

Mailing Date: NOV 28 2005

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

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|------------------------------|---|-------------------------|
| PENNSYLVANIA STATE | : | |
| POLICE, BUREAU OF | : | Citation No. 05-1061 |
| LIQUOR CONTROL ENFORCEMENT | : | |
| | : | Incident No. W05-308790 |
| v. | : | |
| | : | LID - 53135 |
| TRINITY OF JOHNSTOWN, LLC | : | |
| T/A BARNSTORMER'S PUB & | : | |
| GRILLE | : | |
| 479 AIRPORT RD. | : | |
| JOHNSTOWN, PA 15904-9438 | : | |
| | : | |
| | : | |
| CAMBRIA COUNTY | : | |
| LICENSE NO. AR-AP-SS-EHF-101 | : | |

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Michael C. Nickles, Esquire
Pennsylvania State Police
313 Mt. Nebo Road
Pittsburgh, PA 15237-1305

For Licensee
Robert Skamla
Corporate Officer

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on June 3, 2005, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Trinity of Johnstown, LLC, t/a Barnstormer's Pub & Grille (Licensee), License Number AR-AP-SS-EHF-101.

The citation¹ charges Licensee with violations of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)]. The charge is that on two (2) unknown dates between March 1 and 15, 2005, and March 16, 2005, Licensee, by servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one (1) female minor, nineteen (19) years of age.

An evidentiary hearing was conducted on October 25, 2005 at the Hampton Inn, 180 Charlotte Drive, Altoona, Pennsylvania. Licensee was represented by its Corporate Officer, Mr. Robert Skamla.

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 March 30, 2005 and completed it on April 26, 2005. (N.T. 10)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on May 11, 2005. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 13)
3. On March 16, 2005, a nineteen year old (born July 12, 1985) went to the licensed premises to meet her boyfriend. She arrived at about 10:30 p.m. She purchased a bottle of beer which was served to her by a barmaid without question relative to age. She also purchased other alcoholic beverages that evening. (N.T. 26-35)
4. She had been to the premises on two other occasions, sometime between March 1 and March 16, 2005. On those two occasions, she was served alcoholic beverages. (N.T. 39-41)

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 May 28, 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.

I take official notice of the records of the Pennsylvania Liquor Control Board, Licensee has not been certified to be in compliance with Liquor Code Section 471.1 [47 P.S. §4-471.1], relating to Responsible Alcohol Management. I urge Licensee to comply with the requirements. Licensee may wish to call the Pennsylvania Liquor Control Board's RAMP Office at 1-866-275-8237 or visit its web site (www.lcb.state.pa.us/edu).

I impose a \$1,200.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,200.00 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.

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, Pennsylvania 17110-9661

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 18th day of November, 2005.

Felix Thau, A.L.J.

pm

MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER TO THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE FILING FEE.