

Mailing Date: JUNE 15 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-2125
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-418686
v.	:	
	:	LID - 61290
ROCCOS BAR, INC.	:	
503 SLOCUM ST.	:	
SWOYERSVILLE, PA 18704-1972	:	
	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-SS-3095	:	

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

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on October 13, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against ROCCOS BAR, INC., License Number R-AP-SS-3095 (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 September 1, 2010, Licensee, by its servants, agents or employes, sold alcoholic beverages after its Restaurant Liquor license expired on August 31, 2010, and had not been renewed and/or validated.

The investigation which gave rise to the citation began on September 1, 2010 and was completed on September 13, 2010; and notice of the violation was sent to Licensee by Certified Mail on September 22, 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, 503 Slocum St., Swoyersville, PA 18704-1972 by certified mail on February 24, 2011. The notice set forth the date and time of the hearing as April 14, 2011 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. The restaurant liquor license of Licensee corporation expired on August 31, 2010, and, as of September 1, 2010, Licensee did not possess a valid license or have temporary authority from the Liquor Control Board to dispense alcoholic beverages (N.T. Exhibit C-6).

2. On September 1, 2010 at 8:59 p.m., an officer of the Bureau entered the licensed premises where he observed eight patrons present, all of whom were in possession of alcoholic beverages. A female bartender named Sarah was on duty (N.T. 7).

3. At 9:00 p.m. the officer ordered and received a 12 ounce bottle of Coors Light beer from Sarah and paid \$2.50 for the purchase (N.T. 7).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since March 16, 2009, and has had three prior violations:

Citation No. 10-0130X. Fine \$100.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

1. Issued worthless checks in payment for malt or brewed beverages. December 4, 2009.

Citation No. 10-0234X & 10-0258X (as consolidated). Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages. December 23 and 31, 2009.

Citation No. 10-181X & 10-1926X (as consolidated). Fine
\$150.00.

1. Issued worthless checks in payment for malt or
brewed beverages. July 16 and 25, 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.

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

ORDER

THEREFORE, it is hereby ordered that Licensee ROCCOS BAR, INC., 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.

Jurisdiction is retained.

Dated this 9TH 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.

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. 10-2125
Roccas' Bar, Inc.