

Mailing Date: NOV 4 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-0034
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W06-404220
v.	:	
	:	LID - 48495
CAFÉ BELLISIMO, INC.	:	
T/A DADDY MCFATTYS	:	
95 QUEEN ST.	:	
NORTHUMBERLAND, PA 17857-1927	:	
	:	
	:	
NORTHUMBERLAND COUNTY	:	
LICENSE NO. R-AP-S-16493	:	

**BEFORE JUDGE FLAHERTY  
BUREAU COUNSEL PIETRZAK  
LICENSEE: NO APPEARANCE**

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on January 21, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against CAFÉ BELLISIMO, INC., License Number R-AP-SS-16493 (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 November 14, 25 and 28, 2009, Licensee, by its servants, agents or employes, used, or permitted to be used on the licensed 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 November 23, 2009 and was completed on December 20, 2009; and notice of the violation was sent to Licensee by Certified Mail on December 23, 2009. An Amended notice of violation was sent to Licensee by Certified Mail on December 30, 2009. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on August 12, 2010 in the PA Department of Agriculture, 2130 County Farms Road, Montoursville, Pennsylvania. No one appeared at the hearing on behalf of Licensee. A citation hearing notice was sent to Licensee(s) at its address of record, 95 Queen Street, Northumberland, PA 17857-1927, by certified mail, return receipt requested and by first class mail on June 29, 2010. The notice set forth the date and time of the hearing as August 12, 2010 at 11:45 a.m., and the place of hearing as PA Dept. of Agriculture, 2130 County Farms Road, Montoursville, PA 17754-9685.

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 November 13, 2009, an officer of the Bureau entered the licensed premises at 11:10 p.m. Upon entry the officer observed a bartender rendering service to approximately 30 patrons (N.T. 7).

2. While on the licensed premises, the officer observed a live band using the name Alive and Well. The music provided by the band was amplified through loudspeakers (N.T. 7).

3. The officer departed the licensed premises at 12:02 a.m. on November 14, 2009. He conducted a sound check and could hear music emanating from the licensed premises at distances up to 150 feet (N.T. 7-8).

4. On November 25, 2009 the officer entered the licensed premises at 7:25 p.m. Upon entry the officer observed a female bartender rendering service to one patron.

5. The officer observed that an electric jukebox was playing. He also observed that the front door was propped open (N.T. 8).

6. The officer exited the licensed premises and conducted a sound check. He could hear music emanating from the licensed premises at distances up to 150 feet (N.T. 8-9).

7. On November 28, 2009 at 9:25 p.m. the officer again entered the licensed premises. Upon entry he observed a female bartender rendering service to one patron (N.T. 9).

8. At 10:20 p.m. the officer noted that the jukebox containing loudspeakers was playing (N.T. 9).

9. At approximately 10:50 p.m. the officer exited the licensed premises and could hear music emanating from the licensed premises at distances up to 150 feet (N.T. 9).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since October 31, 2001, and has had one prior violation:

Citation No. 07-2457. Fine \$350.00. Fine not paid and license suspended 1 day and thereafter until fine paid.

1. Used loudspeakers or devices whereby music could be heard outside. September 20, 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.

Under the circumstances of this case, the penalty imposed shall be a fine of \$450.00.

ORDER

THEREFORE, it is hereby ordered that Licensee CAFÉ BELLISIMO, INC., pay a fine of \$450.00 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 15<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

Citation No. 10-0034  
Café Bellisimo, Inc.