

Mailing Date: MAR 27 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-1664
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-372479
v.	:	
	:	LID - 11067
4 O'S INC	:	
T/A RED LION TAVERN	:	
737 RED LION ROAD	:	
PHILADELPHIA PA 19115-1321	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-SS-OPS-3639	:	BEFORE: JUDGE SHENKLE

APPEARANCES:

For Bureau of Enforcement: Erik S. Shmukler, Esq.  
For Licensee: Edward B. McHugh, Esq.

**ADJUDICATION**

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on July 22, 2008. There are two counts in the citation.

The first count alleges that Licensee violated §493(1) of the Liquor Code, 47 P.S. §4-493(1), on March 18 and May 2, 2008, and on divers other occasions within the past year, by selling, furnishing, and/or giving or permitting such sale, furnishing or giving of alcoholic beverages to two male minors, seventeen and nineteen years of age.

The second count alleges that Licensee violated §493(14) of the Liquor Code, 47 P.S. §4-493(14), on March 18 and May 2, 2008, and on divers other occasions within the past year, by permitting two male minors, seventeen and nineteen years of age, to frequent its licensed premises.

A hearing was held on February 4, 2009, in Plymouth Meeting, Pennsylvania. The parties stipulated to the timely service of the notice letter and the citation.

FINDINGS OF FACT:

1. On March 18, 2008, a man whose birth date was August 30, 1990, purchased four 40-ounce bottles of beer in the licensed premises. He had frequented the premises at least four other times during the preceding year, not accompanied by a parent or guardian. His age was never questioned (N.T. 39-48).

2. Liquor Enforcement Officer Supervisor Frank Spera visited the licensed premises during the evening of May 2, 2008. At about 10:55 p.m. a young-looking man entered the premises through the front door, spent about thirty seconds looking at the contents of the beer cooler, and then went out the back door. He returned two minutes later through the front door, retrieved a 40-ounce bottle of malt liquor from the cooler, and took it to the bar. The bartender asked him for identification. He showed her an identification card which was attached to a lanyard around his neck. She looked at it and then sold the beverage to the man, who left the premises with it (N.T. 4-6).

3. Officer Spera followed the man outside and requested identification. The man showed the identification on the lanyard he was wearing. It was a US Navy Reserve ID card bearing the man's photograph and name, but no date of birth. The man had no other identification on him (N.T. 6-7).

4. The birth date of the man who made this purchase was April 8, 1989 (N.T. 33, 36).

#### CONCLUSIONS OF LAW:

Licensee violated §493(1) of the Liquor Code, 47 P.S. §4-493(1), on March 18 and May 2, 2008, by selling alcoholic beverages to two male minors, seventeen and nineteen years of age.

Licensee violated §493(14) of the Liquor Code, 47 P.S. §4-493(14), on March 18, 2008, and on divers other occasions within the preceding year, by permitting one male minor, seventeen years of age, to frequent its licensed premises.

#### PRIOR RECORD:

Licensee has been licensed since December 17, 1988, and has had two prior violations:

Citation No. 92-1887. \$300.00 fine.

1. Sales to a visibly intoxicated person.

Citation No. 08-0932. \$1,400.00 fine.

1. Sales to a visibly intoxicated person. February 16, 2008.
2. Gambling (machines and sports pool). February 21, 2008.

#### 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 \$1,000.00 to \$5,000.00 range, or both, for violations of the type found in this case. Mandatory R.A.M.P. – certification is required by 47 P.S. §4-471(d) in these circumstances.

The two counts of this citation are merged for penalty purposes.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, 4 O's, Inc., t/a Red Lion Tavern, License No. R-SS-OPS-3639, shall pay a fine of one thousand two hundred fifty dollars (\$1,250.00) 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 comply with the requirements set forth in Liquor Code Section 471.1, pertaining to Responsible Alcohol Management in the following manner. The Licensee is directed to contact the Bureau of Alcohol Education, Pennsylvania Liquor Control Board (toll free telephone: 1-866-275-8237; [www.lcb.state.pa.us](http://www.lcb.state.pa.us)) within thirty (30) days of the mailing date of this adjudication in order to receive assistance in the compliance process. Licensee must receive certification within ninety (90) days of the mailing date of this adjudication. Licensee must remain in compliance for a period of one year from the date such certification is issued. The Bureau of Liquor Control Enforcement is further directed to monitor compliance with this adjudication.

Failure to comply with this order will be grounds for modification of penalty in this case. Failure to comply may also constitute grounds for issuance of a new citation as authorized by Section 471(d) of the Liquor Code, 47 P.S. Section 4-471(d).

Dated this 17th day of March, 2009.

  
David L. Shenle, 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

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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

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4 O's, Inc.