation of Section 471(d) of the Liquor Code [47 P.S. §4-471(d)], in that from May 16 through July 22, 2008, Licensee failed to comply with the order of the Administrative Law Judge at Citation No. 07-1703 mandating responsible alcohol management training.

An administrative hearing was conducted on January 13, 2009, at Two Parkway Center, 875 Greentree Road, Pittsburgh, Pennsylvania. The Bureau was represented by Nadia Vargo, Esquire. Licensee did not appear personally or through legal counsel.

After hearing the testimony presented, and upon review of the evidence submitted, the following Findings of Fact and Conclusions of Law are entered:

FINDINGS OF FACT:

1. The Bureau commenced its investigation of Licensee's premises on June 9, 2008, and completed its investigation on July 22, 2008. (Exhibit C-1)
2. The Bureau notified Licensee of the nature of the alleged violation(s) disclosed by its investigation by letter dated August 4, 2008, which was sent by certified mail and returned unclaimed. (Exhibit C-1)
3. The citation was issued on August 20, 2008, and was sent by certified mail and returned unclaimed. The citation was also mailed to Licensee's Secretary/Director Robert McMahon at 1355 Mount Avenue, Verona, PA 15147 on September 4, 2008, which was received on September 6, 2008. (Exhibits C-2, C-3)
4. On December 2, 2008, a notice relative to the date, time and place of the evidentiary hearing was mailed to Licensee's premises by certified mail and first class mail. The aforementioned certified and first class mailings of the notice of hearing were returned unclaimed.
5. Official notice is taken that Licensee's correct address of premises is listed as 706 Allegheny River Blvd., Inc., t/a The Gray Goose, 706 Allegheny River Blvd., Verona, PA 15147-1302.
6. On December 2, 2008, a notice relative to the date, time and place of the evidentiary hearing was mailed to Licensee's Secretary/Director Robert McMahon at 1355 Mount Avenue, Verona, PA 15147 by certified mail and first class mail. The aforementioned certified and first class mailings of the notice of hearing were returned unclaimed.
7. As the result of an Adjudication issued by this court at Citation Number 07-1703, Licensee was ordered to pay a fine in the amount of \$2,500.00 and was further ordered to complete Responsible Alcohol Management Program (R.A.M.P.) within 90 days of the mailing date of the Adjudication (May 15, 2008). (Exs. C-4, C-5, N.T. 15-16)

8. On June 12, 2008, Liquor Enforcement Officer J. M. Cozzoli contacted the Responsible Alcohol Management Program training office and spoke with Roseanne Sentner at the Pittsburgh regional office. As the result of this conversation, Ms. Sentner advised Officer Cozzoli that Licensee had not taken any action as of that date regarding R.A.M.P. training. (N.T. 17, 20)
9. Officer Cozzoli completed this investigation on July 22, 2008, at which time Licensee had not taken action to obtain R.A.M.P. certification. (N.T. 6-7)
10. Licensee's restaurant liquor license expired on May 31, 2008, and has not been renewed. (N.T. 17)
11. A review of Board records reveals that Licensee had no authority to operate pursuant to its liquor license during the period June 1, 2008 through July 22, 2008. (N.T. 17)

DISCUSSION:

Upon thorough review of the testimony and evidence presented, this court concludes that the Bureau has established the violation as charged for the period May 16, 2008 through May 31, 2008. This court further concludes that the Bureau has failed to establish a sufficient basis to extend the nature of this violation beyond May 31, 2008, as Licensee was without a valid liquor license and otherwise had no authority to operate pursuant to such license following the date of expiration. *Pennsylvania Liquor Control Board v. Leggens*, 542 A.2d 653 (Pa. Cmwlth. 1988); *Omicron Enterprises*, 449 A.2d 857 (Pa. Cmwlth. 1982).

CONCLUSIONS OF LAW:

1. The notice provisions as prescribed by Section 471 of the Liquor Code [47 P.S. §4471] have been satisfied.
2. From May 16, 2008 through May 31, 2008, Licensee failed to comply with the order of the Administrative Law Judge at Citation No. 07-1703 mandating responsible alcohol management training, in violation of Section 471(d) of the Liquor Code.

PRIOR RECORD:

Licensee has been licensed since July 9, 2002, and has had one prior violation, to wit:

Citation No. 07-1703. Fine \$2,500.00 and R.A.M.P.

706 ALLEGHENY RIVER BLVD., INC.

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training mandated. Fine not paid and license suspended
one day and thereafter until fine paid.

Fine still not paid and license revoked.

1. Sales after the
license expired and had
not been renewed
and/or validated.

June 13, 2007.

2. Sales to a minor.

June 30, 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.

The record reveals that in a Supplemental Order at Citation No. 07-1703 dated June 30, 2008, Licensee's restaurant liquor license was revoked effective August 18, 2008, as the result of its failure to pay the fine imposed at that citation.

This court further notes that Licensee has failed to submit a pre-hearing memorandum and has failed to appear at the administrative hearing held in this matter. In the opinion of this court, these circumstances demonstrate a clear lack of interest in this liquor license.

ORDER:

THEREFORE, it is hereby ordered that License Number R-AP-SS-12998 issued to 706 Allegheny River Blvd., Inc., t/a The Gray Goose, be REVOKED effective at 7:00 a.m. on Monday, March 30, 2009.

Since the license is inactive, there is no license to return; therefore, the Bureau of Licensing is hereby directed to mark their records that this license has been REVOKED. Licensee's right to renew this license is hereby CANCELLED.

Jurisdiction is retained to ensure compliance with this Order.

Dated this 5th day of February, 2009.

706 ALLEGHENY RIVER BLVD., INC.

Citation Number 08-1965

Roderick Frisk

Roderick Frisk, J. bg

NOTE: MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN 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.