

Mailing Date: OCT 18 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-0428
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-407723
v.	:	
	:	LID - 55303
R & S ENTERTAINMENT, INC.	:	
T/A THE BIG UGLY'S	:	
165 N. WILKES-BARRE BLVD.	:	
WILKES-BARRE, PA 18702-5326	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-SS-3632	:	

**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 March 12, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against R & S Entertainment, Inc., t/a The Big Ugly's (Licensee), License Number R-AP-SS-3632.

The citation<sup>1</sup> charges Licensee with a violation of Section 474.1(a) of the Liquor Code [47 P.S. §4-474.1(a)] and Section 7.31(a) of the Pennsylvania Liquor Control Board Regulations [40 Pa. Code §7.31(a)]. The charge is that Licensee, by servants, agents or employees, failed to return its Restaurant Liquor license and Wholesale Liquor Purchase Permit Cards to the Board after its licensed establishment had not been in operation for a period of fifteen (15) consecutive days between February 7 and 22, 2010.

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1. Commonwealth Exhibit No. C-2, N.T. 9.

An evidentiary hearing was conducted on August 19, 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.

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 its investigation on February 9, 2010 and completed it on February 22, 2010. (N.T. 9)

2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on February 24, 2010. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 9)

3. During the fifteen days period, beginning February 7, 2010 and ending February 22, 2010, a Bureau Enforcement Officer visited the licensed premises every day but at various times. He found the premises to be closed, lights extinguished and there was a sign on the front door which stated that the premises was closed until further notice.

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.

PRIOR RECORD:

Licensee has been licensed since September 1, 2005, and has had three prior violations (Commonwealth Exhibit No. C-3):

Adjudication No. 07-2507. Fine \$1,000.00.  
Sales after your license expired and had not been  
renewed and/or validated.  
September 2, 2007.

Adjudication No. 08-1018. Fine \$150.00.  
Failed to notify the Board within 15 days of a  
change of officers.  
November 9, 2005.

Adjudication No. 09-2244X. Fine \$150.00.  
Issued worthless checks in payment for malt or  
brewed beverages.  
July 17 and 24, 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 this case.

I adopt the jointly recommended penalty of a \$150.00 fine.

ORDER:

**Imposition of Fine**

THEREFORE, it is hereby ordered that Licensee pay a fine of \$150.00 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 27<sup>TH</sup> day of September, 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

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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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R & S ENTERTAINMENT, INC.