

Mailing Date: JUN 03 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-1049C
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-349619
	:	
198 HONG INC.	:	
T/A PHIL'S PLACE	:	LID - 51982
198 W. GODFREY AVE.	:	
PHILADELPHIA PA 19120-1516	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-OPS-9099	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

JAMES E. DAILEY, ESQ.

FOR THE LICENSEE:

JOHN J. McCREESH, III, ESQ.

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on May 22, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against 198 Hong, Inc., t/a Phil's Place, License Number R-AP-SS-OPS-9099 (hereinafter "Licensee").

198 Hong, Inc.
t/a Phil's Place
Citation No. 07-1049C

An Administrative hearing was held on Tuesday, January 8, 2008, pursuant to requisite and appropriate hearing notice. The parties stipulated to the service and receipt of the notice letter and the citation.

The citation charges Licensee with violation of Section 493(1) of the Liquor Code, 47 P.S. Section 4-493(1), in that on March 29, 2007, 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, twenty (20) years of age.

FINDINGS OF FACT:

1. Officer Rowe arrived at the licensed premises at approximately 9:15 p.m. as part of an age compliance program. He was accompanied by Underage Buyer No. 106 and several other Enforcement officers who participated in the detail. At approximately 9:15 p.m., the officer walked into the premises and noted that there were eight to ten patrons in the premises. The officer noted that there was a white female tending bar. The officer ordered an alcoholic beverage. A few minutes after the officer entered the premises, the Underage Buyer came into the premises (N.T. 7).

2. The Underage Buyer approached the bar and asked for a twelve ounce bottle of Miller Lite beer. The bartender immediately went to the cooler, grabbed the beer and put it in front of the Underage Buyer. The bartender took the Underage Buyer's money and placed it in the cash register. The Underage Buyer took the beer and departed the premises (N.T. 8).

3. The officer departed the premises at 9:25 p.m. after witnessing service to the Underage Buyer (N.T. 9).

4. The officer returned to the premises with a detail of officers (N.T. 9).

5. The Underage Buyer's stipulated testimony is consistent with the officer's testimony. The buyer was under the age of twenty-one on March 29, 2007 (N.T. 10).

CONCLUSIONS OF LAW:

On March 29, 2007, 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, twenty (20) 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 November 25, 2003, and has no record of prior violations.

198 Hong, Inc.
t/a Phil's Place
Citation No. 07-1049C

DISCUSSION:

Under the circumstances, a monetary penalty shall be imposed and Licensee will be required to attend the Responsible Alcohol Management Program (R.A.M.P.) and be certified by the same.

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, 198 Hong, Inc., t/a Phil's Place, License Number R-AP-SS-OPS-9099, pay a fine of One Thousand Two Hundred Fifty Dollars (\$1,250.00) 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.

Dated this 27th day of May, 2008.

Tania E. Wright, J.

198 Hong, Inc.
t/a Phil's Place
Citation No. 07-1049C

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

Citation No. 07-1049