

Mailing Date: OCT 15 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-0581C
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-321593
v.	:	
	:	LID - 49375
6054 ETHIO, INC.	:	
6052-6054 MARKET ST.	:	
PHILADELPHIA, PA 19139-3023	:	
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	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-3885	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
James E. Dailey, Esquire

For Licensee
John J. McCreesh, III,
Esquire

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on March 21, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against 6054 ETHIO, INC., License Number R-AP-SS-3885 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)] in that on January 26, 2006, Licensee, by its servants, agents or employees, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one male minor, eighteen years of age.

The investigation which gave rise to the citation began on November 4, 2005 and was completed on February 2, 2006; and notice of the violation was sent to Licensee by Certified Mail on February 14, 2006. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on November 27, 2006 in the Office of Administrative Law Judge, 140 West Germantown Pike, Suite 100, Plymouth Meeting, Pennsylvania.

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 January 26, 2006, a male minor whose date of birth was January 31, 1987 entered the licensed premises at 10:05 p.m. (N.T. 17-18).
2. The minor ordered a 12 ounce Budweiser Light beer to go, and gave the barmaid \$4.00. The barmaid returned \$.75 in change. The minor received the beer in a brown bag and walked outside with it (N.T. 18).
3. The aforementioned minor was not requested to show identification although he had his valid PA driver's license with him at the time (N.T. 19).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since May 22, 2002, and has had one prior violation:

Citation No. 03-0963. Fine \$500.00.

1. Used loudspeakers or devices whereby music could be heard outside. March 6, 2003.
2. Not a bona fide restaurant in that food items were insufficient and/or failed to provide food upon request. April 17 and May 6, 2003.

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.

That Section further provides for mandatory compliance with Liquor Code Section 471.1 [47 P.S. §4-471.1], pertaining to Responsible Alcohol Management when, as in this matter, Licensee has been found to have violated Section 493(1) as a first offense as it relates to sales to minors or sales to a visibly intoxicated patron.

Under the circumstances of this case, the penalty imposed shall be a fine of \$1,250.00 and mandatory RAMP training.

ORDER

THEREFORE, it is hereby ordered that Licensee 6054 ETHIO, INC., pay a fine of \$1,250.00 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.

IT IS FURTHER ORDERED that Licensee shall comply with the requirements set forth in Liquor Code Section 471.1, pertaining to Responsible Alcohol Management in the following manner. Licensee is directed to initiate contact with The Bureau of Alcohol Education, Pennsylvania Liquor Control Board (Toll Free Telephone No.: 1-866-275-8237; Web Site: www.lcb.state.pa.us; Email Address: LBEducation@state.pa.us) within 30 days of the mailing date of this Adjudication. Licensee must receive Certification within 90 days of the mailing date of this Adjudication. Licensee must remain in compliance for a period of one year from the date such Certification was issued.

Failure to comply with this Order will be grounds for modification of penalty in this case. Failure to comply may also constitute grounds for issuance of a new citation as authorized by Section 471(d) of the liquor Code [47 P.S. §4-471(d)].

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 28th day of September, 2007.

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.