

Mailing Date: JAN 16 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-1500C
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-319779
v.	:	
	:	LID - 42093
C & D BREWING COMPANY OF	:	
PENNSYLVANIA, LLC	:	
T/A IRON HILL BREWERY &	:	
RESTAURANT	:	
3-5 W. GAY ST.	:	
WEST CHESTER, PA 19380-2592	:	
	:	
CHESTER COUNTY	:	
LICENSE NO. R-AP-SS-11611	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Erik S. Shmukler, Esquire
Pennsylvania State Police
6901 Woodland Avenue
Philadelphia, PA 19142

For Licensee
Ex-Parte

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on June 21, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against C & D Brewing Company of Pennsylvania, LLC, t/a Iron Hill Brewery & Restaurant (Licensee), License Number R-AP-SS-11611.

The citation¹ charges Licensee with a violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)]. The charge is that on May 4, 2006, Licensee, by servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one (1) female minor, eighteen (18) years of age.

An evidentiary hearing was conducted on November 30, 2006 at the Philadelphia State Office Building, 1400 West Spring Garden Street, 13th Floor, Room #1, Philadelphia, 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. A citation hearing notice was mailed by the Office of Administrative Law Judge on October 20, 2006 to Licensee by both certified receipt-return mail and first-class mail to the licensed premises. The notice notified Licensee of the date, time and place of the hearing. The Notice, sent by certified mail, was received at the licensed premises and signed for. On October 23, 2006, I issued a Pre-Hearing Order, which was mailed to the licensed premises by first class mail, directing Licensee to submit its pre-hearing memorandum. The Order reiterated the date, time and place of hearing.
2. The Bureau began its investigation on October 7, 2005 and completed it on May 5, 2006. (N.T. 10-11)
3. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on May 26, 2006. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. B-1, N.T. 10)
4. Pursuant to the Bureau's Age Compliance Check Program, a Bureau Enforcement Officer was at the premises on May 4, 2006 at 8:45 p.m., in an undercover capacity. (N.T. 21-22)
5. The minor involved in the Age Compliance program was eighteen on that date (having been born December 11, 1987). (N.T. 32)
6. The minor purchased a draft beer which he received without question as to age. (N.T. 38-39)

1. Commonwealth Exhibit No. B-2, N.T. 28.

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 April 9, 1998, and has had one prior violation:

Adjudication No. 02-1087. Fine \$150.00.
Failed to maintain complete and truthful records
covering the operation of the licensed business
for a period of 2 years immediately preceding
April 26, 2002.

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 take Official Notice that Licensee is R.A.M.P. certified as of July 31, 2006. I impose a \$1,250.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee 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.

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 8th day of January, 2007.

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.