

Mailing Date: DEC 12 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-1139
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-330318
v.	:	
	:	LID - 46268
DAFNOS, INC.	:	
T/A DAFNOS ITALIAN GRILLE	:	
1190 W. CHOCOLATE AVE.	:	
HUMMELSTOWN, PA 17036-9122	:	
	:	
DAUPHIN COUNTY	:	
LICENSE NO. R-21393	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Thomas M. Ballaron, Esquire
Pennsylvania State Police
3655 Vartan Way
Harrisburg, PA 17036-9122

For Licensee
Frank C. Sluzis, Esquire
2148 Deodate Road
Elizabethtown, PA 17022

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on May 11, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Dafnos, Inc., t/a Dafnos Italian Grille (Licensee), License Number R-21393.

The citation¹ charges Licensee with violations of Sections 491(1), 492(2) and 493(16) of the Liquor Code [47 P.S. §4-491(1), §4-492(2) and §4-493(16)]. The charge is that during the periods March 1 through 4, 6 through 11, 13 through 18 and 20 through 22, 2006, Licensee, by servants, agents or employes, sold alcoholic beverages after its Restaurant Liquor License expired on February 28, 2006, and had not been renewed and/or validated.

An evidentiary hearing was conducted on October 27, 2006 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania.

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 March 15, 2006 and completed it on March 30, 2006. (N.T. 6-7)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on April 14, 2006. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 4)
3. During the period charged, Licensee was open and in operation selling alcoholic beverages at a time when its license was expired. The violation was not intentional and was corrected immediately. (N.T. 6-7)

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.

1. Commonwealth Exhibit No. C-2, N.T. 4.

PRIOR RECORD:

Licensee has been licensed since October 4, 2000, and has had no prior violations.

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.

I adopt the jointly recommended penalty of a \$1,000.00 fine.

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

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 5th day of December, 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.