

Mailing Date: JUNE 17 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-2472
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-356629
v.	:	
	:	LID - 55581
CADEN INC	:	
T/A CADENS IRISH PUB	:	
6053-55 CASTOR AVE	:	
PHILADELPHIA PA 19149-3208	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-OPS-4865	:	BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: Erik S. Shmukler, Esq.

For Licensee: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on October 22, 2007. There are two counts in the citation.

The first count alleges that Licensee violated §437 of the Liquor Code, 47 P.S. §4-437, and §5.41 of the Liquor Control Board Regulations, 40 Pa. Code §5.41, on August 30 and September 6, 2007, by operating the licensed premises without a valid health permit or license.

The second count alleges that Licensee violated §493(12) of the Liquor Code, 47 P.S. §4-493(12), on August 30 and September 6, 2007, by failing to keep records on the licensed premises.

At the hearing scheduled for April 15, 2008, in Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the case was heard *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period June 27 through September 10, 2007, and sent written notice of the results of its investigation to the licensed premises by certified mail on September 27, 2007 (N.T. 9-10, Exhibit B-1).

2. A copy of this citation was mailed to the licensed establishment by certified mail on the date it was issued, but was returned to sender unclaimed. A second copy was mailed on December 7, 2007, and was received at the licensed premises (N.T. 10-11, Exhibit B-2).

3. A Notice of Hearing was mailed to the licensed establishment by the Office of Administrative Law Judge, Harrisburg, PA, by certified and first class mail on March 3, 2008.

4. Liquor Enforcement Officer Justin Clark visited the licensed premises on August 30, 2007, and found it open for business. He could not find a valid health permit or any business records in the premises (N.T. 4-6).

5. Officer Clark returned to the premises on September 6, 2007, at a time when it was open for business. There was still no health permit posted, and no business records were available (N.T. 6-8).

6. Licensee has never applied for a Preparing/Serving Food License (Exhibit B-3).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since January 3, 2006, and has had one prior violation:

Citation No. 06-1832. \$1,550.00 fine and mandatory R.A.M.P. certification.

1. Sales to a minor. June 28, 2006.
2. Not a *bona fide* restaurant (insufficient food). June 28, 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 the type found in this case. Penalties are assessed as follows:

- Count 1 – a fine of \$300.00 plus verification of compliance
- Count 2 – a fine of \$300.00.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Caden, Inc., t/a Cadens Irish Pub, License No. R-AP-OPS-4865, shall pay a fine of six hundred dollars (\$600.00) 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.

IT IS FURTHER ORDERED that Licensee shall, within 20 days of the mailing date of this order, submit a copy of a valid and current health permit. If Licensee fails to submit the health permit within the time allowed, the penalty in this case will be modified to include a suspension of license.

Dated this 5TH day of JUNE, 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