

Mailing Date: MAY 18 2012

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 11-1115
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-431403
v.	:	
	:	LID - 6927
HOTEL SUN, INC.	:	
410 CEDAR AVE.	:	
SCRANTON, PA 18505-1106	:	
	:	
	:	
	:	
LACKAWANNA COUNTY	:	
LICENSE NO. H-3684	:	

**BEFORE JUDGE FLAHERTY  
BUREAU COUNSEL STRONG  
LICENSEE: ROBERT T. GOWNLEY, JR., ESQUIRE**

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on June 24, 2011, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against HOTEL SUN, INC., License Number H-3684 (hereinafter "Licensee").

The citation charges Licensee with violation of Sections 471 and 611 of the Liquor Code [47 P.S. §§4-471 and 6-611] in that on May 23, 2011, the Court of Common Pleas, Lackawanna County, Pennsylvania, issued an injunction indefinitely padlocking the premises as a public nuisance.

The investigation which gave rise to the citation began on May 31, 2011 and was completed on June 1, 2011; and notice of the violation was sent to Licensee by Certified Mail on June 7, 2011. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on February 15, 2012 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. On May 23, 2011, pursuant to a Petition for Special Relief pursuant to Pa. R.C.P. 1531, the Court of Common Pleas of Lackawanna County, pursuant to Section 611 of the Liquor Code [47 P.S. §6-611] ordered a temporary stay of the operations of the licensed premises at 410 Cedar Avenue, Scranton, Pennsylvania with a rule returnable the 27<sup>th</sup> day of May, 2011 (N.T. Exhibit C-3).

2. Paragraph 19 of the aforementioned Petition for Relief indicates that the licensed premises had been condemned by the City of Scranton, Department of Licensing and Inspections for health and safety reasons (N.T. Exhibit C-3).

3. On August 28, 2011 the Solicitor for the City of Scranton and counsel for Licensee entered into a stipulation which reads as follows:

1. Robert Sherman, President of The Hotel Sun, Inc. agrees that he or any of this employees will not rent any rooms in the Sun Hotel to any person who has criminal charges pending as a result of the drug arrests made by the Attorney General's office in May, 2011.

2. On May 27, 2011 Robert Sherman, President of Hotel Sun, Inc. a Pennsylvania Corporation mailed the original Liquor License and Wholesale Liquor Purchase Permit cards, License No. H-3684, for the bar known as The Hotel Sun to the Pennsylvania Liquor Control Board Bureau of Licensing to be placed in safekeeping. Robert Sherman, President of Hotel Sun, Inc. agrees that he will not apply to take said License out of Escrow until June 1, 2012.

3. Robert Sherman, President of Hotel Sun, Inc. agrees to fully comply with the Condemned Property Policy of the City of Scranton and to correct all the building code violations for the premises at 410 Cedar Avenue, Scranton, Lackawanna County, Pennsylvania. In particular he agrees as follows:

1. To replace the fire escape at the rear of said property as per the provisions of the International Fire Code stated in Inspector Lunney's report dated May 18, 2011.

2. All rooms in said property have been cleaned including the baths and kitchens. Also the floors have been painted and new carpets have been installed in rooms 9, 14, 17, 20, 24;
  3. Room 20 has been scrubbed from top to bottom. The floor was painted, and new carpeting and new ceiling tiles were installed;
  4. The ceiling tiles have been replaced in rooms 9, 14, 17, 20, 23 and 24 and repainted in seven other rooms;
  5. A loose emergency flood light over rear door on second floor left fire escape has been repaired;
  6. All power strips and hot plates have been removed from rooms and bar except 15 amp breaker strips, required in rooms for refrigerator and microwaves, as per fire insurance policy. There are 30 plus outlets in the bar and 3 or 4 in every room except 2 very small rooms, which have 2 outlets;
  7. The chimney on the rear left roof has been removed;
  8. Point attachments on electric services have been tightly secured;
  9. All burnt out exit sign bulbs have been replaced on all floors;
4. As per the City of Scranton's Condemned Property Policy, the City of Scranton will conduct a final inspection of the property at 410 Cedar Avenue, Scranton, Lackawanna county, Pennsylvania to determine if the building code violations, as cited, have been remedied, and if so, will issue a Certificate of Occupancy;
  5. a. During the period that the Liquor License is in escrow, the bar/tavern premises will remain vacant and closed and not open to the public and/or the occupants of the Sun Hotel.

b. If the Liquor License for the Sun Hotel is not renewed and therefore the bar/tavern area is no longer a licensed premises, then the premises may be utilized in accordance with the ordinances of the City of Scranton.

