

Mailing Date: JUL 30 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-2617
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-380893
v.	:	
	:	LID - 57152
FARJAY CORPORATION	:	
T/A THE BLUE PELICAN	:	
RTE. 65016 DALTON RD.	:	
P.O. BOX 138	:	
LAKE WINOLA, PA 18625	:	
	:	
WYOMING COUNTY	:	
LICENSE NO. R-AP-SS-18892	:	

BEFORE: JUDGE THAU
BUREAU COUNSEL: Craig A. Strong, Esquire
LICENSEE: Joseph G. Price, Esquire and
Judy Price, Esquire

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on November 5, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Farjay Corporation, t/a The Blue Pelican (Licensee), License Number R-AP-SS-18892.

The citation¹ charges Licensee with a violation of Section 5.32(a) of the Pennsylvania Liquor Control Board Regulation [40 Pa. Code §5.32(a)]. The charge is that on October 18, 2008, Licensee, by servants, agents or employees, used, or permitted to be used on the inside of its licensed premises, a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

An evidentiary hearing was conducted on July 2, 2009 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania.

1. Commonwealth Exhibit No. C-2, N.T. 9.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. The Bureau began its investigation on September 8, 2008 and completed it on October 19, 2008. (N.T. 7)

2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on October 22, 2008. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 8)

3. On Saturday, October 18, 2008, a Bureau Enforcement Officer arrived in the area of the premises at approximately 10:00 p.m. The Officer sat in a State vehicle for approximately ten minutes. The Officer heard loud music coming from inside the premises. The Officer heard the music as far away as 200 feet. The Officer entered the premises and noticed the music the Officer heard outside was being provided by two entertainers. The music was electronically amplified. (N.T. 11-13)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.

2. The citation is **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since November 2, 2006, and has had four prior violations, (Commonwealth Exhibit No. C-3):

Adjudication No. 07-2715. Fine \$250.00.

Used loudspeakers or devices whereby music could be heard outside.
October 13, 2007.

Adjudication No. 08-1127. Fine \$350.00.

Used loudspeakers or devices whereby music could be heard outside.
April 26, 2008.

Adjudication No. 08-1434. Fine \$450.00.
Used loudspeakers or devices whereby music could
be heard outside.
May 30, 2008.

Adjudication No. 08-2283. 2 days suspension.
Used loudspeakers or devices whereby music
could be heard outside.
August 29 and 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 \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

Licensee has engaged in extensive remodeling and has placed the premises on the market for sale. Accordingly, I impose a \$650.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$650.00 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.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 23RD day of July, 2009.


Felix Thau, A.L.J.

pm

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

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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FARJAY CORPORATION