

Mailing Date: FEB 06 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-0008C
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W04-366545
	:	
MAGEE INVESTMENT ASSOCIATES	:	
INC	:	LID-54311
T/A BOBBIE MAGEE'S IRISH PUB	:	
2125 MOSSIDE BLVD	:	
MONROEVILLE PA 15146-3510	:	
	:	
ALLEGHENY COUNTY	:	
LICENSE NO. R-AP-SS-16506	:	

BEFORE: JUDGE ROBERT F. SKWARYK

APPEARANCES:

For Bureau of Enforcement:
Emily L. Gustave, Esquire

For Licensee:
Ex Parte

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on January 28, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against Magee Investment Associates, Inc., T/A Bobbie Magee's Irish Pub, License Number R-AP-SS-16506 (hereinafter Licensee).

The citation charges Licensee with violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)], in that on December 15, 2007, Licensee, by its servants, agents or employees, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one (1) female minor, nineteen (19) years of age.

The investigation which gave rise to the citation began on December 15, 2007 and was completed December 17, 2007. The notice of violation letter was mailed to Licensee on December 28, 2007.

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An evidentiary hearing was held on this matter on December 16, 2008, in Pittsburgh, Pennsylvania.

Upon review of the transcript of the hearing and the Pre-Hearing Memorandum, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. Licensee is located in Allegheny County, Pennsylvania and holds Restaurant Liquor License Number R-AP-SS-16506. (N.T. 4).
2. On Saturday, December 15 2007, at approximately 8:42 p.m., an enforcement officer entered the licensed premises and found a barmaid rendering service of alcoholic beverages to two patrons. (N.T. 7)
3. At approximately 8:48 p.m., a female minor entered the licensed premises and ordered and obtained a bottle of Coors Light beer from the barmaid for \$2.75. (N.T. 8)
4. The minor female was not questioned as to her age or asked to provide identification. (N.T. 8)
5. The minor female paid for the beer and exited the premises (N.T. 8)

CONCLUSION OF LAW:

Sustained as charged.

DISCUSSION:

At the hearing held on the matter, the enforcement officer and minor appeared and testified. Licensee did not appear although duly notified of the place and time. I find the Bureau's witness to be credible. As such, the citation is sustained as charged.

PRIOR RECORD:

Licensee has been licensed since May 13, 2005, and has two (2) prior violations, to wit:

Citation No. 08-0472. Fine \$250.00.

1. Issued worthless check in payment for malt or brewed beverages.
November 19, 2007.

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2. Operated the licensed establishment without a valid health permit or license.
August 1, 2007 to January 13, 2008.

Citation No. 08-1176. Fine \$400.00.

1. Failed to require patrons to vacate the premises not later than one-half hour after the required time.
March 30, 2008.
2. Permitted patrons to possess and/or remove alcoholic beverages after 3:30 a.m.
March 30, 2008.

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 count one of this case.

I take administrative notice that Licensee's license expired on May 31, 2008, and is currently inactive.

After due consideration of the circumstances giving rise to the citation and the Licensee's citation history, a fine of \$1,300.00 and deferred mandatory R.A.M.P. training¹ shall be imposed as the penalty in this case.

ORDER:

THEREFORE, it is hereby ordered that Licensee, Magee Investment Associates, Inc., T/A Bobbie Magee's Irish Pub, pay a fine of \$1,300.00 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.

IS FURTHER ORDERED that Licensee, shall comply with the requirements set forth in Liquor Code Section 471.1, pertaining to Responsible Alcoholic Management however, R.A.M.P. training is deferred pending reactivation of Licensee's license at which time the mandatory Responsible Alcoholic Management training will be fixed by further Order.

Failure to comply with this Order will be grounds for modification of penalty in this case, and for that purpose jurisdiction is retained. Failure to comply may also constitute ground for issuance of a new citation as authorized by 47 P.S. §4-471(e).

¹[47 P.S. §4-471(d)], effective June 12, 2006.

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JURISDICTION IS RETAINED UNTIL CASE IS CLOSED.

Dated this 29TH day of JANUARY, 2009.



Robert F. Skwaryk, J.

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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 17110-966

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Magee Investment Associates, Inc.
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