

Mailing Date: APR 14 2010

[Appeal](#)

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-2121
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-398254
	:	
v.	:	
	:	LID - 59839
	:	
EJM SCRANTON PUB, LLC	:	
1024 JACKSON ST.	:	
SCRANTON, PA 18504-2451	:	
	:	
LACKAWANNA COUNTY	:	
LICENSE NO. R-AP-SS-2686	:	
	:	
	:	

BEFORE: JUDGE THAU
BUREAU COUNSEL: Craig A. Strong, Esquire
LICENSEE: Ex-Parte

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on September 14, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against EJM Scranton Pub, LLC (Licensee), License Number R-AP-SS-2686.

The citation¹ charges Licensee with a violation of Section 491(10) of the Liquor Code [47 P.S. §4-491(10)]. The charge is that on July 31, 2009, Licensee, by servants, agents or employees, fortified, adulterated and/or contaminated liquor.

An evidentiary hearing was conducted on February 17, 2010 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee did not appear personally or have any representation.

1. Commonwealth Exhibit No. C-2.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. A citation hearing notice was mailed by the Office of Administrative Law Judge on December 31, 2009 to Licensee by both certified receipt-return mail and first-class mail to the licensed premises. The notice notified Licensee of the date, time and place of the hearing. The Notice, sent by certified mail, was returned as being marked unclaimed.
2. The Bureau began its investigation on July 31, 2009 and completed it on August 1, 2009. (N.T. 6)
3. The Bureau sent a notice of alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on August 25, 2009. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1)
4. A Bureau Enforcement Officer conducted an administrative inspection of the premises on July 31, 2009, arriving at about 11:50 p.m., at a time when the premises was open and in operation. The Officer inspected approximately 35 bottles of liquor that were open and behind the bar. Five of the bottles were contaminated. (N.T. 9-12)

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:

The five contaminated bottles were presented at the hearing for my inspection. I confirmed each of the bottles was contaminated with insects (N.T. 12-14).

PRIOR RECORD:

Licensee has been licensed since September 5, 2008, and has had no prior violations. (N.T. 15-16)

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 has failed to appear or obey process, I impose a \$1,000.00 fine.

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.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 25TH day of March, 2010.



Felix Thau, A.L.J.

pm

EJM SCRANTON PUB, LLC

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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

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EJM SCRANTON PUB, LLC