

Mailing Date: AUG 09 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-2908
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-343405
v.	:	
	:	LID - 54374
4326 MAIN STREET HOLDCO, LLC	:	
4326 MAIN ST.	:	
PHILADELPHIA, PA 19127-1421	:	
	:	
	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-1299	:	

**BEFORE:** JUDGE THAU

APPEARANCES:

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

For Licensee  
Edward B. McHugh, Esquire  
Two Greenwood Square  
3331 Street Road  
Suite 450  
Bensalem, PA 19020

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on December 27, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against 4326 Main Street Holdco, LLC (Licensee), License Number R-AP-1299.

This citation<sup>1</sup> charges Licensee with a violation of Section 5.32(a) of the Pennsylvania Liquor Control Board Regulations [40 Pa. Code §5.32(a)]. The charge is that on November 11, 2006, Licensee, by servants, agents or employes, used, or permitted to be used on the inside of its licensed premises, a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

An evidentiary hearing was conducted on July 16, 2007 at the Philadelphia State Office Building, 1400 West Spring Garden Street, 13<sup>th</sup> Floor, Room #1, Philadelphia, Pennsylvania.

After review of the transcript of that proceeding, the following Stipulations of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. The Bureau began its investigation on November 11, 2006 and completed it on November 28, 2006. (Commonwealth Exhibit No. B-1, N.T. 5)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on November 30, 2006. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. B-1, N.T. 5)
3. On the date charged, a Bureau Enforcement Officer heard music emanating from the premises as far away as 60 feet. The music was being provided by a compact disc player.

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 18, 2005, and has had one prior violation:

Adjudication No. 06-2532. Fine \$1,000.00 and 5 points.  
Sunday sales after 2:00 A.M.  
September 17, 2006.

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1. Commonwealth Exhibit No. B-2.

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 adopt the jointly recommended penalty of a \$200.00 fine.

ORDER:

**Imposition of Fine**

THEREFORE, it is hereby ordered that Licensee pay a fine of \$200.00 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 31<sup>st</sup> day of July, 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.**