

Mailing Date: DEC 17 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-2656
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-331466
v.	:	
	:	LID - 51079
WORLDWIDE BARTENDING	:	
INSTITUTE, INC.	:	
5450 LARGE ST.	:	
PHILADELPHIA, PA 19124-1122	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-SS-OPS-6939	:	

**BEFORE:** JUDGE THAU

APPEARANCES:

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

For Licensee  
John Klink  
Manager

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on November 21, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Worldwide Bartending Institute, Inc. (Licensee), License Number R-SS-OPS-6939.

The citation<sup>1</sup> charges Licensee with a violation of Section 499(a) of the Liquor Code [47 P.S. §4-499(a)]. The charge is that on July 8, 2006, Licensee, by servants, agents or employes, failed to require patrons to vacate that part of the premises habitually used for the service of alcoholic beverages not later than one-half hour after the required time for the cessation of the service of alcoholic beverages.

An evidentiary hearing was conducted on April 30, 2007 and continued. Another hearing was scheduled and conducted on November 5, 2007 at the Philadelphia State Office Building, 1400 West Spring Garden Street, 13<sup>th</sup> Floor, Philadelphia, 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 April 24, 2006 and completed it on September 29, 2006. (N.T. 7)

2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on October 13, 2006. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. B-1, N.T. 7)

3. On July 8, 2006, at approximately 1:00 a.m., two Bureau Enforcement Officers entered the licensed premises in an undercover capacity. At 1:55 a.m., the barmaid gave last call. The barmaid denied service after 2:00 a.m., to a request made by an Enforcement Officer. The Officers departed the premises at 2:15 a.m., with twelve patrons remaining. The Officers maintained an outside surveillance. At 2:40 a.m., there were still nine patrons on the premises. (N.T. 8-10)

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.

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1. Commonwealth Exhibit No. B-2, N.T. 7.

DISCUSSION:

This matter was continued at the request of Licensee to secure the presence of a necessary witness to establish that those present on the premises after 2:30 a.m., were actually engaged in employment activity, i.e., for the security of the employes (N.T. 13).

Licensee presented no witnesses at the continued hearing. Accordingly, the record was closed and the Adjudication will be issued based on the hearing held on April 30, 2007.

PRIOR RECORD:

Licensee has been licensed since April 18, 2003, and has had four prior violations:

Adjudication No. 04-0080. \$1,000.00 fine.

Sold alcoholic beverages after the Restaurant Liquor License expired on October 31, 2003 and had not been renewed and/or validated.

November 15 and December 17, 2003.

Adjudication No. 04-0425. \$1,000.00 fine.

Sold alcoholic beverages after the Restaurant Liquor License expired on October 31, 2003 and had not been renewed and/or validated.

February 5, 2004.

Adjudication No. 05-2334. \$1,250.00 fine and one day suspension.

1. Sales between 2:00 a.m. and 7:00 a.m.

August 26, 2005.

2. Failed to require patrons to vacate the premises not later than one-half hour after the required time.

August 26, 2005.

3. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 a.m.

August 26, 2005.

Adjudication No. 06-1045. Fine \$600.00 and 3 days suspension.

1. Sales between 2:00 A.M. and 7:00 A.M.
2. Permitted patrons to possess alcoholic beverages after 2:30 A.M.  
March 18, 2006.
3. Failed to require patrons to vacate the premises not later than one-half hour after the required time.  
March 18, 2006.
4. Used loudspeakers or devices whereby music could be heard outside.  
March 30, 2006.

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 impose a \$400.00 fine.

ORDER:

**Imposition of Fine**

THEREFORE, it is hereby ordered that Licensee pay a fine of \$400.00 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.

**Retaining Jurisdiction**

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 4th day of December, 2007.

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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.**

Detach Here and Return Stub with Payment

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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. 06-2656