

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. 08-2162
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-374961
v.	:	
	:	LID - 52723
KOOMA INC	:	
149-151 W GAY ST	:	
WEST CHESTER PA 19380-2914	:	
	:	
CHESTER COUNTY	:	
LICENSE NO. R-AP-SS-20020	:	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 September 23, 2008. The citation alleges that Licensee violated §5.32(a) of the Liquor Control Board Regulations, 40 Pa. Code §5.32(a), on June 20 and August 15, 2008, by permitting the use on the inside of the licensed premises of a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

At the hearing scheduled for February 4, 2009, in Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the matter was heard *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period May 23 through August 15, 2008, and sent written notice of the results of its investigation to the licensed premises by certified mail on August 28, 2008 (N.T. 9, Exhibit B-1).

2. A copy of this citation was mailed to Licensee by certified mail on September 23, 2008 (N.T. 10, Exhibit B-2).

3. A Notice of Hearing was mailed to Licensee by the Office of Administrative Law Judge, Harrisburg, PA, by certified and first class mail on December 19, 2008.

4. Liquor Enforcement Officer Edward Gartland visited the licensed premises at about 10:20 p.m. on June 20, 2008. He heard music emanating from it at a distance of fifty feet. He entered the premises and saw that the music was coming from loudspeakers inside (N.T. 4-7).

5. Officer Gartland returned to the premises on August 15, 2008, and made the same observations concerning loudspeaker music as on his previous visit (N.T. 7-9).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since September 16, 2005, and has had one prior violation:

Citation No. 06-1392C. \$1,250.00 fine.

1. Sales to a minor. May 4, 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 this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Kooma, Inc., License No. R-AP-SS-20020, shall pay a fine of four hundred dollars (\$400.00) 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.

Dated this 17th day of March, 2009.



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

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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