

Mailing Date: JULY 06 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-0926
LIQUOR CONTROL ENFORCEMENT	:	& 10-0942
	:	(as consolidated)
	:	
	:	Incident No. W02-408639
v.	:	
	:	LID - 32612
THE SALOON SINCE 1914, INC.	:	
643-645 N. MAIN ST.	:	
WILKES BARRE, PA 18705-1732	:	
	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-972	:	

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

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on May 3, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against THE SALOON SINCE 1914, INC., License Number R-AP-972 (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 and 6, 2010, Licensee, by its servants, agents or employees, 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 February 26, 2010 and was completed on April 6, 2010; and notice of the violation was sent to Licensee by Certified Mail on April 19, 2010. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on April 14, 2011 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, 643-645 N. Main St., by certified mail on February 24, 2011. The notice set forth the date and time of the hearing as April 14, 2011 at 9:30 a.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. Administrative notice is taken that on February 25, 2010, this office issued an order at Citation No. 09-1919 suspending the restaurant liquor license of Licensee for a period of one day beginning at 7:00 a.m. on Tuesday, April 6, 2010 and continuing thereafter until the fine in this case of \$375.00 was paid.

2. Administrative notice is hereby taken that on February 25, 2010 an order was issued by this court suspending the restaurant liquor license of Licensee for a period of one day beginning at 7:00 a.m. on Monday, April 5, 2010 and continuing thereafter until the fine in that case of \$300.00 was paid.

3. On April 5, 2010, an officer of the Bureau arrived at the licensed premises at 8:35 a.m. He found the premises closed for business; however, upon walking around the entire building and driving around there was no notice of suspension placard posted as required (N.T. 9-10).

4. On April 6, 2010 the officer returned to the building. Again he found the premises to be closed. However, there was no notice of suspension placard posted anywhere on the licensed premises visible from the outside (N.T. 10).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since August 9, 1993, and has had thirteen prior violations:

Citation No. 93-2351. 2 days suspension.

1. Sales between 2:00 A.M. and 7:00 A.M.

Citation No. 01-2014. Fine \$200.00.

1. Sold alcoholic beverages after your Restaurant Liquor License expired on August 31, 2001 and had not been renewed and/or validated. September 6, 2001.

Citation No. 03-0313. Fine \$100.00.

1. Permitted entertainment without an Amusement Permit. January 22 and February 5, 2003.

Citation No. 03-0904. Fine \$200.00.

1. Used loudspeakers or devices whereby music could be heard outside. March 5, 2003.
2. Permitted entertainment without an Amusement Permit. March 5, 2003.

Citation No. 04-0192. Fine \$100.00.

1. Issued worthless checks in payment for malt or brewed beverages. December 12, 2003.

Citation No. 04-1877. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages. March 5 and May 21, 2004.

Citation No. 05-1664. Fine \$250.00.

1. Fortified, adulterated and/or contaminated liquor. July 21, 2005.
2. Operated the licensed establishment without a valid health permit or license. July 21, 2005.

Citation No. 05-2341. Fine \$175.00.

1. Issued worthless checks in payment for malt or brewed beverages. August 26 and September 2, 2005.

Citation No. 06-0135X. Fine \$275.00.

1. Issued worthless checks in payment for malt or brewed beverages. November 18, 2005.

Citation No. 09-1391. Fine \$300.00. Fine not paid  
And license suspended for 1 day and thereafter until fine paid.

1. Used loudspeakers or devices whereby music could be heard outside.  
May 6, 2009.
2. Failed to post signage required by the Clean Indoor Air Act.  
May 6, 2009.
3. Permitted smoking in a public place where smoking was prohibited.  
May 6, 2009.

Citation No. 09-1919. Fine \$375.00. Fine not paid  
And license suspended 1 day and thereafter until fine paid.

1. Not a bona fide restaurant in that food items were insufficient and/or failed to provide food upon request.
2. Failed to post signage required by the Clean Indoor Air Act.  
May 28 and July 15, 2009.
3. Used loudspeakers or devices whereby music could be heard outside.  
June 10, 2009.
4. Permitted smoking in a public place where smoking was prohibited.  
July 15, 2009.

Citation No. 09-2950. Fine \$450.00. Fine not paid. License revoked.

1. Used loudspeakers or devices whereby music could be heard outside. November 26, 2009.

Citation No. 10-0633. Revocation of license.

1. Used loudspeakers or devices whereby music could be heard outside. March 4, 2010.

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 revocation.

ORDER

THEREFORE, IT IS HEREBY ORDERED that the Liquor License No. R-AP-972, issued to THE SALOON SINCE 1914, INC., be **REVOKED** effective with the mailing date of this order. Any Wholesale Liquor Purchase Permit Card or discount card issued in connection with the aforementioned license is hereby CANCELLED.

Since the license is revoked there is no license to return; therefore, the Bureau of Licensing is hereby directed to mark their records that this license has been **REVOKED**. The Licensee's right to renew his license is hereby CANCELLED.

Jurisdiction is retained.

Dated this 30<sup>TH</sup> day of June, 2011.



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.**

**IF YOU WISH TO APPEAL THE DECISION OF THE ADMINISTRATIVE LAW JUDGE'S ORDER, THE APPEAL MUST BE FILED WITHIN 30 DAYS OF THE MAILING DATE OF THE ORDER. PLEASE CONTACT CHIEF COUNSEL'S OFFICE AT 717-783-9454.**