

Mailing Date: JUL 29 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-2713
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-378414
v.	:	
	:	LID - 58909
GLEN LYONS DEN, INC.	:	
34 ORCHARD ST.	:	
GLEN LYON, PA 18617-1221	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-SS-14637	:	
	:	
	:	

BEFORE: JUDGE THAU
BUREAU COUNSEL: Craig A. Strong, Esquire
LICENSEE: Linda Cook – Manager and Stockholder

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on November 14, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Glen Lyons Den, Inc. (Licensee), License Number R-AP-SS-14637.

The citation charges Licensee with a violation of Section 13.102(a) of the Pennsylvania Liquor Control Board Regulations [40 Pa. Code §13.102(a)]. The charge is that on October 19, 2008, Licensee, by servants, gents or employes, discounted the price of alcoholic beverages for a period or periods other than a consecutive period of time not to exceed two (2) hours in a business day.

An evidentiary hearing was conducted on July 1, 2009 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee was represented by its Manager and Stockholder, Ms. L.C.

1. Commonwealth Exhibit No. B-1, N.T. 8.

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 July 4, 2008 and completed it on October 19, 2008. (N.T. 8)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on October 29, 2008. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. B-1, N.T. 8)
3. On October 19, 2008, Licensee engaged in a drink promotion. Normally, Licensee sold pints of domestic beer at \$2.00 each. On the night in question, Licensee discounted the price of pints of domestic beer to \$1.50. (N.T. 11-12)

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.

DISCUSSION:

Licensee engaged in the promotion believing the exception in the regulation allowing a licensee to provide a daily drink special applied.

In Advisory Opinion No. 08-351, which was provided to me by Bureau counsel, it is the position of the Pennsylvania Liquor Control Board that a specific type of alcoholic beverage, within the meaning of the pertinent regulation, means a specific registered brand of beer. Accordingly, a promotion in which all domestic beers are discounted violates the regulation.

PRIOR RECORD:

Licensee has been licensed since October 19, 2007, and has had 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 \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

As Licensee engaged in this practice believing that it qualified as an exception to the Discount Pricing Regulation, I impose a \$75.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$75.00 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.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 22ND day of July, 2009.



Felix Thau, A.L.J.

pm

NOTICE: MOTIONS FOR RECONSIDERATION CANNOT BE ACTED UPON UNLESS THEY ARE IN WRITING AND RECEIVED BY THE OFFICE OF ADMINISTRATIVE LAW JUDGE WITHIN 15 DAYS AFTER THE MAILING DATE OF THIS ORDER, ACCOMPANIED BY A \$25.00 FILING FEE.

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 17110-9661

Citation No. 08-2713
GLEN LYONS DEN, INC.