

Mailing Date: NOV 12 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-1128C
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-412257
v.	:	
	:	LID -45318
GIZMO INC	:	
T/A GARY'S DEN	:	
25 E BROADWAY AVE	:	
CLIFTON HEIGHTS PA 19018-2305	:	
	:	
DELAWARE COUNTY	:	
LICENSE NO. R-AP-SS-660	:	

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 June 1, 2010. The citation alleges that Licensee violated §493(1) of the Liquor Code, 47 P.S. §4-493(1), on April 30, 2010, by selling, furnishing, and/or giving or permitting such sale, furnishing or giving of alcoholic beverages to one male minor, twenty years of age.

At the hearing scheduled for September 8, 2010, in Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the case was heard *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period April 30 through May 4, 2010, and sent it notice of the results on May 14, 2010 (N.T. 7-8, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on June 1, 2010 (N.T. 8, Exhibit B-2).
3. A Notice of Hearing was mailed to Licensee on July 23, 2010.
4. On April 30, 2010, a man whose birth date was January 11, 1990, entered the licensed premises and asked a bartender for a beer. She asked him for identification. He gave her his genuine Pennsylvania driver's license, proving that he was a minor (N.T. 9-11).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since January 5, 2000, and has had prior violations as follows:

Citation No. 04-0324. \$1,000.00 fine.

1. Minor frequenting. November 23, 2003.
2. Sales to a minor. November 23, 2003.

Citation No. 09-2466. \$1,000.00 fine. Suspended 1 day for late payment.

1. Sales after licensed expired. August 25, 2009.

Citation No. 10-0646. \$400.00 fine and proof of compliance.

1. Operated without a valid health permit. January 21, February 5 and 6, 2010.

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 \$1,000.00 to \$5,000.00 range, or both, for violations of this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Gizmo, Inc., t/a Gary's Den, License No. R-AP-SS-660, shall pay a fine of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) 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 27TH day of October, 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

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Gizmo, Inc.