

Mailing Date: FEB 20 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-1155
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W06-372814
v.	:	
	:	LID - 6284
HOTEL IOLA, INC.	:	
T/A HOTEL IOLA	:	
MAIN ST., RD 1	:	
PO BOX 390 IOLA	:	
MILLVILLE, PA 17846-0390	:	
	:	
COLUMBIA COUNTY	:	
LICENSE NO. H-AP-SS-1415	:	

**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 June 26, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against HOTEL IOLA, INC., License Number H-AP-SS-1415 (hereinafter "Licensee").

The citation charges Licensee with violation of Sections 401(a) and 407(a) of the Liquor Code [47 P.S. §§4-401(a) and 4-407(a)] in that on April 28, 2008, Licensee, by its servants, agents or employes, sold malt or brewed beverages in excess of 192 fluid ounces in a single sale to one person for consumption off premises.

The investigation which gave rise to the citation began on April 14, 2008 and was completed on April 28, 2008; and notice of the violation was sent to Licensee by Certified Mail on May 1, 2008. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on December 9, 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, Main St., RD 1, PO Box 390, Iola, Millville, PA 17846-0390 by certified mail, return receipt requested and by first class mail on October 22, 2008. The notice set forth the date and time of the hearing as December 9, 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 April 28, 2008 an officer of the Bureau entered the licensed premises in an undercover capacity (N.T. 8).
2. After approximately 35 minutes, the officer ordered three six-packs of 12-ounce bottles of both Bacardi and Smirnoff malt beverages (totaling 216 fluid ounces) (N.T. 9).
3. The bartender rang up the sale on the cash register, for a total of \$31.50. The officer gave her \$40.00 in cash and received \$8.50 in change. The bartender then told the officer that she could only carry two six-packs out to the car at one time. The officer took two six-packs out to the car and then returned to the premises and carried the third six pack out (N.T. 9).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since April 28, 1987, and has had no prior violation(s) since July 1, 1987, the date of establishment of the Office of Administrative Law Judge. 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 \$250.00.

ORDER

THEREFORE, it is hereby ordered that Licensee HOTEL IOLA, INC., 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 18th day of February, 2009.



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**

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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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Hotel Iola, Inc.