

Mailing Date: APR 17 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-0578
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-322413
v.	:	
	:	LID - 2794
POST 162 A M D G	:	
CATHOLIC WAR VETERANS	:	
OF PHILADELPHIA PA	:	
9859 BUSTLETON AVE	:	
PHILADELPHIA PA 19115-2611	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. CC-6179	:	BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: Erik S. Shmukler, Esq.

For Licensee: Gregory H. Quigley, Esq.

**ADJUDICATION**

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on March 21, 2006. The citation alleges that Licensee violated §§401(b) and 406(a)(1) of the Liquor Code, 47 P.S. §§4-401(b) and 4-406(a)(1), on December 29, 2005, by selling alcoholic beverages to nonmembers.

A hearing was held on November 14, 2006, in Plymouth Meeting, Pennsylvania. The parties stipulated to the timely service of the notice letter and the citation.

FINDINGS OF FACT:

1. On December 29, 2005, beginning at 10:00 p.m., a disc jockey entertainment group called "Cutting Edge Entertainment" rented Licensee's entire premises for a Christmas party. Craig Sumsky made the arrangement, and provided a list of people coming to the party, which was provided to Licensee's volunteer doorman, Kwesi Solomon (N.T. 16-19, 32-34).

2. When two liquor enforcement officers arrived at the premises at about 10:15 p.m., Mr. Solomon asked them if their names were on the list. One of the officers falsely pointed to a name on the list and said that was he. (N.T. 5, 19-21).

3. On the basis of their false representations to Mr. Solomon, the officers were allowed into the licensed premises, where they sat at the bar and purchased two bottles of beer, for which they paid six dollars (N.T. 5-6).

4. The officers remained at the bar, drinking their beer, and did not interact socially with any of the people who were there for the party. Craig Sumsky noticed this, and asked Licensee's Commander, Gino Tripodi, if the men were friends of his. Mr. Tripodi said no, why? Mr. Sumsky told him that the officers were not party guests, and asked that they be evicted, which was done (N.T. 34-35).

CONCLUSIONS OF LAW:

The evidence does not support the proposition that Licensee violated §§401(b) and 406(a)(1) of the Liquor Code, 47 P.S. §§4-401(b) and 4-406(a)(1), on December 29, 2005, by selling alcoholic beverages to nonmembers.

DISCUSSION:

This licensed catering club had been rented in its entirety for a private party arranged in advance. Two liquor enforcement officers crashed the party by lying to the doorman. One of the officers gave contrary testimony, but I did not believe it.

It is true that law enforcement personnel sometimes find it necessary to use falsehoods as a part of their work, and this is permissible where the effect is to obtain evidence against miscreants who were otherwise already disposed to violate the law. In these circumstances, however, Licensee's agents were not so disposed and they performed no voluntary act for which liability ought to be imposed.

ORDER

THEREFORE, it is hereby ORDERED that Citation No. 06-0578 is DISMISSED.

Dated this 26th day of March, 2007.

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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.**