

Mailing Date: OCT 27 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-2533
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-401652
v.	:	
	:	LID - 57520
NUAD, LLC	:	
RTE. 715	:	
PO BOX 487	:	
HENRYVILLE, PA 18332	:	
	:	
	:	
MONROE COUNTY	:	
LICENSE NO. R-AP-SS-13971	:	

**BEFORE JUDGE FLAHERTY  
BUREAU COUNSEL STRONG  
LICENSEE: KAREN NUGENT, PRO SE**

**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 NUAD, LLC, License Number R-AP-SS-13971 (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 2, 2009, Licensee, by its servants, agents or employes, 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 2, 2009 and was completed on October 5, 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 July 8, 2010 in the Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Pennsylvania.

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 2, 2009, Licensee did not possess a valid restaurant liquor license or any temporary authority to operate (N.T. 11-12 and Exhibit C-3).

2. On October 2, 2009 at 4:50 p.m., an officer of the Bureau entered the licensed premises where he observed a male bartender on duty (N.T. 12).

3. The officer ordered and received a 12 ounce bottle of Coors Light beer for which he paid \$3.00. The bartender collected the money, rang up the sale and placed the money in the cash register (N.T. 12).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since January 3, 2007, and has had no prior violations. Licensee is, therefore, entitled to be treated as a first time offender.

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.

I am informed that the violation in this case occurred because the principal for Licensee had been rushed to the hospital for emergency open heart surgery. For that reason, she could not complete the necessary transactions to obtain tax clearance and receive her liquor license. For that reason, and based upon the recommendation of counsel for the Bureau, I will impose a minimal penalty.

Under the circumstances of this case, the penalty imposed shall be a one day suspension.

ORDER

IT IS HEREBY ORDERED that the restaurant liquor license (including all permits) of NUAD, LLC, License No. R-AP-SS-13971 be suspended for a period of one day **BEGINNING** at 7:00 a.m. on Monday, December 6, 2010 and **ENDING** at 7:00 a.m. on Tuesday, December 7, 2010

Licensee is directed on December 6, 2010 at 7:00 a.m. to place the enclosed 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 December 7, 2010 at 7:00 a.m. to remove the placard of suspension and return his license to its original wall location.

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 27<sup>TH</sup> day of September, 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.**