

Mailing Date: MAR 16 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-2111
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-377242
v.	:	
	:	LID - 57975
LA FAMIGLIA PIZZERIA &	:	
SPORTSBAR, LLC	:	
625 MAIN RD.	:	
DALLAS, PA 18612-9001	:	
	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-SS-17494	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Craig Strong, Esquire

For Licensee
NO APPEARANCE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on September 10, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against LA FAMIGLIA PIZZERIA & SPORTSBAR, LLC, License Number R-AP-SS-17494 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 15.62(a) of the Liquor Control Board Regulations [40 Pa. Code §15.62(a)] in that on August 4 and 5, 2008, Licensee, by its servants, agents or employees, 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.

The investigation which gave rise to the citation began on July 2, 2008 and was completed on August 5, 2008; and notice of the violation was sent to Licensee by Certified Mail on August 19, 2008. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on January 8, 2009 in the Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Pennsylvania. No one appeared at the hearing on behalf of Licensee. A citation hearing notice was sent to Licensee(s) at its address of record, 625 Main Road, Dallas, PA 18612 and to James Hunter 1121 Lower Demunds Road, Dallas, PA 18612, by certified mail, return receipt requested and by first class mail on November 21, 2008. The notice set forth the date and time of the hearing as January 8, 2009 at 9:30 a.m., and the place of hearing as Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, PA.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. By Supplemental Order at Citation No. 07-1968X the restaurant liquor license of Licensee was suspended for a period of one day beginning at 7:00 a.m. on Monday, August 4, 2008 and continuing thereafter until the fine in the amount of \$150.00 has been paid (Administrative Notice See N.T. Exhibit C-6).

2. The aforementioned fine remained unpaid until August 8, 2008 when a Second Supplemental Order was issued at Citation No. 07-1968X revoking Licensee's restaurant liquor license for failure to pay the \$150.00 fine (Administrative Notice See Exhibit C-7).

3. On August 4, 2008 at 7:45 p.m. and August 5, 2008 at 4:10 p.m. an officer of the Bureau visited the licensed premises. He found the premises to be locked. No lights were on, and there was no activity (N.T. 8).

4. The officer found no suspension placard posted on either of the aforementioned dates (N.T. 8).

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

PRIOR RECORD:

Licensee has been licensed since June 14, 2007, and has had four prior violations:

Citation No. 07-1968X. Fine \$150.00. Fine not paid and license suspended 1 day and thereafter until fine paid. Fine not paid and license revoked.

1. Issued worthless checks in payment for purchases of malt or brewed beverages. June 16, 2007.

Citation No. 07-3130. Fine \$250.00. Fine not paid and license revoked.

1. Your managing member consumed alcoholic beverages while tending bar or otherwise serving alcoholic beverages. October 28, 2007.

Citation No. 08-0228. Fine \$1,250.00 and mandatory RAMP training. Fine not paid and license revoked.

1. Sales to a visibly intoxicated person. January 6, 2008.

Citation No. 08-0680. Fine \$750.00. Fine not paid and license revoked.

1. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of two years. February 12, 2008.
2. Violated the Tax Reform Code of 1971 in that you have failed and/or refused to remit sales tax due and owing. July 1 through December 31, 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.

This office takes notice that Licensee's license has been previously revoked.

Under the circumstances of this case, the penalty imposed shall be revocation of the license.

ORDER

THEREFORE, IT IS HEREBY ORDERED that the Liquor License No. R-AP-SS-17494, issued to LA FAMIGLIA PIZZERIA & SPORTSBAR, LLC, be **REVOKED** effective with the mailing date of this Order. Any Wholesale Liquor Purchase Permit Card or discount card issued in connection with the aforementioned license is hereby CANCELLED.

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

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 27TH day of February, 2009.

A handwritten signature in black ink, reading "Daniel T. Flaherty, Jr.", written over a horizontal line.

Daniel T. Flaherty, Jr., J.

an

LA FAMIGLIA PIZZERIA
AND SPORTSBAR LLC
CITATION NO. 08-2111

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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.