

Mailing Date: NOV 6 2000

[Appeal](#)

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 00-0068
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W1-211859
v.	:	
	:	LID - 13232
UVC INC	:	
T/A TRACK & TURF TAVERN	:	
4202 CHESTER AVE	:	
PHILADELPHIA PA 19104-4416	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-8385	:	BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: Roy Harkavy, Esq. For  
Licensee: John J. McCreesh, III, Esq.

**ADJUDICATION**

BACKGROUND:

On March 8, 2000, the Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation to UVC, Inc., t/a Track & Turf Tavern, License Number R-AP-SS8385.

There are two counts in the citation.

The first count alleges that Licensee violated §493(1) of the Liquor Code, 47 P.S. §4493(1), on December 11, 1999, and on divers other occasions within the past year, by selling, furnishing, and/or giving or permitting such sale, furnishing or giving of alcoholic beverages to seven male minors, eighteen to twenty years of age.

The second count alleges that Licensee violated §493(14) of the Liquor Code, 47 P.S. §4493(14), on December 11, 1999, and on divers other occasions within the past year, by permitting seven minors, eighteen to twenty years of age, to frequent its licensed premises.

An evidentiary hearing was held on Thursday, August 31, 2000, in Plymouth Meeting, Pennsylvania. The parties stipulated to the timely service and receipt of the notice letter and the citation.

FINDINGS OF FACT:

1. Eric Knight was born October 5, 1983. On December 11, 1999, when he was nineteen years old, he entered the licensed establishment at 9:00 p.m. and drank beer which had been served in a pitcher. His age was not questioned in the establishment (N.T. 19-21).

2. Clayton Beer was born July 29, 1981. On December 11, 1999, when he was eighteen years old, he entered the licensed establishment at approximately 8:45 p.m. While in the premises, he drank beer which had been served in pitchers. His age was not questioned (N.T. 25-27).

3. Marc Belloli was born August 24, 1980. On December 11, 1999, when he was nineteen years old, he entered the licensed establishment at approximately 9:00 p.m. While there, he drank draft beer which had been served in pitchers. His age was not questioned in the establishment (N.T. 29-31).

4. Peter Strong was born February 29, 1980. On December 11, 1999, he entered the licensed premises at approximately 9:00 p.m. and drank beer which had been served in pitchers. His age was not questioned in the establishment. During the previous year, he had gone to the licensed establishment and consumed alcoholic beverages two or three times. During one of those visits, his age had been questioned, and he showed a counterfeit California identification card which showed him to be of legal drinking age (N.T. 33-37).

5. Nicholas Sommer was born August 2, 1979. On December 11, 1999, when he was twenty years old, he entered the licensed establishment at approximately 8:45 p.m. and consumed alcoholic beverages which had been served in a pitcher. His age was not questioned. On a previous visit to the licensed premises, his age had been questioned and he showed a counterfeit identification card showing him to be of legal drinking age. He had been in the premises two or three times during the preceding year, and had consumed alcoholic beverages each time (N.T. 37-42).

#### CONCLUSIONS OF LAW:

Licensee violated §493(1) of the Liquor Code, 47 P.S. §4-493(1), on December 11, 1999, by permitting the furnishing or giving of alcoholic beverages to five male minors, eighteen to twenty years of age.

Licensee violated §493(14) of the Liquor Code, 47 P.S. §4-493(14), on December 11, 1999, and on divers other occasions within the past year, by permitting two twenty-year-old minors to frequent its licensed premises.

#### PRIOR RECORD:

Licensee has been licensed since October 7, 1986, and has had prior violations since July 1, 1987, the date of establishment of the Office of Administrative Law Judge, as follows:

Citation No. 88-1277. \$1,500.00 fine.

1. Minors frequenting.
2. Sales to minors.

Citation No. 88-1604. \$250.00 fine.

1. Sold liquor for consumption off premises.

Citation No. 91-2651. \$2,200.00 fine and 4 days suspension.

