

Mailing Date: NOV 08 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-0873
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-408905
v.	:	
	:	LID - 59075
PFDJ, INC.	:	
T/A TAILGATERS SPORTSBAR	:	
501-503 DUNMORE ST.	:	
THROOP, PA 18512-1148	:	
	:	
	:	
LACKAWANNA COUNTY	:	
LICENSE NO. R-AP-SS-EHF-10413	:	

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

**ADJUDICATION**

**BACKGROUND:**

This proceeding arises out of a citation that was issued on April 28, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against PFDJ, INC., License Number R-AP-SS-EHF-10413 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 15.62(a) of the Liquor Control Board Regulations [40 Pa. Code §15.62(a)] in that on April 5, 6 and 7, 2010, Licensee, by its servants, agents or employes, failed to post in a conspicuous place on the outside of the licensed premises, or in a window plainly visible from the outside of the premises, a Notice of Suspension.

The investigation which gave rise to the citation began on March 3, 2010 and was completed on April 7, 2010; and notice of the violation was sent to Licensee by Certified Mail on April 13, 2010. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on September 22, 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, 501-503 Dunmore Street, Throop, PA 18512-1148 by certified mail, return receipt requested and by first class mail on August 6, 2010. The notice set forth the date and time of the hearing as September 22, 2010 at 3:00 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. At Citation No. 09-2519, the Office of Administrative Law Judge issued a Supplemental Order suspending Licensee's license for a period of three days beginning at 7:00 a.m. on Monday, April 5, 2010 and ending at 7:00 a.m., on Thursday, April 8, 2010 (N.T. 6-7).

2. On Monday, April 5, 2010 at 12:30 p.m., Tuesday, April 6, 2010 at 7:45 p.m. and Wednesday, April 7, 2010 at 3:45 p.m., an officer of the Bureau conducted a suspension check of the licensed premises and found the premises to be closed. However, the officer observed no suspension placard posted anywhere inside or outside the licensed premises, which was clearly visible from the outside of the premises.

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since October 23, 2007, and has had four prior violations:

Citation No. 08-1985. Fine \$200.00.

1. Failed to notify the Board within 15 days of a change of manager. June 2, 2008.

Citation No. 09-0411. Fine \$100.00.

1. Permitted smoking in a public place where smoking was prohibited. January 17, 2009.

Citation No. 09-2519. Fine \$1,250.00. Fine not paid and license suspended 3 days and thereafter until fine paid.

1. Sales after the license expired and had not been renewed and/or validated. October 2, 2009.

Citation No. 09-2798. Fine \$1,800.00.

1. Sales after the license expired and had not been renewed and/or validated. October 14, 2009.
2. Failed to post signage required by the Clean Indoor Air Act. October 14, 2009.
3. Permitted smoking in a public place where smoking was prohibited. October 14, 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.

Under the circumstances of this case, the penalty imposed shall be a fine of \$250.00.

ORDER

THEREFORE, it is hereby ordered that Licensee PFDJ, INC., pay a fine of \$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 21<sup>ST</sup> day of October, 2010.



Daniel T. Flaherty, Jr., J.

an

**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. ~