

Mailing Date: JAN 07 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-1479
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W05-395292
v.	:	
	:	LID - 58216
MELVIN K. MARTIN	:	
T/A LAKE VIEW LOUNGE	:	
1461 SHAWNEE RD.	:	
SCHELLSBURG, PA 15559	:	
	:	
	:	
BEDFORD COUNTY	:	
LICENSE NO. R-AP-SS-17057	:	

BEFORE: JUDGE THAU
BUREAU COUNSEL: Emily L. Gustave, Esquire
LICENSEE: Susan Winfrey – Manager/Steward

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on June 24, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Melvin K. Martin, t/a Lake View Lounge (Licensee), License Number R-AP-SS-17057.

The citation charges Licensee with a 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)]. The charge is that on June 2, 2009, Licensee, by servants, agents or employees, sold alcoholic beverages after his Restaurant Liquor license expired on January 31, 2009, and had not been renewed and/or validated.

An evidentiary hearing was conducted on November 19, 2009 at the Hampton Inn, 180 Charlotte Drive, Altoona, Pennsylvania. Licensee was represented by his Manager/Steward, Ms. S.W.

1. Commonwealth Exhibit No. C-3, N.T. 9.

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 June 2, 2009 and completed it on June 8, 2009. (N.T. 7)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on June 9, 2009. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 9)
3. On June 2, 2009, a Bureau Enforcement Officer went to the subject premises. Licensee was open and in operation selling alcoholic beverages. Licensee's license expired on January 31, 2009. (N.T. 10-15)

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.

PRIOR RECORD:

Licensee has been licensed since June 7, 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 \$1,000.00 or more than \$5,000.00 or both for violations of the type found in this case.

Licensee explains that Licensee did not have the full amount of the renewal fee at the time of renewal. Licensee further indicated Licensee's Manager, Ms. W. failed to do the paperwork in a timely manner.

I impose a \$1,000.00 fine and a 10 days suspension because Licensee was operating approximately more than four months without legal authority. Furthermore, the explanations provided are entirely inexcusable.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,000.00 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.

Imposition of Suspension

IT IS FURTHER ORDERED that the Restaurant liquor license (including all permits) of Melvin K. Martin, t/a Lake View Lounge, License No. R-AP-SS-17057, be suspended for a period of ten days, **BEGINNING** at 7:00 a.m., on Monday, February 22, 2010, and **ENDING** at 7:00 a.m., on Thursday, March 4, 2010.

Licensee is directed, on Monday, February 22, 2010 at 7:00 a.m., to place a placard of notice of suspension (identified as Form No. PLCB-1925 and as printed with red and black ink) in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises and to remove said license from the wall and place it in a secure location.

Licensee is advised, if replacement placards are needed for any reason, they are available at all Pennsylvania Liquor Stores/Wine & Spirits Shoppes.

The Bureau is directed to visit and monitor the aforementioned licensed premises for compliance with this Order.

Licensee is authorized, on Thursday, March 4, 2010 at 7:00 a.m., to remove the placard of suspension and return his license to its original wall location.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 18TH day of December, 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 Cashier's Check, Certified Check or Money Order. **Personal and business checks, are not acceptable unless bank certified.** 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, Pennsylvania 17110-9661

Citation No. 09-1479
MELVIN K. MARTIN