

Mailing Date: MAR 13 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-1423
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W09-339160
v.	:	
	:	LID - 55875
SOUTHSIDE BAR & GRILLE LTD	:	
1608 S 4 th ST	:	
ALLENTOWN PA 18103-4922	:	
	:	
LEHIGH COUNTY	:	
LICENSE NO. R-AP-SS-5938	:	BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: Roy Harkavy, Esq.
For Licensee: Frank C. Sluzis, Esq.

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on July 9, 2007. The citation alleges that Licensee violated §§401(a) and 407(a) of the Liquor Code, 47 P.S. §§4-401(a) and 4-407(a), on January 28 and March 10, 2007, by selling malt or brewed beverages in excess of 192 fluid ounces in a single sale to one person for consumption off premises.

A hearing was held on January 18, 2008, in Allentown, Pennsylvania. The parties stipulated to the timely service of the notice letter and the citation.

FINDINGS OF FACT:

1. Liquor Control Enforcement Officer David Daza visited the licensed premises in an undercover capacity at about 1:25 a.m. on January 28, 2007. At 1:55 a.m. he saw two men enter the premises and purchase four six-packs of 12-ounce bottles of Corona beer for \$52.00, which was entered in the cash register as a single transaction. The men left the premises with the beer (N.T. 5-9).

2. Officer Daza returned to the premises at 9:50 p.m. on March 10, 2007. At 10:05 p.m. a man entered the premises and removed three six-packs of 12-ounce Miller Genuine Draft bottled beer from the cooler and took them to the bar. The bartender processed the sale as a single credit card transaction, and the patron left the premises with the beer (N.T. 9-11).

3. The sales described above were made in violation of Licensee's policy, which limits patrons to the purchase of two six-packs at a time for off-premises consumption (N.T. 21-22).

4. The Bureau's investigation of the licensed premises began on September 1, 2006, and ended on April 20, 2007. Officer Daza made ten other visits to the premises during this period, but did not observe any other violations of law (N.T. 13-14, Exhibit C-1).

5. Licensee became certified under the provisions of 47 P.S. §4-471.1 on April 27, 2007.

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since December 27, 2005, and has had prior violations, as follows:

Citation No. 06-1908. \$350.00 fine.

1. Gambling (machines). July 5, 2006.

Citation No. 06-2146. \$1,250.00 fine and R.A.M.P. certification mandated.

1. Sales to a minor. July 19, 2006.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine in the \$50.00 to \$1,000.00 range, or both, for violations of this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Southside Bar & Grille, Ltd., License No. R-AP-SS-5938, shall pay a fine of one hundred dollars (\$100.00) within 20 days of the mailing date of this order. In the event the fine is not paid within 20 days, Licensee's license will be suspended or revoked. Jurisdiction is retained.

Dated this 3rd day of March, 2008.

David L. Shenkle, J.

jb

NOTICE: MOTIONS FOR RECONSIDERATION CANNOT BE ACTED UPON UNLESS THEY ARE IN WRITING AND RECEIVED BY THE OFFICE OF ADMINISTRATIVE LAW JUDGE WITHIN 15 DAYS AFTER THE MAILING DATE OF THIS ORDER, ACCOMPANIED BY A \$25.00 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