

Mailing Date: NOV 24 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-1159
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-391808
v.	:	
	:	LID - 57494
JUNCTION, INC.	:	
T/A PADDY'S IRISH PUB AND	:	
EATERY	:	
385 N. MAIN ST.	:	
PITTSTON, PA 18640-2141	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-SS-3971	:	

**BEFORE JUDGE FLAHERTY
BUREAU COUNSEL STRONG
LICENSEE: NO APPEARANCE**

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on May 22, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against JUNCTION, INC., License Number R-AP-SS-3971 (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 May 4, 2009, Licensee, by its 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.

The investigation which gave rise to the citation began on March 31, 2009 and was completed on May 6, 2009; and notice of the violation was sent to Licensee by Certified Mail on May 8, 2009. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on October 21, 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, 385 N. Main Street, Pittston, PA 18640-2141, by certified mail, return receipt requested and by first class mail on September 8, 2009. The notice set forth the date and time of the hearing as October 21, 2009 at 2:00 p.m., and the place of hearing as Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, PA 18503.

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. On March 27, 2009, this office issued an order at Citation No. 08-2363 suspending Licensee's restaurant liquor license for a period of three days beginning at 7:00 a.m. on Monday, May 4, 2009 and ending at 7:00 a.m. on Thursday, May 7, 2009 (N.T. 6 and Exhibit C-5).

2. On Monday, May 4, 2009 an officer of the Bureau arrived at the licensed premises at 2:48 p.m. He found the place closed for business. However, there was no suspension placard posted anywhere on the outside of the licensed premises or on the inside of the premises in a position where it could be visible from the outside. The officer walked the entire licensed premises and saw no suspension placard posted (N.T. 7).

3. On subsequent visits to the licensed premises on May 5 and 6, 2009, the officer found a suspension placard in the front window of the licensed premises (N.T. 7).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since March 5, 2007, and has had three prior violations:

Citation No. 08-0340. Fine \$650.00.

1. Used loudspeakers or devices whereby music could be heard outside. January 26 and 27, 2008.
2. Failed to require patrons to vacate the premises not later than one-half hour after the required time. January 27, 2008.
3. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 a.m. January 27, 2008.

Citation No. 08-2363. 3 days suspension.

1. Sales after the license expired and had not been renewed and/or validated. September 2, 2008.

Citation No. 08-3086. Fine \$200.00, 6 days suspension and RAMP training mandated.

1. Sales to a visibly intoxicated person. December 13, 2008.
2. Used loudspeakers or devices whereby music could be heard outside. December 13 and 14, 2008.
3. Your corporate president consumed alcoholic beverages while tending bar or otherwise serving alcoholic beverages. December 13, 2008.

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.

Under the circumstances of this case, the penalty imposed shall be a fine of \$300.00.

ORDER

THEREFORE, it is hereby ordered that Licensee JUNCTION, INC., pay a fine of \$300.00 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 pending final resolution of the penalty in this matter.

Dated this 17TH day of November, 2009.



Daniel T. Flaherty, Jr., J.

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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 submit stub with payment

The fine must be paid by Cashier's Check, Certified Check or Money Order. **Personal and business checks are not acceptable unless bank certified.** Make 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. 09-1159
Junction, Inc.