

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. 07-1616
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-350832
v.	:	
	:	LID - 51631
SIERRA MADRE II, INC.	:	
T/A SIERRA MADRE	:	
4035 MARKET ST.	:	
CAMP HILL, PA 17011-4231	:	
	:	
	:	
CUMBERLAND COUNTY	:	
LICENSE NO. R-AP-SS-20227	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Thomas M. Ballaron, Esquire
Pennsylvania State Police
3655 Vartan Way
Harrisburg, PA 17110

For Licensee
Frank C. Sluzis, Esquire
2000 Linglestown Road
Suite 106
Harrisburg, PA 17110

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on July 19, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Sierra Madre II, Inc., t/a Sierra Madre (Licensee), License Number R-AP-SS-20227.

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 April 12, 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) visibly intoxicated female patron.

An evidentiary hearing was conducted on December 6, 2007 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered. This matter was submitted by way of Agreement of Facts.

FINDINGS OF FACT:

1. The Bureau began its investigation on March 26, 2007 and completed it on June 21, 2007. (N.T. 5)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on June 28, 2007. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 5)
3. During the course of the investigation, a Bureau Enforcement Officer visited the premises on seven occasions in an undercover capacity. (N.T. 8)
4. On the second visit, that being April 12, 2007, an undercover Bureau Enforcement Officer entered the premises at approximately 10:25 p.m. From 10:25 p.m. to 11:30 p.m., the Officer observed a patron with symptoms of visible intoxication. (N.T. 10-17)
5. While in this condition, a bartender served the visibly intoxicated patron an alcoholic beverage. (N.T. 15-17)

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, N.T. 5.

PRIOR RECORD:

Licensee has been licensed since February 1, 2005, and has had one prior violation:

Adjudication No. 06-1870. Fine \$100.00.

Used loudspeakers or devices whereby music
could be heard outside.

May 5, 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.

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 the minimum fine of \$1,000.00 because the Bureau visited the subject premises on seven occasions finding only one violation on one date.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,000.00 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 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

Citation No. 07-1616