

Mailing Date: SEP 15 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-2738
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-419062
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 January 5, 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 contains two counts.

The first count charges Licensee with violation of Section 471 of the Liquor Code [47 P.S. §4-471] and Sections 5513 and/or 5514 of the Crimes Code [18 Pa. C.S. §§5513 and/or 5514] in that on October 20, 2010, Licensee, by its servants, agents or employes, possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on the licensed premises.

The second count charges Licensee with violation of Section 493(26) of the Liquor Code [47 P.S. §4-493(26)] in that Licensee, by its servants, agents or employes, issued checks or drafts dated August 18 and 20, 2010, in payment for purchases of malt or brewed beverages, when it had insufficient funds in, or credit with, the institution upon which drawn for the payment of such checks.

The investigation which gave rise to the citation began on September 13, 2010 and was completed on December 2, 2010; and notice of the violation was sent to Licensee by Certified Mail on January 10, 2011. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on July 26, 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 Jim Roccograndi at 1079 Wyoming Ave, Forty Fort, PA 18704 by certified mail on June 9, 2011. The notice set forth the date and time of the hearing as July 26, 2011 at 11:00 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:

COUNT 1

1. On October 20, 2010 an officer of the Bureau entered the licensed premises where he spoke to Mr. Roccograndi (N.T. 13).
2. After speaking with Mr. Roccograndi about several NSF checks, the officer conducted a routine inspection (N.T. 13).
3. During the inspection, the officer discovered two video machines. One was an Astro Monkeyland video slot machine, and the other was a New Fruit Bonus video slot machine (N.T. 13).
4. In addition to the machines, the officer found football betting slips, and, in the cash drawer of the cash register, he found a portion of a paper plate with a notation showing a \$40.00 payment on the Astro Monkeyland video slot machine (N.T. 13-14).
5. After finding that knock off devices knocked the points off of both video slot machines, the machines were seized (N.T. 19-20).
6. The officer examined both machines and found them to be played at \$.05 per credit. The machines required no skill to play. They contained knock off devices and accounting of coins in and coins out (N.T. 20-26).

COUNT 2

7. On August 18, 2010, Licensee purchased malt or brewed beverages from United Beverage of Northeastern Pennsylvania. In payment therefore Licensee issued its check in the amount of \$123.38. The check was dishonored by Licensee's bank for insufficient funds. It was made good by Licensee on September 3, 2010 (N.T. 8 and Exhibit C-6).

8. On August 20, 2010, Licensee purchased malt or brewed beverages from United Beverage of Northeastern Pennsylvania. In payment therefore, Licensee issued its check in the amount of \$160.70. Licensee's check was returned by Licensee's bank for insufficient funds. The check was made good on September 3, 2010 with cash (N.T. 9 and Exhibit C-7).

CONCLUSIONS OF LAW:

Counts 1 and 2 of the citation are **sustained**.

PRIOR RECORD:

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

Citation No. 10-0130X. Fine \$100.00.

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

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

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

Citation No. 10-1818X & 10-1926X (consolidated). Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages. July 16 and 25, 2010.

Citation No. 10-2125. Fine \$1,250.00. Fine not paid and license suspended 3 days and until the fine paid.

1. Sales after the license expired and had not been renewed and/or validated. September 1, 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 as follows:

Count 1 - \$550.00 fine
Count 2 - \$250.00 fine

ORDER

THEREFORE, it is hereby ordered that Licensee ROCCO'S BAR, INC., pay a fine of \$800.00 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 31ST day of August, 2011.

A handwritten signature in cursive script, reading "Daniel T. Flaherty, Jr.", written over a horizontal line.

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. 10-2738
Rocco's Bar, Inc.