

Mailing Date: SEP 12 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-2457
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W06-361841
v.	:	
	:	LID - 48495
CAFÉ BELLISIMO, INC.	:	
T/A DADDY MCFATTY'S	:	
95 QUEEN STREET	:	
NORTHUMBERLAND, PA 17857-1927	:	
	:	
	:	
NORTHUMBERLAND COUNTY	:	
LICENSE NO. R-AP-SS-16493	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Andrew J. Lovette, Esquire

For Licensee
NO APPEARANCE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on October 18, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against CAFÉ BELLISIMO, INC., License Number R-AP-SS-16493 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 5.32(a) of the Liquor Control Board Regulations [40 Pa. Code §5.32(a)] in that on September 20, 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 investigation which gave rise to the citation began on September 20, 2007 and was completed on September 20, 2007; and notice of the violation was sent to Licensee by Certified Mail on September 25, 2007. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on January 24, 2008 in the PA Department of Agriculture, 2130 County Farms Road, Montoursville, Pennsylvania. No one appeared at the hearing on behalf of Licensee. A citation hearing notice was sent to Licensee(s) at its address of record, 95 Queen Street, Northumberland, PA 17857-1927, by certified mail, return receipt requested and by first class mail on December 7, 2007. The notice set forth the date and time of the hearing as January 24, 2008 at 11:30 a.m., and the place of hearing as PA Department of Agriculture, 2130 County Farms Road, Montoursville, PA 17754-9685.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. On September 20, 2007 two officers of the Bureau, while working in the vicinity of the licensed premises, heard loud music emanating from that building (N.T. 8).
2. The officers determined that the music emanating from the licensed premises could be heard at distances up to 50 yards away (N.T. 8).
3. The officers entered the licensed premises and determined that the music that they had heard outside was emanating from a jukebox and was electronically amplified from that source (N.T. 8-9).

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

PRIOR RECORD:

Licensee has been licensed since October 31, 2001, and has had no prior violations. Licensee is, therefore, entitled to be treated as a first time offender.

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 \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

Under the circumstances of this case, the penalty imposed shall be a fine of \$350.00.

ORDER

THEREFORE, it is hereby ordered that Licensee CAFÉ BELLISIMO, INC., pay a fine of \$350.00 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.

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 14th day of August, 2008.

Daniel T. Flaherty, Jr., J.

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MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN 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 submit stub with payment

The fine must be paid by Treasurer's Check, Cashier's Check or Certified Check. **Personal checks, which includes business-use personal checks, are not acceptable.** Make 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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