

Mailing Date: APR 24 2008

[Appeal](#)

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-2984C
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-344083
	:	
PLEASURE ENTERPRISES LLC	:	
T/A PLEASURES	:	LID - 54268
6216 WOODLAND AVE.	:	
PHILADELPHIA PA 19142-2308	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-OPS-15595	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

ERIK S. SHMUKLER, ESQ.

FOR THE LICENSEE:

EX PARTE

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

Pleasure Enterprises, LLC
t/a Pleasures
Citation No. 06-2984C

This proceeding arises out of a citation that was issued on January 3, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Pleasure Enterprises, LLC, t/a Pleasures, License Number R-AP-SS-OPS-15595 (hereinafter "Licensee").

An Administrative hearing was held on Tuesday, July 18, 2007, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

The citation charges Licensee with violation of Section 493(1) of the Liquor Code, 47 P.S. Section 4-493(1), in that on November 30, 2006, Licensee, by its servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one (1) male minor, nineteen (19) years of age.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began November 30, 2006 and ended December 4, 2006. A notice of violation letter was sent to the licensed premises on December 14, 2006 by certified mail. That certified mailing was signed as received on December 15, 2006. A citation hearing notice was issued by the Bureau on January 3, 2007 and sent to the licensed premises by certified mail, return receipt requested. The mailing was signed as received on January 6, 2007. The Office of Administrative Law Judge sent a notice of hearing on June 1, 2007 indicating a hearing date of July 18, 2007 at 1:00 p.m. That mailing was sent to the licensed premises by certified mail, return receipt requested. That mailing was signed as received on June 7, 2007 (N.T. 5-9 and Exhibits B-1 and B-2).

2. Officer David Collins at the time of hearing had been employed as an Enforcement for approximately five years. He was part of an age compliance program check regarding the licensed premises. On Thursday, November 30, 2006, Officer Collins, along with a detail of officers, went to the licensed premises at approximately 9:35 p.m. While in the premises, he observed a female bartender serving approximately ten patrons. Officer Collins obtained a copy of the driver's license of an underage buyer who worked for the age compliance program. He has worked with the underage buyer on previous occasions (N.T. 10-11).

3. At approximately 9:40 p.m., the underage buyer went inside the premises, approached the bar and ordered a twenty ounce bottle of Budweiser beer. The bartender did not ask for the underage buyer's identification. Officer Collins observed the purchase of an alcoholic beverage (N.T. 11-12).

4. The underage buyer approached the bar, ordered the beer, paid for the beer, gave the money to the bartender and was served the beer. The underage buyer then departed the premises with the beer in his hand. At no point was he carded by the bartender. There was no doorperson working that evening (N.T. 12 and Exhibit B-3).

5. According to the J-Net file, the underage buyer was born January 31, 1987 and was under twenty-one years of age on November 30, 2006 (N.T. 13-14 and Exhibit B-3).

6. Frank Spera is a supervisor with the Bureau of Enforcement and at the time of hearing had been employed with the Bureau for approximately nine years. He was also part of the age compliance detail which investigated the licensed premises on November 30, 2006. On that evening, he was the supervisor in charge of the detail. Once the underage buyer departed the premises with the twenty-two ounce bottle of Budweiser beer, he handed it to Officer Spera. Officer Spera then poured it out. The underage buyer gave a description of the bartender. Officer Spera notified the bartender of the sale (N.T. 17-18).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

On November 30, 2006, Licensee, by its servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one (1) male minor, nineteen (19) years of age, in violation of Section 493(1) of the Liquor Code, 47 P.S. Section 4-493(1).

PRIOR RECORD:

Licensee has been licensed since March 22, 2005, and has a record of prior violations as follows:

Citation No. 06-0206. \$650.00 fine.

1. Operated the licensed establishment without a valid health permit or license. September 29, 2006.
2. Not a bona fide restaurant in that food items were insufficient.
September 29, 2006.
3. Failed to keep records on the licensed premises. September 29, 2006.
4. Used loudspeakers or devices whereby music could be heard outside. September 29, 2006.

Pleasure Enterprises, LLC
t/a Pleasures
Citation No. 06-2984C

DISCUSSION:

Licensee sold, furnished and gave a malt or brewed beverage to a minor on November 30, 2006. The Licensee has one prior violation, however, it was for an unrelated offense. Under the circumstances, a \$1,400.00 penalty shall be imposed. Licensee will also be required to be certified by the R.A.M.P. program which will lend Licensee assistance in detecting and deterring minors.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of 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.

Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, Pleasure Enterprises, LLC, t/a Pleasures, License Number R-AP-SS-OPS-15595, pay a fine of One Thousand Four Hundred Dollars (\$1,400.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

IT IS FURTHER ORDERED that Licensee shall comply with the requirements set forth in Liquor Code Section 471.1, pertaining to Responsible Alcohol Management in the following manner. The Licensee is directed to contact the Bureau of Alcohol Education, Pennsylvania Liquor Control Board (Toll Free Telephone No.: 1-866-275-8237; Web Site: www.lcb.state.pa.us) within thirty (30) days of the mailing date of this Adjudication in order to receive assistance in the compliance process. Licensee must receive Certification within ninety (90) days of the mailing date of this Adjudication. Licensee must remain in compliance for a period of one year from the date such Certification is issued. The Bureau of Liquor Control Enforcement is further directed to monitor compliance with this Adjudication.

Failure to comply with this Order will be grounds for modification of penalty in this case. Failure to comply may also constitute grounds for issuance of a new citation as authorized by Section 471(d) of the Liquor Code, 47 P.S. Section 4-471(d).

In order to insure compliance with this Order, jurisdiction of this matter is retained.

Pleasure Enterprises, LLC
t/a Pleasures
Citation No. 06-2984C

Dated this 18th day of April, 2008.

Tania E. Wright, J.

NOTE: 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.

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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, along with any required documentation, to:

PLCB - Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg, PA 17110-9661

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