6. Once the building code violations have been remedied, the City of Scranton will withdraw its Petition for Special Relief and Discontinue with Prejudice the Complaint filed to the above number and request the Court to vacate its Orders of May 23, May 27 and July 25, 2011.

4. On the 29<sup>th</sup> day of August, 2011 the Court of Common Pleas of Lackawanna County entered an Order making the aforementioned Stipulation an Order of the Court (N.T. Exhibit L-3).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since November 16, 1972, and has had eight prior violation(s) since July 1, 1987, the date of establishment of the Office of Administrative Law Judge:

Citation No. 89-0964. 4 days suspension.

1. Sales to a minor.

Citation No. 90-0231. Fine \$500.00 and 1 day suspension.

1. Sales to visibly intoxicated persons.

Citation No. 92-2187. Fine \$700.00 and 3 days suspension.

1. Used loudspeakers or devices whereby music could be heard outside.
2. Sales to a visibly intoxicated person.

Citation No. 94-0517. Fine \$250.00.

1. Not a bona fide hotel in that bedrooms were insufficient, there was no kitchen apart from the public dining room, there is an insufficient supply of food and insufficient seating accommodations at tables in the public dining room.

Citation No. 03-0590. Fine \$1,000.00.

1. Sales to a visibly intoxicated person. March 8, 2003.

Citation No. 05-2798. Fine \$400.00 and 1 day suspension and thereafter until conditions corrected.

1. Not a bona fide hotel in that food items were insufficient. December 3, 2005.
2. Failed to keep records on the licensed premises. December 3, 2005.

Citation No. 08-0874C. Fine \$1,250.00 and RAMP training mandated.

1. Sales to a minor. March 27, 2008.

Citation No. 09-1807. Fine \$250.00.

1. Used loudspeakers or devices whereby music could be heard outside. June 26, 2009.

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 a one day suspension and continuing thereafter until all the terms to the Stipulation between Licensee and the City of Scranton dated August 29, 2011, and the order of the Common Pleas Court dated the 29<sup>th</sup> day of August, 2011 had been complied with.

ORDER

THEREFORE, IT IS HEREBY ORDERED that the hotel liquor license (including all permits and Licensee Discount Card) of HOTEL SUN, INC., License No. H-3684 be suspended for a period of one day, and further that said license remain suspended until: (1) Licensee has forwarded a certification verifying that they received approval from the City of Scranton to reopen the property, and (2) said certification has been approved and the suspension terminated by further Order. 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.

Dated this 8<sup>TH</sup> day of May, 2012.

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.**

**CERTIFICATION**

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\_\_\_\_\_ hereby certifies that he/she is the \_\_\_\_\_ of Licensee, HOTEL SUN, INC., 410 Cedar Avenue, Scranton, PA 18505-1106; and

Licensee has received approval from the City of Scranton to reopen the property; and

A copy of the approval from the City of Scranton is attached.

I/We, the above Licensee(s) [or authorized officer(s) thereof], under penalty of law [18 Pa.C.S. §4904], relating to unsworn falsification to authorities] acknowledge that I/We are signing and executing this document as the authorized act and deed of the Licensee. I/We certify that the foregoing is true and correct.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

Original to be sent to: Office of Administrative Law Judge, Pennsylvania Liquor Control Board, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg PA 17110-9661.

One copy of certification to be sent to: Craig A. Strong, Assistant Counsel, Bureau of Liquor Control Enforcement, Pennsylvania State Police, 2930 Airport Road, Bethlehem, PA 18017.