

Mailing Date: JUL 09 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-3030
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W04-402671
v.	:	
	:	LID - 42789
ALPHA BETA D CORPORATION	:	
T/A SKYLARK MOTOR INN	:	
225 MOON CLINTON ROAD	:	
CORAOPOLIS PA 15108-2429	:	
	:	
	:	
ALLEGHENY COUNTY	:	
LICENSE NO. H-AP-SS-4518	:	

**BEFORE:** JUDGE RODERICK FRISK

APPEARANCES:

**BLCE COUNSEL:** Emily Gustave, Esquire  
**LICENSEE COUNSEL:** Pro Se

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on January 8, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against Alpha Beta D Corporation, t/a Skylark Motor Inn, License Number H-AP-SS-4518 (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 November 17, 2009, Licensee, by its servants, agents or employees, sold alcoholic beverages after its hotel liquor license expired on May 31, 2009, and had not been renewed and/or validated.

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An administrative hearing was conducted on June 2, 2010, at Two Parkway Center, 875 Greentree Road, Pittsburgh, Pennsylvania. The Bureau was represented by Emily Gustave, Esquire. Licensee's President Donald Woodhall appeared on behalf of Licensee corporation.

After hearing the testimony presented, and upon review of the evidence submitted, the following Findings of Fact and Conclusions of Law are entered:

FINDINGS OF FACT:

1. The Bureau commenced its investigation of Licensee's premises on October 26, 2009, and completed its investigation on December 8, 2009. (Exhibit C-1)

2. The Bureau notified Licensee of the nature of the alleged violation(s) disclosed by its investigation by letter dated December 18, 2009, which was sent by certified mail and received by Licensee on December 20, 2009. (Exhibit C-2)

3. The citation was issued on January 8, 2010, and was sent by certified mail and received by Licensee on January 11, 2010. (Exhibits C-3, C-4)

4. Licensee's hotel liquor license expired May 31, 2009, and was not renewed until March 2, 2010. (Official Notice, N.T. 13-14, 16-17, Exhibit C-5)

5. On Tuesday, November 17, 2009, at 4:30 p.m., a Liquor Enforcement officer entered Licensee's premises in an undercover capacity and observed a female bartender heard to be called "Lynne" rendering service of alcoholic beverages to seven patrons. These patrons were observed in possession of and consuming bottled beer and mixed drink alcoholic beverages. (N.T. 13-14)

6. Upon taking a seat at the bar, the Enforcement officer purchased a 12-ounce bottle of I.C. Light beer for \$2.50. The Enforcement officer noted that Licensee's bar was well stocked with approximately 200 bottles of liquor. Once the bottle of beer was served to the officer, he then purchased a shot of Wild Turkey whiskey for which he paid the bartender another \$2.50. (N.T. 15)

7. During the course of this visit, the Enforcement officer observed various sales of bottled beer and alcoholic beverages to the other patrons. (N.T. 16)

8. At 5:00 p.m., bartender "Lynne" advised the Enforcement officer that it was now happy hour and a bottle of beer is \$1.50. (N.T. 16)

9. The Enforcement officer departed Licensee's premises at 5:15 p.m. with the service of alcoholic beverages continuing to nine patrons. (N.T. 16)

CONCLUSIONS OF LAW:

1. The notice provisions as prescribed by Section 471 of the Liquor Code [47 P.S. §4-471] have been satisfied.

2. On November 17, 2009, Licensee, by its servants, agents or employees, sold alcoholic beverages after its hotel liquor license expired on May 31, 2009, and had not been renewed and/or validated, in violation of Sections 491(1), 492(2) and 493(16) of the Liquor Code.

DISCUSSION:

Upon thorough review of the testimony and evidence presented, this court concludes that the Bureau has established the violation as charged in this citation. *Pennsylvania Liquor Control Board v. Leggens*, 542 A.2d 653 (Pa. Cmwlth. 1988); *Omicron Enterprises*, 449 A.2d 857 (Pa. Cmwlth. 1982).

PRIOR RECORD:

Licensee has been licensed since September 2, 1998, and has had four prior violations, to wit:

Citation No. 05-2311. Fine \$1,000.00.

1. Illegal gambling (machines).  
April 13, May 17, July 11 and 12, 2005.
2. Not a bona fide hotel in that food was not provided upon request.  
January 9, February 7, 23, April 13,  
May 17 and July 11, 2005.

Citation No. 06-0487. Fine \$100.00.

1. Operated the licensed establishment without a valid health permit or license.  
January 12, 2006.

Citation No. 08-0188C. Fine \$1,250.00 and R.A.M.P. training mandated.

1. Sales to a minor.  
January 5, 2008.

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Citation No. 08-2680. Fine \$800.00 and one day and thereafter until R.A.M.P. certified.

1. Failed to comply with the order of the ALJ mandating R.A.M.P. training.  
July 14 through October 15, 2008.
2. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of 2 years.  
October 15, 2008.

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.

In light of the foregoing, a penalty shall be imposed in the amount of \$1,800.00.

ORDER:

THEREFORE, it is hereby ordered that Alpha Beta D Corporation, t/a Skylark Motor Inn, License Number H-AP-SS-4518, pay a fine of \$1,800.00 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 to ensure compliance with this Order.

Dated this 25<sup>TH</sup> day of JUNE, 2010.



Roderick Frisk, J.

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NOTE: MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE FILING FEE.

Detach Here and Return Stub with Payment

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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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Alpha Beta D Corporation