

Mailing Date: OCT 16 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-3130
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-363862
v.	:	
	:	LID - 57975
LA FAMIGLIA PIZZERIA &	:	
SPORTSBAR, LLC	:	
625 MAIN RD.	:	
DALLAS, PA 18612-9001	:	
	:	
	:	
LUZERNE COUNTY	:	
LICENSE NO. R-AP-SS-17494	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Craig Strong, Esquire

For Licensee
NO APPEARANCE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on January 25, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against LA FAMIGLIA PIZZERIA & SPORTSBAR, LLC, License Number R-AP-SS-17494 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 493(28) of the Liquor Code [47 P.S. §4-493(28)] in that on October 28, 2007, James D. Hunter, managing member, consumed alcoholic beverages while tending bar or otherwise serving alcoholic beverages.

The investigation which gave rise to the citation began on October 25, 2007 and was completed on December 17, 2007; and notice of the violation was sent to Licensee by Certified Mail on January 2, 2008. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on July 24, 2008 in the Scranton State Office Building, 100 Lackawanna Avenue, Scranton, 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, 625 Main Rd., Dallas, PA 18612-9001 by certified mail, return receipt requested and by first class mail on June 6, 2008. The notice set forth the date and time of the hearing as July 24, 2008 at 1:00 p.m., and the place of hearing as Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, PA 18503.

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 October 27, 2007 at 11:45 p.m. an officer of the Bureau entered the licensed premises and observed approximately 45 patrons present (N.T. 7).
2. The officer observed James Hunter behind the bar assisting the barmaid with serving drinks (N.T. 7).
3. At 12:15 a.m., now October 28, 2007 the officer observed Mr. Hunter and the barmaid each consume a shot of Dr. McGillicutty's Peppermint Schnapps which they served from a dispenser that they had set up behind the bar (N.T. 7).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since June 14, 2007, and has had one prior violation:

Citation No. 07-1968X. Fine \$150.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

1. Issued worthless checks in payment for purchases of malt or brewed beverages. June 16, 2007.

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 in the amount of \$250.00.

ORDER

THEREFORE, it is hereby ordered that Licensee LA FAMIGLIA PIZZERIA & SPORTSBAR, LLC, pay a fine of \$250.00 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 2nd day of October, 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

Citation No. 07-3130
La Famiglia Pizzeria
& Sportsbar, LLC