

Mailing Date: JAN 22 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-0969C
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-346702
v.	:	
	:	LID - 51839
LUCKY SPEROS, INC.	:	
T/A FOUR B'S RESTAURANT &	:	
TAVERN	:	
3245 SUSQUEHANNA TRAIL	:	
YORK, PA 17402-9736	:	
	:	
	:	
YORK COUNTY	:	
LICENSE NO. R-AP-SS-18261	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Andrew J. Lovette, Esquire
Pennsylvania State Police
3655 Vartan Way
Harrisburg, Pa 17110

For Licensee
Michael Aggelis
Manager

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on May 3, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Lucky Speros, Inc., t/a Four B's Restaurant & Tavern (Licensee), License Number R-AP-SS-18261.

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 1, 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 December 6, 2007 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. Licensee was represented by its Manager, Mr. Michael Aggelis.

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 its investigation on January 18, 2007 and completed it on March 31, 2007. (N.T. 18)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on April 23, 2007. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, 07-0969C, N.T. 16)
3. During the course of the investigation, the Bureau of Enforcement visited the premises on seven occasions all of which were in an undercover capacity. (N.T. 19)
4. On February 1, 2007, pursuant to the Bureau's Age Compliance Check program, a twenty year old (born January 20, 1987) entered the premises at dusk. The underage buyer requested a six pack of beer which was served to him by a barmaid. He was not questioned as to age. (N.T. 21-28)

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. C-2, 07-0969C, N.T. 17.

DISCUSSION:

Licensee's video surveillance system confirms the employe did not attempt to check for age because she was busy (N.T. 30-32). Licensee asserts the barmaid's failing was a "mistake." However, as I advised Licensee at the hearing, some mistakes have serious consequences.

PRIOR RECORD:

Licensee has been licensed since September 23, 2003, and has had two prior violations (Commonwealth Exhibit No. C-3, 07-0969C, N.T. 36):

Adjudication No. 05-0122. Fine \$3,600.00.

1. Sales to a minor.
October 23, 2004.
2. Sales to a visibly intoxicated person.
December 19, 2004.
3. Permitted lewd, immoral or improper entertainment.
December 19, 2004.

Adjudication No. 06-2090. Fine \$550.00.

1. Used loudspeakers or devices whereby music could be heard outside.
March 2, 2006.
2. Sales in excess of 192 fluid ounces for consumption off premises.
April 1, 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 \$1,000.00 or more than \$5,000.00 or both for violations of the type found in this case.

I impose a \$1,250.00 fine. Since Licensee is R.A.M.P. certified, effective July 10, 2006 for a period of two years, I now order Licensee to remain in compliance for a period of one year from the mailing date of this Adjudication.

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 must remain in compliance for a period of one year from the mailing date of this Adjudication.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 15th day of January, 2008.

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

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