

Mailing Date: NOV 04 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-0721
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W05-409488
v.	:	
	:	LID - 61283
THE PHILIPS HOTEL, LLC	:	
200 E. PRESQUEISLE ST.	:	
PHILIPSBURG, PA 16866	:	
	:	
CENTRE COUNTY	:	
LICENSE NO. H-AP-SS-EHF-6163	:	
	:	
	:	

BEFORE: JUDGE THAU
BUREAU COUNSEL: Emily L. Gustave, Esquire
LICENSEE: Faith M. Lucchesi, Esquire

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on April 12, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against The Philips Hotel, LLC (Licensee), License Number H-AP-SS-EHF-6163.

The citation¹ charges Licensee with a violation of Sections 406(a)(3) and 493(16) of the Liquor Code [47 P.S. §4-406(a)(3) and §4-493(16)]. The charge is that on March 14, 2010, Licensee, by servants, agents or employes, sold, furnished and/or gave alcoholic beverages on Sunday between 2:00 A.M. and 11:00 A.M.

An evidentiary hearing was conducted on September 14, 2010 at the Hampton Inn, 180 Charlotte Drive, Altoona, Pennsylvania.

1. Commonwealth Exhibit No. C-2.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. The Bureau began and completed its investigation on March 14, 2010. (N.T. 18)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on March 30, 2010. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 16)
3. A Bureau Enforcement Officer arrived at the premises on March 14, 2010 at 8:35 a.m., a Sunday. The Officer entered the restaurant portion of the premises. There were no patrons present. The Officer was the only “patron” present as he was in an undercover capacity. At 8:43 a.m., a server identified himself to the Officer and asked if he could help him. The Officer requested a beer. The server provided the Officer the beer. (N.T. 19-21) (Commonwealth Exhibit No. C-3)
4. There has been ongoing construction. The premises does not open to the public until later in the morning. It is Licensee’s practice to provide breakfast to guests registered at the hotel, for free. (N.T. 27-28)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. The citation is **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since March 13, 2009, 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 of not less than \$1,000.00 or more than \$5,000.00 or both for violations of the type found in this case.

Given the mitigating factors, I will adopt the Bureau’s recommendation of a \$1,000.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,000.00 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.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 15TH day of October, 2010.



Felix Thau, A.L.J.

pm

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

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THE PHILIPS HOTEL, LLC