

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-1082
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-330417
v.	:	
	:	LID - 54892
TIMMY'S CORPORATION	:	
5840 HARBISON AVE	:	
PHILADELPHIA PA 19135-4046	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. D-SS-2069	:	BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: Erik Shmukler, Esq.
For Licensee: Stewart Berger, Esq.

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on May 2, 2006. The citation alleges that Licensee violated §493(1) of the Liquor Code, 47 P.S. §4-493(1), on April 1, 2006, by selling, furnishing, and/or giving or permitting such sale, furnishing or giving of alcoholic beverages to one male minor, eighteen years of age.

A hearing was held on May 7, 2008, in Plymouth Meeting, Pennsylvania. The parties stipulated to the timely service of the notice letter and the citation.

FINDINGS OF FACT:

On April 1, 2006, a man whose birth date was April 16, 1987, purchased beer in the licensed premises. His age was not questioned (N.T. 20-46).

CONCLUSIONS OF LAW:

Sustained as charged.

DISCUSSION:

The Bureau's witness underwent a thorough cross-examination concerning his testimony and the possibility that he had been mistaken about the identity of the store where he had purchased

beer. There were inconsistencies in the minor's testimony, and probably the minor was mistaken as to the precise amount he had paid for the beer. This did not cause me to doubt the essential truth of his evidence, however.

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PRIOR RECORD:

Licensee has been licensed since July 8, 2005, and has had prior violations as follows:

Citation No. 05-2565. \$1,500.00 fine.

1. Sales to minors. October 15, 2005.

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 \$1,000.00 to \$5,000.00 range, or both, for violations of the type found in this case.

Licensee became certified under the provisions of 47 P.S. §4-471.1 on April 4, 2008.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Timmy's Corporation, License No. D-SS-2069, shall pay a fine of two thousand five hundred dollars (\$2,500.00) 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.

Dated this 18th day of June, 2008.

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.

Detach Here and Return Stub with Payment

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 Citation

No. 06-1082