

Mailing Date: AUG 18 2010

[Appeal](#)

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 09-2448
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-399050
	:	
CADEN INC.	:	
T/A CADENS IRISH PUB	:	LID - 55581
6053-55 CASTOR AVE.	:	
PHILADELPHIA PA 19149-3208	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-4865	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

JAMES E. DAILEY, ESQ.

FOR THE LICENSEE:

EX PARTE

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

Caden, Inc. t/a
Cadens Irish Pub
Citation No. 09-2448

This proceeding arises out of a citation that was issued on October 27, 2009, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Caden, Inc., t/a Cadens Irish Pub, License Number R-AP-4865 (hereinafter "Licensee").

An Administrative hearing was held on Tuesday, February 2, 2010, pursuant to requisite and appropriate hearing notice. Despite notice of the hearing having been sent to the Licensee, the Licensee failed to appear. Therefore, the hearing proceeded *ex parte*.

The citation contains two counts.

The first count charges Licensee with violation of Section 493(1) of the Liquor Code, 47 P.S. Section 4-493(1), in that on August 14 and 15, 2009, and fifteen (15) to twenty (20) unknown dates within the past year, Licensee, by its servants, agents or employees, permitted one (1) male minor, twenty (20) years of age, to frequent the licensed premises.

The second count charges Licensee with violation of Section 471 of the Liquor Code, 47 P.S. Section 4-471, in that on August 15, 2009, Licensee, by its servants, agents or employees, possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on the licensed premises.

COUNT NOS. 1 AND 2

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on August 15, 2009 and ended on September 28, 2009. A notice of violation letter dated October 9, 2009 was sent to the licensed premises by certified mail, return receipt requested. The mailing was signed as received at the licensed premises. A citation dated October 27, 2009 was sent to the licensed premises by certified mail, return receipt requested. The certified mailing was signed as received. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on December 18, 2009 by certified mail, return receipt requested, and by first class mail. That certified mailing was signed as received (N.T. 16-17 and Exhibits B-1 and B-2).

2. Officers from the Citywide Vice Division of the Philadelphia Police Department visited the licensed premises as a part of the detail called Operation Pressure Point which involves several city and state agencies (N.T. 5-6).

3. The officers arrived at the premises at approximately 1:05 a.m. in an undercover capacity. The bar was open and operating. One of the police officers from Citywide Vice Unit purchased a beverage. The officers noted that there were approximately fifty patrons inside (N.T. 6-7).

4. The officers were served Corona beers by a female bartender. The officers walked to the rear of the premises and around the corner where they could see a poker table. The officers noted that there were six to eight patrons at the poker table. The officers believed that they were playing Texas Hold'em, a poker game, where cards are thrown out so that others can match their cards, in order to win. A female appeared to purchase poker chips retrieving them from a cabinet located right next to the table and replacing those chips with money. She returned, gave a male two chips. The female went to a book that was next to the poker table on the shelf. She made a notation in the book and then sat down and continued playing cards (N.T. 7-9).

5. When the male ran out of chips, he went to the female and gave her a hundred dollar bill in U.S. currency. She went back to the cabinet and retrieved more chips and left the money in a cash drawer. She then made another notation (N.T. 9).

6. The officers asked her, "What's the buy in?" She stated that it was fifty dollars (N.T. 9).

7. The officers observed two to three rounds of poker (N.T.9).

8. There was a dealer who was taking chips from losing players (N.T. 10).

9. The officers observed this game from fifteen to twenty minutes (N.T. 10).

10. The officer notified backup as to what he observed and approximately two to five minutes, the other officers entered the premises. The officer displayed his badge and informed them that he was a Philadelphia Police officer (N.T. 10).

11. The officers made four arrests (N.T. 10).

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12. A second officer testified that he too was a member of the Operation Pressure Point investigation working with Citywide Vice and other agencies. This officer was from the Bureau of Enforcement and there to complete a routine inspection report after the initial investigation. The Bureau officer observed gambling on the premises and observed a minor on the premises (N.T. 12).

13. There was an individual in the back of the premises who was described as being a black male, approximately six feet tall and weighing 200 lbs. He presented his driver's license which indicated that his name was K. G. and that he was twenty years of age. His date of birth as it appeared on his driver's license was June 4, 1989. The individual told the officer that he had been there numerous times in the past but on that night, he arrived at the premises at approximately 11:30 p.m. on August 15, 2009. He indicated that he was on the premises fifteen to twenty times in the past. He stated that he was not served alcoholic beverages but had come there to play pool (N.T. 13-14).

14. The officer spoke with the manager, James Ross, with regard to the minor. He indicated that he did know that he came into play pool but that he has never served him any alcoholic beverages (N.T. 14-15).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

Count No. 1 - On August 14 and 15, 2009, and fifteen (15) to twenty (20) unknown dates within the past year, Licensee, by its servants, agents or employes, permitted one (1) male minor, twenty (20) years of age, to frequent the licensed premises, in violation of Section 493(1) of the Liquor Code, 47 P.S. Section 4-493(1).

Count No. 2 - On August 15, 2009, Licensee, by its servants, agents or employes, possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on the licensed premises, in violation of Section 471 of the Liquor Code, 47 P.S. Section 4-471.

PRIOR RECORD:

Licensee has been licensed since January 31, 2006, and has a record of prior violations as follows:

Citation No. 06-1832. \$1,550.00 and one day suspension with thereafter conditions. Suspension vacated.

1. Sales to a minor.

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June 28, 2006.

2. Not a bona fide restaurant in that food items were insufficient.
June 28, 2006.
3. Failed to clean coils at least once every 7 days.
(Dismissed by A.L.J.
Between April 26 and June 28, 2006.

Citation No. 07-2472. \$600.00 fine and Verification conditions corrected. Fine not paid and license suspended one day and thereafter until fine paid. Licensee's Request for Reconsideration modified penalty to \$600.00 fine and one day suspension.

1. Operated the licensed establishment without a valid health permit or license.
August 30 and September 6, 2007.
2. Failed to keep records on the licensed premises.
August 30 and September 6, 2007.

DISCUSSION:

Licensee was R.A.M.P. certified on June 6, 2007, but was not R.A.M.P. certified at the time of this violation. Licensee is not legally required, but is encouraged to get certified for the current period. The minor was not lawfully on the premises, but at no time does it appear that the Licensee served alcoholic beverages, at least there is no evidence to support such an allegation.

After careful consideration of the facts, moderate monetary penalties shall be imposed.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of a fine of not less than \$50.00 or more than \$1,000.00, or both, for violations of the type found in Count No. 2 of this case.

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of a fine of not less than \$1,000.00 or more than \$5,000.00, or both, for violations of the type found in Count No. 1 of this case.

Therefore, penalties shall be assessed as follows:

Count No. 1- \$1,000.00.

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Count No. 2- \$400.00.

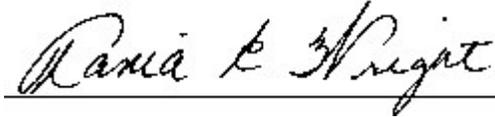
Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, Caden, Inc., t/a Cadens Irish Pub, License Number R-AP-4865, pay a fine of One Thousand Four Hundred Dollars (\$1,400.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

In order to insure compliance with this Order, jurisdiction of this matter is retained.

Dated this 3RD day of AUGUST, 2010.



Tania E. Wright, J.

NOTE: 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.

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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, along with any required documentation, to:

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Cadens Irish Pub
Citation No. 09-2448

PLCB - Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg, PA 17110-9661

Citation No. 09-2448 Caden,
Inc.