

Mailing Date: MAR 27 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-0407
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-330610
v.	:	
	:	LID - 46820
ENNIE, INC.	:	
5647-49 WALNUT ST. &	:	
5646-48 SANSOM ST.	:	
PHILADELPHIA, PA 19139	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. D-SS-1219	:	

**BEFORE:** JUDGE THAU

APPEARANCES:

For Bureau of Enforcement  
James E. Dailey, Esquire  
Pennsylvania State Police  
6901 Woodland Avenue  
Philadelphia, PA 19142

For Licensee  
Lori J. Hahn Maslin, Esq.  
One Belmont Avenue  
Suite 626  
Bala Cynwyd, PA 19004

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on March 7, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Ennie, Inc. (Licensee), License Number D-SS-1219.

The citation<sup>1</sup> charges Licensee with a violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)]. The charge is that on March 23, 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) male minor, nineteen (19) years of age.

An evidentiary hearing was conducted on February 11, 2007 at the Philadelphia State Office Building, 1400 Spring Garden Street, 13<sup>th</sup> Floor, Room #2, Philadelphia, Pennsylvania.

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

FINDING OF FACT:

The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on August 4, 2006. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. B-1)

CONCLUSION OF LAW:

The Bureau has **failed** to prove Licensee, by 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, on March 23, 2006.

DISCUSSION:

I make no Findings of Fact regarding the Bureau's investigation or the substance of the violation. I have taken this course because I find the testimony of the Bureau's only witness to the events in question, the minor, to be unworthy of any significant weight.

I do find him to be credible, but the inconsistencies in his testimony, when compared to his responses at an earlier deposition, are such that I do not trust the accuracy of the minor's memory.

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1. Commonwealth Exhibit No. B-2.

The witness told me he purchased one case of Yuengling beer (N.T. 52). In the earlier deposition, he testified that he purchased two cases of Lions Head beer. At the hearing, the witness said there were no other patrons present and only one employe (N.T. 80-81). In the deposition, the minor remembered there were two patrons present as well as several people behind the counter (N.T. 78-80). Lastly, the witness admitted it was easy for him to be confused because of a subsequent car accident (N.T. 83).

ORDER:

NOW THEREFORE, it is ordered that Citation No. 07-0407 issued to Ennie, Inc., License No. D-SS-1219, is hereby DISMISSED.

Dated this 13th day of March, 2008.

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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.**