

Mailing Date: SEP 22 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 05-2036
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-310167
v.	:	
	:	LID - 32545
SHANNA, INC.	:	
T/A RIVERSTREET JAZZ CAFE	:	
667 N. RIVER STREET	:	
PLAINS, PA 18702	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-SS-14736	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Craig Strong, Esquire

For Licensee
NO APPEARANCE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on October 11, 2005, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against SHANNA, INC., License Number R-AP-SS-14736 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 5.51(a) of the Liquor Control Board Regulations [40 Pa. Code §5.51(a)] in that between June 26 and August 31, 2005, Licensee, by its servants, agents or employees, failed to clean coils, tap rods and connections at least once every seven days.

The investigation which gave rise to the citation began on April 25, 2005 and was completed on August 31, 2005; and notice of the violation was sent to Licensee by Certified Mail on September 13, 2005. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on May 18, 2006 in the Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Pennsylvania. Licensee(s) did not appear at the hearing, nor did anyone appear on its behalf. A citation hearing notice was sent to Licensee(s) at its address of record, 667 N. River Street, Plains, PA 18702 by certified mail, return receipt requested and by first class mail on March 29, 2006. The notice set forth the date and time of the hearing as May 18, 2006 at 2:30 p.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:

1. On August 31, 2005 an officer of the Bureau visited the licensed premises and conducted a routine inspection (N.T. 7).
2. During the inspection, the officer examined the coil cleaning records of Licensee. The records revealed that the coils had not been cleaned since February 26, 2005 (N.T. 7-8).

CONCLUSIONS OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since August 17, 1993, and has had three prior violations:

Citation No. 02-0126. Fine \$100.00.

1. Operated the licensed establishment without a valid health permit or license. December 27, 2001.

Citation No. 04-0103. Fine \$250.00.

1. Operated the licensed establishment without a valid health permit or license. January 7, 2004.

Citation No. 04-1058. Fine \$400.00.

1. Engaged in unlawful discrimination in that you provided alcoholic beverages to female patrons free of charge while charging full price to male patrons. May 20, 2004.
2. Furnished an unlimited or indefinite amount of free alcoholic beverages for a period of two hours. May 20, 2004.

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 fine of \$250.00.

ORDER

THEREFORE, it is hereby ordered that Licensee SHANNA, INC., pay a fine of \$250.00 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 or Certified Check. **Personal checks, which includes business-use personal checks, are not acceptable.** Make 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

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 8th day of September, 2006.

Daniel T. Flaherty, Jr., J.

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MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN 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.