

Mailing Date: SEP 30 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-1574
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-347055
	:	
CHEERS CAFÉ INC.	:	
2601 E. WESTMORELAND ST.	:	LID - 12092
PHILADELPHIA PA 19134-5217	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-OPS-6048	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

ERIK S. SHMUKLER, ESQ.

FOR THE LICENSEE:

EDWARD B. McHUGH, ESQ.

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on July 24, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Cheers Café, Inc., License Number R-AP-SS-OPS-6048 (hereinafter "Licensee").

Cheers Café, Inc.
Citation No. 07-1574

An Administrative hearing was held on Thursday, September 4, 2008, pursuant to requisite and appropriate hearing notice.

The citation contains two counts.

The first count charges Licensee with violation of Section 5.32(a) of the Liquor Control Board Regulations, 40 Pa. Code Section 5.32(a), in that on March 24, 2007, Licensee, by its servants, agents or employes, used, or permitted to be used on the inside of the licensed premises, a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

The second count charges Licensee with violation of Section 493(1) of the Liquor Code, 47 P.S. Section 4-493(1), in that on April 22, 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) visibly intoxicated male patron.

Licensee was prepared to proceed in this matter. This was the sixth listing, in that the former Bureau officer had been unavailable. By inadvertent error, the Enforcement officer was not properly subpoenaed, the Bureau was unable to go forward with the evidence. Therefore, the matter will be **DISMISSED**.

Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Citation No. 07-1574 regarding Licensee, Cheers Café, Inc., License Number R-AP-SS-OPS-6048, is hereby **DISMISSED**.

In order to insure compliance with this Order, jurisdiction of this matter is retained.

Dated this 29th day of September, 2008.

Tania E. Wright, J.

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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