

Mailing Date: OCT 02 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-0896
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-325834
v.	:	
	:	LID - 49443
NINE IS ENOUGH, INC.	:	
T/A THE DRAFT HOUSE	:	
670-672 BAER AVE.	:	
HANOVER, PA 17331-2705	:	
	:	
	:	
YORK COUNTY	:	
LICENSE NO. R-AP-19733	:	

**BEFORE:** JUDGE THAU

APPEARANCES:

For Bureau of Enforcement  
Andrew J. Lovette, Esquire  
Pennsylvania State Police  
3655 Vartan Way  
Harrisburg, PA 17110

For Licensee  
Ex-Parte

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on April 20, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Nine Is Enough, Inc., t/a The Draft House (Licensee), License Number R-AP-19733.

The citation<sup>1</sup> charges Licensee with violations of Section 5.16 of the Pennsylvania Liquor Control Board Regulations [40 Pa. Code §5.16]. The charge is that during the period April 9, 2005 through March 8, 2006, Licensee, by servants, agents or employes, failed to appoint a Board approved full-time manager for the licensed premises.

An evidentiary hearing was conducted on August 29, 2006 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. Licensee did not appear personally or by representation.

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 January 24, 2006 and completed it on March 8, 2006. (N.T. 16)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on March 17, 2006. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 14)
3. The manager of record quit on April 9, 2005. The licensed premises was operated by an individual who was not listed with the Pennsylvania Liquor Control Board as manager. (N.T. 26-28)
4. I take Official Notice of the records of the Pennsylvania Liquor Control Board that as of August 21, 2006, Licensee has failed to submit a Change in Manager's form removing the manager of record and replacing her with someone else. (N.T. 33)

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1. Commonwealth Exhibit No. C-3, N.T. 14.

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 21, 2002, and has had two prior violations:

Adjudication No. 03-0617. Fine \$600.00.

1. Used loudspeakers or devices whereby music could be heard outside.  
September 20 and October 20, 2002.
2. Noisy and/or disorderly operation.  
September 20 and October 20, 2002.
3. Engaged in disorderly conduct.  
October 20, 2002.
4. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on your licensed premises (sports pools).  
February 27, 2003.

Adjudication No. 04-0408. Fine \$2,300.00.

1. Used loudspeakers or devices whereby music could be heard outside.  
April 27, May 11, June 14, 21, July 19, August 10 and 30, 2003.
2. Sales to a visibly intoxicated person.  
June 21, 2003.
3. Noisy and/or disorderly operation.  
On 22 dates from April 27 through October 17, 2003.
4. Failed to require patrons to vacate the premises not later than one-half hour after the required time.  
November 26, 2003.
5. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 A.M.  
November 26, 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 \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

I have repeatedly remarked that licensees who fail to obey process will be accorded no consideration whatsoever. Licensees who fail to obey process encumber this system with costs that could very well be eliminated. In assessing a penalty, I am considering the additional costs related to Licensee's failure to obey process. I impose a \$1,000.00 fine and a one day suspension and continuing thereafter until Licensee submits a Certification stating that it has submitted a Change of Manager's form with the Pennsylvania Liquor Control Board.

ORDER:

**Imposition of Fine**

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,000.00 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

IT IS FURTHER ORDERED that the Restaurant liquor license of Nine Is Enough, Inc., t/a The Draft House, License No. R-AP-19733, be suspended for a period of one day, **BEGINNING** at 7:00 a.m., on Monday, December 11, 2006, and **ENDING** at 7:00 a.m., on Tuesday, December 12, 2006, and continuing thereafter until Licensee has forwarded a Certification stating that it has submitted a Change in Manager's form to the Pennsylvania Liquor Control Board. Said Certification is to be returned to the Office of Administrative Law Judge, Pennsylvania Liquor Control Board, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania 17110-9661. A copy of the Certification is to be sent to Andrew J. Lovette, Assistant Counsel, Bureau of Liquor Control Enforcement, Pennsylvania State Police, 3655 Vartan Way, Harrisburg, Pennsylvania 17110.

Licensee is directed, on Monday, December 11, 2006, at 7:00 a.m., to place a placard of notice of suspension (identified as Form No. PLCB-1925 and as printed with red and black ink) in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises and to remove said license from the wall and place it in a secure location.

Licensee is advised, if replacement placards are needed for any reason, they are available at all Pennsylvania Liquor Stores/Wine & Spirits Shoppes.

The Bureau is directed to visit and monitor the aforementioned licensed premises for compliance with this Order.

**LICENSEE MAY NOT RESUME OPERATION OF THE LICENSED PREMISES UNTIL FURTHER ORDER BY THE ADMINISTRATIVE LAW JUDGE.**

**Retaining Jurisdiction**

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 26<sup>th</sup> day of September, 2006.

\_\_\_\_\_  
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.**

**CERTIFICATION**

Citation No. 06-0896

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We, Nine Is Enough, Inc., t/a The Draft House, License No. R-AP-19733, certify that we have appointed a new manager and have submitted a Change in Manager's form to the Pennsylvania Liquor Control Board as of \_\_\_\_\_.

Date

We Nine Is Enough, Inc., further acknowledge that the Bureau of Liquor Control Enforcement has been sent a copy of all documents as ordered.

We, the above licensee [or authorized officer's thereof], under penalty of law [18 Pa. C.S. §4904, relating to unsworn falsification to authorities] acknowledge that We are signing and executing this document as the authorized act and deed of the licensee. We certify that the foregoing is true and correct.

\_\_\_\_\_  
Print Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Original copy of Certification to be sent to: Office of Administrative Law Judge, Pennsylvania Liquor Control Board, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania 17110-9661.

A copy of Certification to be sent to: Andrew J. Lovette, Assistant Counsel, Bureau of Liquor Control Enforcement, Pennsylvania State Police, 3655 Vartan Way, Harrisburg, Pennsylvania 17110.