

Mailing Date: OCT 16 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-0155
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-339633
v.	:	
	:	LID - 52684
ANNA MARIE DAVIS	:	
338-340 E. NORTHAMPTON ST.	:	
WILKES BARRE, PA 18702-5814	:	
	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-1345	:	

**BEFORE:** JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement  
Craig Strong, Esquire

For Licensee  
Anna Marie Davis, PRO SE

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on February 9, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against ANNA MARIE DAVIS, License Number R-1345 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 5.32(a) of the Liquor Control Board Regulations [40 Pa. Code §5.32(a)] in that on December 3, 2006, Licensee, by her servants, agents or employes, used, or permitted to be used on the inside of the licensed premises, a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

The investigation which gave rise to the citation began on September 6, 2006 and was completed on December 29, 2006; and notice of the violation was sent to Licensee by Certified Mail on January 3, 2007. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on June 20, 2007 in the Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Pennsylvania.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. On December 3, 2006 at 12:45 a.m., an officer of the Bureau arrived in the vicinity of the licensed premises. Upon arrival, he could hear music emanating from the licensed premises. He conducted a sound check and could hear music emanating from the licensed premises at distances up to 210 feet (N.T. 9).

2. At 12:50 a.m. the officer entered the licensed premises where he discovered in the back room a DJ playing songs with patrons who were singing karaoke to the songs that the DJ was playing. The music was amplified through loudspeakers (N.T. 9-10).

3. The officer left the licensed premises at 1:40 a.m. and was able to hear the music being played inside at distances which were actually further than he had heard at the time that he entered (N.T. 10).

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

PRIOR RECORD:

Licensee has been licensed since May 20, 2004, and has had two prior violations:

Citation No. 04-1035. Fine \$200.00.

1. Used loudspeakers or devices whereby music could be heard outside. October 23, November 5 and 20, 2004.

Citation No. 06-2850. Fine \$75.00.

1. Issued worthless checks in payment for malt or brewed beverages. August 18 and September 28, 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.

Under the circumstances of this case, the penalty imposed shall be a fine of \$250.00.

ORDER

THEREFORE, it is hereby ordered that Licensee ANNA MARIE DAVIS, pay a fine of \$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 or Certified Check. **Personal checks, which includes business-use personal checks, are not acceptable.** Make 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

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 26<sup>th</sup> day of September, 2007.

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Daniel T. Flaherty, Jr., J.

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**MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN 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.**