1. Sales to minors.  
September 18 and 19, 1991.
2. Minors frequenting.  
September 18 and 19, 1991.
3. You, Jack J. Gillespie, consumed liquor or malt or brewed beverages while tending bar or otherwise serving liquor or malt or brewed beverages.  
September 19, 1991.
4. Licensee, his agents or employes, interfered with a liquor control enforcement officer in the performance of his duties.  
September 19, 1991.

Citation No. 91-2828. \$800.00 fine and 1 day suspension and revocation of Sunday sales permit.

1. Furnished false information regarding sales of food and beverages when applying for a Sunday sales permit.  
August 28, 1991.
2. Failed to maintain complete and truthful records covering the operation of the licensed business for a period of 2 years immediately preceding October 1, 1991.

Citation No. 92-0462. \$2,500.00 and 7 days suspension.

1. Sales to minors.  
January 25, 1992.
2. Minors frequenting.  
January 25, 1992.

Citation No. 95-0605. \$1,000.00 fine and 1 day suspension.

1. Sales to minors.  
February 27, 1995.
2. Minor frequenting.  
February 27, 1995.

Citation No. 97-0997. \$2,000.00 fine and 2 days suspension.

1. Sales to visibly intoxicated persons. February 12, 1997.
2. Sales between 2:00 a.m. and 7:00 a.m.  
February 12, 1997.
3. Permitted patrons to possess and/or remove liquor or malt or brewed beverages after 2:30 a.m. on February 12, 1997.
4. Failed to require patrons to vacate the premises not later than one-half hour after the required time.  
February 12, 1997.
5. Failed to label beer taps properly.  
February 25, 1997.

6. Sales to minors.  
March 18, 1997.
  7. Minors frequenting. March 18, 1997.
- Citation No. 98-0140. 1 day suspension.
1. Issued worthless checks in payment for malt or brewed beverages September 26, 1997.

Citation No. 98-0353. \$50.00 fine and 2 days suspension.

1. Sales while liquor license suspended.  
January 27, 1998.
2. Failed to post notice of suspension  
January 27, 1998.

Citation No. 98-1402. \$300.00 fine and 2 days suspension.

1. Issued worthless checks in payment for malt or brewed beverages. May 18, 1998.

Citation No. 98-1818. 1 day suspension.

1. Issued worthless checks in payment for malt or brewed beverages. July 28, 1998.

#### PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine in the \$1,000.00 to \$5,000.00 range, or both, for violations of the type found in this case.

Since this is Licensee's fifth Liquor Code violation in a four-year period, 47 P.S. §4471(c) requires that the penalty include license suspension or revocation.

The two counts are merged for penalty purposes.

#### ORDER

THEREFORE, it is hereby ORDERED that Licensee, UVC, Inc., t/a Track & Turf Tavern, License No. R-AP-SS-8385, pay a fine of two thousand dollars (\$2,000.00) within 20 days of the mailing date of this order. In the event the fine is not paid within 20 days, Licensee's license will be suspended or revoked.

IT IS FURTHER ORDERED that the Restaurant Liquor License of Licensee, UVC, Inc., t/a Track & Turf Tavern, License No. R-AP-SS-8385, shall be suspended for a period of two (2) days BEGINNING at 7:00 a.m. on Monday, January 29, 2001, and ENDING at 7:00 a.m. on Wednesday, January 31, 2001.

Licensee is directed on Monday, January 29, 2001, 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 premises for compliance with this order.

Licensee is authorized on Wednesday, January 31, 2001, at 7:00 a.m. to remove the placard of suspension and return the license to its original wall location.

The fine must be paid by treasurer's check, cashier's check, certified check or money order. **Personal checks, which include business-use personal checks, are not acceptable.** Please make your 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

Dated this 31st day of October, 2000.

David L. Shenkle, J.

**NOTICE: MOTIONS FOR RECONSIDERATION MUST BE IN WRITING AND RECEIVED BY THE OFFICE OF ADMINISTRATIVE LAW JUDGE WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER, TOGETHER WITH A \$25.00 FILING FEE. jb**