

Mailing Date: FEB 08 2010

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

PENNSYLVANIA STATE :
POLICE, BUREAU OF : Citation No. 09-1573
LIQUOR CONTROL ENFORCEMENT :
 : Incident No. W01-391885
v. :
 : LID - 60611
KNP HOLDINGS LLC :
1823 SANSOM ST :
PHILADELPHIA PA 19103-4904 :
 :
PHILADELPHIA COUNTY :
LICENSE NO. R-AP-SS-EHF-4439 :

JUDGE SHENKLE
BLCE COUNSEL: Erik S. Shmukler, Esq.
LICENSEE: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on July 7, 2009. The citation alleges that Licensee violated §5.32(a) of the Liquor Control Board Regulations, 40 Pa. Code §5.32(a), on May 2, 3 and 22, 2009, 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 December 9, 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 March 28 through June 3, 2009, and sent written notice of the results of its investigation to the licensed premises by certified mail on June 11, 2009 (N.T. 11-12, Exhibit B-1).

2. A copy of this citation was mailed to Licensee by certified mail on July 7, 2009 (N.T. 12, Exhibit B-2).

3. A Notice of Hearing was mailed to the licensed establishment by the Office of Administrative Law Judge, Harrisburg, PA, by certified and first class mail on October 23, 2009.

4. On May 2, 2009, a liquor enforcement officer approached the licensed premises on foot and heard loud music emanating from it at a distance of 75 paces. He entered the premises and found that the music he had heard outside was coming from loudspeakers inside the premises.

When he left the premises at 1:00 a.m. the officer again heard the loudspeakers outside at the same distance (N.T. 7-8).

5. On May 22, 2009, the officer heard loud music emanating from the licensed premises at a distance of 25 paces. He entered the premises and found that the music was coming from loudspeakers inside (N.T. 9-10).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since September 26, 2008, and has had no prior violations.

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, KNP Holdings, LLC, License No. R-AP-SS-EHF-4439, shall pay a fine of three hundred dollars (\$300.00) 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 19TH day of January, 2010.



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

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