

Mailing Date: OCT 22 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-1801
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W06-395868
v.	:	
	:	LID - 57519
CHILLIN & GRILLIN ON 93, INC.	:	
T/A CASTAWAYZ	:	
1459 STATE ROUTE 93	:	
BERWICK, PA 18603-5405	:	
	:	
	:	
COLUMBIA COUNTY	:	
LICENSE NO. H-AP-SS-4090	:	

**BEFORE JUDGE FLAHERTY  
BUREAU COUNSEL PIETRZAK  
LICENSEE: GWEN KOWALSKI, PRO SE**

**ADJUDICATION**

**BACKGROUND:**

This proceeding arises out of a citation that was issued on August 6, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against CHILLIN & GRILLIN ON 93, INC., License Number H-AP-SS-4090 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 5.32(a) of the Liquor Control Board Regulations [40 Pa. Code §5.32(a)] in that on July 18, 2009, Licensee, by its servants, agents or employes, used, or permitted to be used on the inside and outside of the licensed premises, a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

The investigation which gave rise to the citation began on June 16, 2009 and was completed on July 20, 2009; and notice of the violation was sent to Licensee by Certified Mail on July 20, 2009. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on August 25, 2010 in the PA Department of Agriculture, 2130 County Farms Road, Montoursville, Pennsylvania.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. On July 18, 2009 an officer of the Bureau arrived at the licensed premises at 12:55 a.m. (N.T. 10).
2. As the officer entered the licensed premises he observed four patrons present (N.T. 10).
3. At 1:35 a.m. there was music playing on the jukebox (N.T. 11).
4. As the officer left the licensed premises he could hear music playing at a high volume in the parking lot (N.T. 11).
5. The officer conducted a sound check and could hear music emanating from the licensed premises at distances up to 300 feet (N.T. 11-12).

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

PRIOR RECORD:

Licensee has been licensed since January 9, 2007, and has had no prior violations. Licensee is, therefore, entitled to be treated as a first time offender.

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.

Under the circumstances of this case, the penalty imposed shall be a fine of \$250.00.

ORDER

THEREFORE, it is hereby ordered that Licensee CHILLIN & GRILLIN ON 93, INC., pay a fine of \$250.00 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 pending final resolution of the penalty in this matter.

Dated this 7<sup>TH</sup> day of October, 2010.



Daniel T. Flaherty, Jr., J.

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**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 submit 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.** Make 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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Chillin & Grillin On 93, Inc.