

Mailing Date: OCT 19 2009

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-0960
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W04-390673
	:	
THE PITTSBURGH PIRATES INC	:	
317-321 BIGHAM ST	:	LID-43752
PITTSBURGH PA 15211-1433	:	
	:	
	:	
ALLELGHENY COUNTY	:	
LICENSE NO. R-SS-10250	:	

**ADJUDICATION**

**JUDGE:** ROBERT F. SKWARYK

APPEARANCES:

**BUREAU COUNSEL:** Nadia L. Vargo, Esq.

**LICENSEE COUNSEL:** Gildas A. Kaib, Pro Se

BACKGROUND:

This proceeding arises out of a citation that was issued on April 27, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter Bureau) against The Pittsburgh Pirates, Inc., License Number R-SS-10250 (hereinafter Licensee).

The citation charges Licensee with violation of Section 5.51(a) of the Liquor Control Board Regulations [40 Pa. Code §5.51(a)], in that from May 1, 2008 through March 7, 2009, Licensee, by its servants, agents or employees, failed to clean coils, tap rods and connections at least once every seven (7) days.

The investigation which gave rise to the citation began on March 12, 2009 and was completed on March 18, 2009. The notice of violation letter was mailed to Licensee on April 10, 2009.

An evidentiary hearing was held on this matter on September 3, 2009, in Pittsburgh, Pennsylvania.

Upon review of the transcript of the hearing and the Pre-Hearing Memorandum, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. Licensee is a corporation located in Allegheny County, Pennsylvania and holds Restaurant Liquor license number R-SS-10250. (N.T. 4)

2. On March 6, 2009, an enforcement officer visited the licensed premises on another investigation and observed licensee's coil cleaning records. (N.T. 19-20).

3. On Wednesday, March 18, 2009, at 1:30 p.m., the enforcement officer returned to the licensed premises to examine Licensee's records and found that licensee only cleaned their coils approximately twice a month. (N.T. 16-17)

CONCLUSION OF LAW:

Sustained as charged.

DISCUSSION:

At the hearing held on the matter, the enforcement officer testified as to his visiting the licensed premises on March 6, 2009, for an investigation of another licensee, and returned on March 18, 2009, to investigate licensee's coil cleaning records.

Licensee's president appeared without counsel and questioned the procedures used, but did not dispute the facts of the case.

Title 40 Pa. Code, Section 5.51 of the Liquor Control Board Regulations provides as follows:

(a) Coils, tap rods and connection, used in drawing malt or brewed beverages in licensed establishments, shall be thoroughly cleaned at least once every 7 days at the sole expense of the licensee dispensing the beverages on draft. The cleaning of coils, tap rods and connections by one licensee for another licensee is prohibited.

(b) The following methods of cleaning coils, tap rods and connections have been approved by the Board:

(1) Live steam.

(2) Hot water and soda solution, followed by thorough rinsing with hot water.

(2) Another method which thoroughly cleans the coils, tap rods and connections and leaves them in a sanitary condition.

I find the testimony of the officer to be credible. As such, the citation is sustained as charged.

THE PITTBURGH PIRATES, INC.

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PRIOR RECORD:

Licensee has been licensed since March 30, 1999, and has two (2) prior violations; to wit:

Citation No. 03-1973. Fine \$700.00.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on your licensed premises (machines).  
June 28 and October 30, 2003.
2. Failed to appoint a board-approved full-time manager for the licensed premises.  
October 30, 2003.

Citation No. 07-0566C. Fine \$1,400.00 and R.A.M.P. training mandated.

1. Sales to minors.  
December 6, 2006.
2. Minors frequenting.  
December 6, 2006.

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.

After due consideration of the circumstances giving rise to the citation and the Licensee's citation history, a fine of \$200.00 shall be imposed as the penalty in this case.

ORDER:

THEREFORE, it is hereby ordered that Licensee, The Pittsburgh Pirates, Inc., 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.

**JURISDICTION IS RETAINED UNTIL CASE IS CLOSED.**

Dated this 8<sup>TH</sup> day of October, 2009.



Robert F. Skwaryk, J.

THE PITTBURGH PIRATES, INC.

Citation No. 09-0960

**MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER TO 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 Return Stub with Payment

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The fine must be paid by Cashier's Check, Certified Check or Money Order. **Personal and business checks are not acceptable unless bank certified.** 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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The Pittsburgh Pirates, Inc.