

Mailing Date: APR 08 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-2007
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-397545
v.	:	
	:	LID - 58706
MUNOZ CORPORATION	:	
T/A TACOS PANCHO VILLA	:	
495 S. MAIN ST.	:	
WILKES-BARRE, PA 18701-2204	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-SS-2559	:	

BEFORE: JUDGE THAU
BUREAU COUNSEL: Craig A. Strong, Esquire
LICENSEE: Hermilo Munoz – Sole Corporate Officer

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on August 28, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Munoz Corporation, t/a Tacos Pancho Villa (Licensee), License Number R-AP-SS-2559.

This citation¹ contains two counts.

The first count charges Licensee with a violation of Section 499(a) of the Liquor Code [47 P.S. §4-499(a)]. The charge is that on July 19, 2009, Licensee, by servants, agents or employes, failed to require patrons to vacate that part of the premises habitually used for the service of alcoholic beverages not later than one-half hour after the required time for the cessation of the service of alcoholic beverages.

1. Commonwealth Exhibit No. C-2, N.T. 25.

The second count charges Licensee with a violation of Section 499(a) of the Liquor Code [47 P.S. §4-499(a)]. The charge is that on July 19, 2009, Licensee, by servants, agents or employes, permitted patrons to possess and/or remove alcoholic beverages from that part of the premises habitually used for the service of alcoholic beverages after 2:30 A.M.

An evidentiary hearing was conducted on February 18, 2010, at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee was represented by its Sole Corporate Officer, Mr. Hermilo Munoz.

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 and completed its investigation on July 19, 2009. (N.T. 20)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on August 11, 2009. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 21)

Count Nos. 1 and 2:

3. A Bureau Enforcement Officer visited the premises on July 19, 2009 at approximately 3:00 a.m. The parking lot was full of cars. The Officer looked into the premises. He saw fifteen people. Seven of them had bottles of beer in their hands. There were also people eating. (N.T. 25-27)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. Count Nos. 1 and 2 are **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since September 12, 2007, and has had ten prior violations:

Adjudication No. 08-0166X. Fine \$150.00.

Issued worthless checks in payment for purchases
of malt or brewed beverages.
November 16 and 19, 2007.

Adjudication No. 08-0546. Fine \$500.00.

Supplied false information on application for
restaurant liquor license.
June 21, 2007.

Adjudication No. 08-2014. Fine \$1,500.00.

1. Sales between 2:00 a.m. and 7:00 a.m.
May 17, 2008.
2. Failed to require patrons to vacate the premises not
later than one-half hour after the required time.
May 17, 2008.
3. Permitted patrons to possess or remove alcoholic
beverages after 2:30 a.m.
May 17, 2008.

Adjudication No. 08-2988. Fine \$500.00.

1. Failed to maintain complete and truthful records
covering the operation of the licensed business for a
period of 2 years.
November 29, 2008.
2. Failed to keep records on the licensed premises.
November 29, 2008.

Adjudication No. 09-0751. Fine \$200.00. License revoked for
failure to pay the fine.

Issued worthless checks in payment for malt or
brewed beverages.
January 16, 23, 27 and February 9, 2009.

Adjudication No. 09-1017C. Fine \$1,250.00 and R.A.M.P.
Training mandated.

Sales to a minor.
March 30, 2009.

Adjudication No. 09-1304X. Fine \$300.00.

Issued worthless checks in payment for malt or brewed beverages.
February 20, 21 and 27, 2009.

Adjudication No. 09-1457. Fine \$1,750.00.

1. Sales between 2:00 A.M. and 7:00 A.M.
May 16, 2009.
2. Failed to require patrons to vacate the premises
not later than one-half hour after the required time.
May 16, 2009.
3. Permitted patrons to possess or remove alcoholic
beverages after 2:30 A.M.
May 16, 2009.
4. Sales to a minor.
May 16, 2009.

Adjudication No. 09-1747. Fine \$300.00.

Failed to post in a conspicuous place on the outside of
the licensed premises a Notice of Suspension.
June 29 and 30, 2009.

Adjudication No. 09-1792. Fine \$1,750.00.

1. Sales on Sunday between 2:00 A.M. and 11:00 A.M.
June 21, 2009.
2. Failed to require patrons to vacate the premises not
later than one-half hour after the required time.
June 21, 2009.
3. Permitted patrons to possess or remove alcoholic
beverages after 2:30 A.M.
June 21, 2009.

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 Count Nos. 1 and 2 in this case.

Licensee's Sole Corporate Officer has demonstrated a clear misunderstanding of the law. Because Licensee is authorized to sell food twenty-four hours a day, Licensee believes it is also allowed for patrons to possess alcoholic beverages after 2:30 a.m., if served prior to 2:00 a.m. Licensee requested the Adjudication be sent to: Hermilo Munoz, 74 Custard Street, Wilkes-Barre, Pennsylvania 18702. Even though Licensee intends to sell the business, the pattern of similar violations is palpable. Accordingly I impose:

Count No. 1 - \$1,000.00 fine.

Count No. 2 - \$1,000.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$2,000.00 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.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 24TH day of March, 2010.



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, PA 17110-9661

Citation No. 09-2007
MUNOZ CORPORATION