

Mailing Date: APR 3 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-2324
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W04-379387
	:	
OLD HICKEY PARK INN INC	:	
T/A LITTLE BROWN JUG	:	LID-54891
1600 EVERGREEN AVE	:	
PITTSBURGH PA 15209-1640	:	
	:	
	:	
ALLEGHENY COUNTY	:	
LICENSE NO. R-AP-SS-18760	:	

BEFORE: JUDGE ROBERT F. SKWARYK

APPEARANCES:

For Bureau of Enforcement:
Emily L. Gustave, Esquire

For Licensee:
Ex Parte

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on October 1, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against Old Hickey Park Inn, Inc., T/A Little Brown Jug, License Number R-AP-SS-18760 (hereinafter Licensee).

The citation charges Licensee with violation of Sections 491(1), 492(2) and 493(16) of the Liquor Code [47 P.S. §§§4-491(1), 4-492(2) and 4-493(16)], in that on August 22 and 26, 2008, Licensee, by its servants, agents or employees, sold alcoholic beverages after its Club Liquor license expired on May 31, 2006, and had not been renewed and/or validated.

The investigation which gave rise to the citation began on August 12, 2008 and was completed on August 26, 2008. The notice of violation letter was mailed to Licensee on September 16, 2008.

An evidentiary hearing was held on this matter on March 3, 2009, in Pittsburgh, Pennsylvania.

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Upon review of the transcript of the hearing and the Pre-Hearing Memorandum, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. Licensee is located in Allegheny County, Pennsylvania and holds Restaurant Liquor License Number R-AP-SS-18760. (N.T. 4).
2. On Friday, August 22, 2008, at approximately 8:00 p.m., an enforcement officer arrived at the licensed premises and found it open and operating with a bartender rendering service of alcoholic beverages to approximately 14 patrons. (N.T. 7)
3. The officer purchased a 12-ounce bottle of Coors Light beer from the bartender for \$3.30. (N.T. 7)
4. At 8:26 p.m., the officer purchased another 12-ounce bottle of Coors Light beer from the bartender for \$3.30. (N.T.7)
5. The officer observed other patrons in possession of alcoholic beverages. (N.T. 7)
6. On Tuesday, August 26, 2008, at approximately 1:00 p.m., an enforcement officer purchased a 12-ounce bottle of Coors Light beer from the bartender for \$3.00. (N.T. 8)
7. Licensee's liquor license expired on June 30, 2008 and had not been renewed on August 22 or 26, 2008.

CONCLUSION OF LAW:

Sustained as charged.

DISCUSSION:

At the hearing held on the matter, the enforcement officer testified in detail as to his purchasing alcoholic beverages at the licensed premises on August 22 and 26, 2008 while Licensee's liquor license had expired and was not renewed.

Licensee did not appear at the hearing although duly notified of the place and time.

I find the testimony of the witness to be credible, as such the citation is sustained as charged.

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PRIOR RECORD:

Licensee has been licensed since July 14, 2005, and has no prior violations,

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.

I take administrative notice that Licensee's liquor license has been renewed and is active.

After due consideration of the circumstances giving rise to the citation and the Licensee's status as a first time offender, a fine of \$1,200.00 shall be imposed as the penalty in this case.

ORDER:

THEREFORE, it is hereby ordered that Licensee, Old Hickey Park Inn, Inc., T/A Little Brown Jug, pay a fine of \$1,200.00 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.

JURISDICTION IS RETAINED UNTIL CASE IS CLOSED.

Dated this 1st day of April, 2009.



Robert F. Skwaryk, J.

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

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 PA 17110-966

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