

Mailing Date: JUL 29 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-0677
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-390022
v.	:	
	:	LID – 51596
LORDS VALLEY BEER &	:	
BEVERAGE, INC.	:	
T/A LORDS VALLEY BEER &	:	
BEVERAGE	:	
RTE. 739 HC8	:	
BOX 8382	:	
HAWLEY, PA 18428	:	
	:	
PIKE COUNTY	:	
LICENSE NO. D-SS-3543	:	

BEFORE: JUDGE THAU
BUREAU COUNSEL: Craig A. Strong, Esquire
LICENSEE: Thomas E. Mincer, Esquire

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on March 27, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Lords Valley Beer & Beverage, Inc., t/a Lords Valley Beer & Beverage (Licensee), License Number D-SS-3543.

The citation charges Licensee with a violation of Section 471 of the Liquor Code [47 P.S. §4-471] and Section 637.6(a)(2) of the Clean Indoor Air Act [637.6(a)(2)]. The charge is that on February 26, 2009, Licensee, by servants, agents or employes, permitted smoking in a public place where smoking is prohibited.

1. Commonwealth Exhibit No. C-1.

An evidentiary hearing was conducted on July 1, 2009 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania.

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 and completed its investigation on February 26, 2009. (N.T. 12)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on March 9, 2009. The notice alleged a violation as charged in the citation.
3. On February 26, 2009, a Bureau Enforcement Officer entered the premises. The Officer noticed an individual smoking. (N.T. 7-8)

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 September 2, 2003, and has had one prior violation (Commonwealth Exhibit No. C-2):

Adjudication No. 07-1508. Fine \$200.00.

1. Sold and/or possessed cigarettes, packages of which did not have affixed thereto Pennsylvania Cigarette Tax Stamps.
March 27, 2007.
2. Failed to maintain records in conformity with Title 40 of the Pennsylvania Code.
March 27, 2007.

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.

I impose a \$200.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$200.00 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 17TH 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

Citation No. 09-0677
LORDS VALLEY BEER &
BEVERAGE, INC.