

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-0339
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-319868
v.	:	
	:	LID - 38571
CONROY CATERING AT GLEN	:	
FOERD INC	:	
5001 GRANT AVE	:	
PHILADELPHIA PA 19114-3199	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-7915	:	BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: James E. Dailey, Esq.
For Licensee: Peter J. Mooney, Esq.

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on March 1, 2006. The citation alleges that Licensee violated §5.32(a) of the Liquor Control Board Regulations, 40 Pa. Code §5.32(a), on May 27, 29, June 11, September 10, October 1, 15, 22, November 5, December 17, 31, 2005, and January 1, 2006, by permitting the use on the inside of the licensed premises of a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

A hearing was held on February 7, 2007, in Plymouth Meeting, Pennsylvania. The parties stipulated to the timely service of the notice letter and the citation.

FINDINGS OF FACT:

1. Michael Templeton resided at 621 Delaware Avenue, Wilmington, New Jersey, during the period May, 2005, through January, 2006. During this time he experienced a continuing problem of loud party noise, mostly on weekends, emanating from Licensee's premises. This was sometimes a disk jockey and sometimes a live band, and included public address announcements, between 8:30 p.m. and 1:00 a.m. (N.T. 4-6). 2. Licensee's property is about 6,000 feet across the

activities associated with it, typically wedding parties. During the period May, 2005, through January, 2006, Mr. Templeton kept a record of his observations (N.T. 6-7, Exhibit B-3).

3. On May 27, 2005, at 8:05 p.m., Mr. Templeton heard wedding party announcements, audible over 15 mile per hour winds, motorboats on the river, and traffic on I-95. He saw corresponding activity at Licensee's premises, and no activity at marinas, apartments, or nearby estates (N.T. 7-8, Exhibit B-3).

4. On Sunday, May 29, 2005, at 7:15 p.m., he heard a loud bass beat, again audible despite boat traffic and wind, and saw corresponding wedding activity on Licensee's lawn (N.T. 8-9, Exhibit B-3).

5. On June 11, 2005, Mr. Templeton heard music coming from the licensed premises beginning at 10 p.m. (N.T. 9, Exhibit B-3).

6. On September 10, 2005, Mr. Templeton heard music coming from the licensed premises, as late as midnight (N.T. 9, Exhibit B-3).

7. On October 1, 2005, Mr. Templeton heard music coming from the licensed premises, as late as 10:54 p.m. (N.T. 9-10, Exhibit B-3).

8. On October 15, 2005, Mr. Templeton heard music coming from the licensed premises all evening (N.T. 10, Exhibit B-3).

9. On October 22, 2005, Mr. Templeton heard music coming from the licensed premises as late as midnight (N.T. 10, Exhibit B-3).

10. On December 17, 2005, Mr. Templeton heard music coming from the licensed premises beginning at 8:00 p.m. (N.T. 11, Exhibit B-3).

11. On December 31, 2005, Mr. Templeton heard music coming from the licensed premises, continuing until 1:00 a.m. on January 1, 2006 (N.T. 12, Exhibit B-3).

12. Licensee held wedding parties at its licensed premises on May 27, 29, June 11, September 10, October 1, 15, 22, December 17, 31, 2005, and January 1, 2006, and on each occasion entertainment was provided by either a disk jockey or a band (N.T. 26, Exhibit B-5).

CONCLUSIONS OF LAW:

Licensee violated §5.32(a) of the Liquor Control Board Regulations, 40 Pa. Code §5.32(a), on May 27, 29, June 11, September 10, October 1, 15, 22, December 17, 31, 2005, and January 1, 2006, by permitting the use on the inside of the licensed premises of a loudspeaker whereby the sound of music or other entertainment could be heard outside.

PRIOR RECORD:

Licensee has been licensed since October 10, 1996, and has had one prior violation which has been finally adjudicated:

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Citation No. 04-2105. \$50.00 fine (findings and penalty by Common Pleas Court).

1. Loudspeakers could be heard outside. July 3 and October 8, 2004.

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 \$50.00 to \$1,000.00 range, or both, for violations of the type found in this case.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Conroy Catering at Glen Foerd, Inc., License No. R-AP-SS-7915, shall pay a fine of five hundred dollars (\$500.00) 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. Jurisdiction is retained.

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 8th day of August, 2007.

David L. Shenkle, J.

jb

NOTICE: 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.