

Mailing Date: DEC 4 2007

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

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|------------------------------|---|-------------------------|
| PENNSYLVANIA STATE | : | |
| POLICE, BUREAU OF | : | Citation No. 07-0554C |
| LIQUOR CONTROL ENFORCEMENT | : | |
| | : | Incident No. W01-348383 |
| v. | : | |
| | : | LID - 42703 |
| NEW HOAGIE CITY, INC. | : | |
| T/A HOAGIE CITY | : | |
| 2222-28 W. HUNTING PARK AVE. | : | |
| PHILADELPHIA, PA 19140-3884 | : | |
| | : | |
| PHILADELPHIA COUNTY | : | |
| LICENSE NO. R-SS-OPS-359 | : | |

BEFORE: JUDGE THAU

APPEARANCES:

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

For Licensee
John J. McCreesh, III, Esq.
7053 Terminal Square
Upper Darby, PA 19082

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on March 20, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against New Hoagie City, Inc., t/a Hoagie City (Licensee), License Number R-SS-OPS-359.

The citation¹ charges Licensee with a violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)]. The charge is that on February 8, 2007, 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, twenty (20) years of age.

An evidentiary hearing was conducted on October 22, 2007 at the Philadelphia State Office Building, 1400 Spring Garden Street, 13th Floor, Room #2, 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 and completed its investigation on February 8, 2007. (Commonwealth Exhibit No. B-1, 07-0554C, N.T. 9)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on March 1, 2007. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. B-1, 07-0554C, N.T. 9)
3. On February 8, 2007, pursuant to the Bureau's Age Compliance Check program, a twenty year old entered the premises. He purchased a malt beverage without question as to age. (N.T. 9-18)

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.

1. Commonwealth Exhibit No. B-2, 07-0554C, N.T. 9.

PRIOR RECORD:

Licensee has been licensed since August 17, 1998, and has had one prior violation:

Adjudication No. 05-0050. Fine \$1,000.00.
Sales after your Restaurant liquor license expired
and had not been renewed and/or validated.
November 18, 2004.

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 \$1,000.00 or more than \$5,000.00 or both for violations of the type found in this case.

That Section further provides for mandatory compliance with Liquor Code Section 471.1 [47 P.S. §4-471.1], pertaining to Responsible Alcohol Management when, as in this matter, Licensee has been found to have violated Section 493(1) as a first offense as it relates to sales to minors or sales to a visibly intoxicated patron.

I impose a \$1,250.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,250.00 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.

R.A.M.P. Requirements

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. Licensee is directed to initiate contact with The Bureau of Alcohol Education, Pennsylvania Liquor Control Board (Toll Free Telephone No.: 1-866-275-8237; Web Site: www.lcb.state.pa.us; Email Address: LBEducation@state.pa.us), within 30 days of the mailing date of this Adjudication for assistance in the compliance process. Licensee must receive Certification within 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.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 16th day of November, 2007.

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

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. 07-0554C