

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. 10-2281
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-420241
v.	:	
	:	LID - 56575
BEACH LAKE INN AND HOTEL, INC.	:	
87 MILANVILLE RD.	:	
PO BOX 337	:	
BEACH LAKE, PA 18405	:	
	:	
	:	
WAYNE COUNTY	:	
LICENSE NO. R-AP-SS-522	:	

**BEFORE JUDGE FLAHERTY
BUREAU COUNSEL STRONG
LICENSEE: KENNETH YAHM, PRO SE**

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on October 22, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against BEACH LAKE INN AND HOTEL, INC., License Number R-AP-SS-522 (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 October 2, 2010, Licensee, by its servants, agents or employes, sold alcoholic beverages after its Restaurant Liquor license expired on September 30, 2010.

The investigation which gave rise to the citation began on October 2, 2010 and was completed on October 4, 2010; and notice of the violation was sent to Licensee by Certified Mail on October 6, 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.

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 September 30, 2010, and Licensee did not possess a valid license or have temporary authority to dispense alcoholic beverages on October 2, 2010 (N.T. Exhibit C-4).

2. On October 2, 2010 at 12:30 a.m., an officer of the Bureau entered the licensed premises. He observed several patrons inside (N.T. 11). The officer ordered and was served a bottle of Coors Light beer for which he paid \$3.00. The bartender rang up the sale on the cash register (N.T. 11).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since December 1, 2006, and has had one prior violation:

Citation No. 10-0171. Fine \$200.00.

1. Discounted the price of alcoholic beverages for a period or periods in excess of 2 hours in a business day. January 13, 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.

Part of the problem Licensee had in this case was caused by the failure of the Pennsylvania Department of Revenue to give Licensee the clearance it deserved.

Under the circumstances of this case, the penalty imposed shall be suspension of license for a period of two days.

ORDER

IT IS HEREBY ORDERED that the restaurant liquor license (including all permits) of BEACH LAKE INN AND HOTEL, INC., License No. R-AP-SS-522 be suspended for a period of two days **BEGINNING** at 7:00 a.m. on Monday, August 15, 2011 and **ENDING** at 7:00 a.m. on Wednesday, August 17, 2011.

Licensee is directed on August 15, 2011 at 7:00 a.m. to place the enclosed placard of notice of suspension (identified as Form No. PLCB-1925 and as printed with red and black ink) in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises and to remove said license from the wall and place it in a secure location.

Licensee is advised if replacement placards are needed for any reason they are available at all Pennsylvania Liquor Stores/Wine & Spirits Shoppes.

The Bureau is directed to visit and monitor the aforementioned licensed premises for compliance with this Order.

Licensee is authorized on August 17, 2011 at 7:00 a.m. to remove the placard of suspension and return his license to its original wall location.

Jurisdiction is retained.

Dated this 10TH 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.