

Mailing Date: APR 12 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-1301
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-410993
v.	:	
	:	LID - 23339
STEVEN R. JOHNSON	:	
T/A JOHNSON'S HOTEL	:	
201-203 W. MAIN ST.	:	
ANNVILLE, PA 17003-1326	:	
	:	
	:	
LEBANON COUNTY	:	
LICENSE NO. H-AP-1724	:	

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

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on June 24, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against STEVEN R. JOHNSON, License Number H-AP-1724 (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 March 9 and April 7, 2010, Licensee, by his servants, agents or employees, sold alcoholic beverages after his Hotel Liquor license expired on February 28, 2010, and had not been renewed and/or validated.

The investigation which gave rise to the citation began on April 6, 2010 and was completed on June 1, 2010; and notice of the violation was sent to Licensee by Certified Mail on June 15, 2010. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on March 8, 2011 in the Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. No one appeared at the hearing on behalf of Licensee. A citation hearing notice was sent to Licensee(s) at his address of record, 201-203 W. Main St., Annville, PA 17003-1326 by certified mail on January 26, 2011. The notice set forth the date and time of the hearing as March 8, 2011 at 10:00 a.m., and the place of hearing as Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661.

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 hotel liquor license expired on February 28, 2010, and, as of April 7, 2010, it had not been renewed nor had temporary authority to dispense alcoholic beverages been given by the Liquor Control Board.
2. On March 9, 2010, an officer of the Bureau entered the licensed premises where she ordered and was served an Absolut Vodka and cranberry juice (N.T. 8-9).
3. On April 7, 2010, the officer again entered the licensed premises in an undercover capacity where she ordered a bottle of Miller High Life beer. She was served the ordered beverage (N.T. 13).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since June 20, 1989, and has had eleven prior violations:

Citation No. 00-1688. Fine \$1,000.00.

1. Sales to a minor.

Citation No. 03-1954. Fine \$1,500.00.

1. Sales to minors. October 25, 2003.

Citation No. 08-2921X. Fine \$150.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

1. Issued worthless checks in payment for malt or brewed beverages. October 24, 2008.

Citation No. 09-0018X. Fine \$175.00.

1. Issued worthless checks in payment for malt or brewed beverages. November 6, 2008.

Citation No. 09-0297X. Fine \$250.00.

1. Issued worthless checks in payment for malt or brewed beverages. December 4 and 18, 2008.

Citation No. 09-1461. Fine \$750.00.

1. Sales to minors. May 7, 2009.

Citation No. 09-1492X. Fine \$350.00.

1. Issued worthless checks in payment for malt or brewed beverages. April 30, 2009.

Citation No. 09-1719. 2 days suspension.

1. Sales during a time when the license was suspended. June 15, 2009.
2. Failed to post in a conspicuous place on the outside of the licensed premises a notice of suspension. June 15, 2009.
3. Failed to remove the license from display as ordered by the OALJ. June 15, 2009.

Citation No. 09-2004X. Fine \$350.00.

1. Issued worthless checks in payment for malt or brewed beverages. July 3, 2009.

Citation No. 09-2163X. Fine \$350.00.

1. Issued worthless checks in payment for malt or brewed beverages. July 24 and 31, 2009.

Citation No. 10-0464. 6 days suspension.

1. Sales during a time when the license was suspended. February 8, 2010.
2. Failed to post in a conspicuous place on the outside of the licensed premises a notice of suspension. February 8, 2010.
3. Failed to remove the license from display as ordered by the OALJ. February 8, 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 \$1,000.00 or more than \$5,000.00 or both for violations of the type found in this case. Further, Section 471(c) requires that the penalty imposed include license revocation or suspension where the violation in question is the third or subsequent violation of the offenses referred to in subsection 471(b) of the Liquor Code [47 P.S. §4-471(b)] and/or Crimes Code within a four year period. Therefore, license revocation or suspension must be included as part of the penalty.

Under the circumstances of this case, the penalty imposed shall be a fine of \$1,250.00 and a one day suspension.

ORDER

THEREFORE, it is hereby ordered that Licensee STEVEN R. JOHNSON, pay a fine of \$1,250.00 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.

IT IS FURTHER ORDERED that the hotel liquor license of STEVEN R. JOHNSON, License No. H-AP-1724 be suspended for a period of one day. However, the suspension period is deferred pending reactivation of Licensee's license at which time the suspension period will be fixed by further Order.

IT IS FURTHER ORDERED that the Bureau of Licensing notify the Office of Administrative Law Judge of the reactivation of Licensee's license so an Order may be entered fixing the dates for suspension.

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

Dated this 4TH day of April, 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.

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. 10-1301
Steven R. Johnson