

Mailing Date: JUL 21 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-2526
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-401515
	:	
v.	:	LID - 10630
	:	
BRYN MAWR CAFÉ, INC.	:	
T/A BRYN MAWR CAFE	:	
1344-46 BRYN MAWR STREET	:	
SCRANTON, PA 18504	:	
	:	
	:	
LACKAWANNA COUNTY	:	
LICENSE NO. R-AP-SS-2687	:	

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

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on November 6, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against BRYN MAWR CAFÉ, INC., License Number R-AP-SS-2687 (hereinafter "Licensee").

The citation charges Licensee with 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)] in that on October 1, 2009, Licensee, by its servants, agents or employees, sold alcoholic beverages after its Restaurant Liquor license expired on September 30, 2009, and had not been renewed and/or validated.

The investigation which gave rise to the citation began on October 1, 2009 and was completed on October 2, 2009; and notice of the violation was sent to Licensee by Certified Mail on October 8, 2009. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on June 2, 2010 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, 1344-1346 Bryn Mawr Street, Scranton, PA 18504, by certified mail, return receipt requested and by first class mail on April 15, 2010. The notice set forth the date and time of the hearing as June 2, 2010 at 1:00 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. Licensee's restaurant liquor license expired on September 30, 2009, and, as of October 1, 2009, it had not been renewed and/or validated (N.T. 6-7).
2. On October 1, 2009 at 4:30 p.m., an officer of the Bureau arrived at the licensed premises and found it open for business. The beer lights were lit and the door was unlocked (N.T. 7).
3. The officer entered the licensed premises and observed a male bartender (Casey Donahue) rendering service to one patron who was in possession of a draft beer. The officer ordered and was served a 12 ounce bottle of Coors Light beer for which he paid \$2.25 (N.T. 7).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since May 3, 1989, and has had nine prior violations:

Citation No. 92-0410. Fine \$500.00.

1. Sales to a visibly intoxicated person.

Citation No. 93-1323. Fine \$200.00.

1. Used loudspeakers or devices whereby music could be heard outside.

Citation No. 95-1081. Fine \$250.00.

1. Used loudspeakers or devices whereby music could be heard outside.

Citation No. 04-0430. Fine \$150.00.

1. Permitted entertainment without an Amusement Permit. February 28, 2004.

Citation No. 04-1853. Fine \$250.00.

1. Engaged in unlawful discrimination in that you provided alcoholic beverages to female patrons at a reduced price while charging full price to male patrons. September 27, 2004.

Citation No. 05-0336. Fine \$550.00.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on the licensed premises (machine). February 1, 2005.

Citation No. 06-0661X. Fine \$150.00.

1. Issued worthless checks in payment for purchases of malt or brewed beverages. December 30, 2005.

Citation No. 08-2624. Fine \$1,250.00.

1. Sales after the license expired and had not been renewed and/or validated. October 3, 2008.

Citation No. 09-1166. Fine \$200.00.

1. Failed to post signage required by the Clean Indoor Air Act. April 3, 2009.
2. Permitted smoking in a public place where smoking is prohibited. April 3, 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 \$1,000.00 or more than \$5,000.00 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 \$1,250.00.

ORDER

THEREFORE, it is hereby ordered that Licensee BRYN MAWR CAFÉ, INC., pay a fine of \$1,250.00 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 29TH day of June, 2010.



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. 09-2526
Bryn Mawr Café, Inc.