

Mailing Date: AUG 12 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-2375
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-420375
v.	:	
	:	LID - 53292
SLOPESIDE, INC.	:	
T/A A.J.'S FIREPLACE RESTAURANT	:	
& LOUNGE	:	
HCR 1 BOX 2299	:	
TAFTON, PA 18464-9715	:	
	:	
PIKE COUNTY	:	
LICENSE NO. R-AP-SS-20697	:	

**BEFORE JUDGE THAU**  
**BUREAU COUNSEL STRONG**  
**LICENSEE: JANET COSTABILE, PRO SE**  
**CAROL TORCHIANA, PRO SE**

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on November 5, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against SLOPESIDE, INC., License Number R-AP-SS-20697 (Licensee).

The citation charges Licensee with a 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)]. The charge is that on October 1, 2010, Licensee, by its servants, agents or employes, sold alcoholic beverages after its Restaurant Liquor license expired on September 30, 2010, and had not been renewed and/or validated.

An evidentiary hearing was conducted on June 22, 2011 in the Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Pennsylvania.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. The Bureau began its investigation on October 1, 2010 and completed it on October 15, 2010 (N.T. 12).
2. The Bureau sent a notice of alleged violation to Licensee at the licensed premises by certified mail, return receipt requested on October 20, 2010. The notice alleged violations as charged in the citation (Commonwealth Exhibit No. C-1, N.T. 10).
3. On October 1, 2010 at 7:55 p.m., an undercover Bureau Enforcement Officer determined that Licensee was open and in operation selling alcoholic beverages at a time when the license had not been renewed. The license expired on September 30, 2010 (N.T. 12-16).

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. The citation is **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since September 7, 2004, and has had no prior violations.

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.

Ms. T. explains that she assumed the license had been renewed as her attorney was handling the paperwork. She further advised that she was confused between the food serving license and the liquor license. By making these assumptions, Licensee failed to ask the appropriate questions. I am convinced Licensee has been chastened by this experience and will be more careful the next renewal/validation cycle.

As this is Licensee's first violation and Licensee was further unclear as to the renewal process, I impose a one day suspension.

ORDER

IT IS HEREBY ORDERED that the restaurant liquor license (including all permits) of SLOPESIDE, INC., License No. R-AP-SS-20697 be suspended for a period of one day **BEGINNING** at 7:00 a.m. on Tuesday, November 1, 2011 and **ENDING** at 7:00 a.m. on Wednesday, November 2, 2011.

Licensee is directed on November 1, 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 November 2, 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 8<sup>TH</sup> day of August, 2011.



Felix Thau, A.L.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.**