

Mailing Date: DEC 06 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-1265
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-411175
v.	:	
	:	LID - 50713
KILDARE'S WEST CHESTER INC	:	
18-22 W GAY ST	:	
WEST CHESTER PA 19380-3011	:	
	:	
CHESTER COUNTY	:	
LICENSE NO. R-AP-SS-9557	:	

JUDGE SHENKLE
BLCE COUNSEL: James E. Dailey, Esq.
LICENSEE COUNSEL: Edward B. McHugh, Esq.

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on June 22, 2010. The citation alleges that Licensee violated §13.102(a)(3) of the Liquor Control Board Regulations, 40 Pa. Code §13.102(a)(3), on May 26, 2010, by selling and/or serving an unlimited or indefinite amount of alcoholic beverages for a fixed price, in that unlimited domestic draft beers and/or Circus Boy draft beers were served for the set price of \$15.00.

A hearing was held on September 28, 2010, in Plymouth Meeting, Pennsylvania. The parties stipulated to the timely service of the notice letter and citation.

FINDINGS OF FACT:

On Wednesday, May 26, 2010,* a liquor enforcement officer entered the licensed premises at about 7:10 p.m. and took a seat at the bar. There were about fifteen patrons, attended by two bartenders. There was a place card on the bar advertising events on various days of the week. "Phillies Fantastico" was listed for Wednesday. The officer asked the bartender about it. She said

* The transcript refers to May 25, but this conflicts with the calendar (the 26th was a Wednesday) and the context.

it was "all you could drink" domestic drafts for two hours between 7:00 and 9:00 p.m. with a free appetizer. The officer paid \$15 for this special and ordered a Circus Boy brand draft beer. It was served to him without further charge. He obtained two other servings of this beer during this visit, for no additional charge (N.T. 5-9).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since January 23, 2003, and has had prior violations as follows:

Citation No. 05-1521. \$200.00 fine.

1. Loudspeakers could be heard outside. May 27, 28, June 24 and 25, 2005.

Citation No. 06-1529. \$1,250.00 fine and R.A.M.P. – certification mandated.

1. Sales to a minor. May 4, 2006.

Citation No. 07-0826. \$200.00 fine.

1. Loudspeakers could be heard outside. March 17, 2007

Citation No. 07-2100C. \$2,000.00 fine.

1. Sales to a minor. July 19, 20007.

Citation No. 08-1014C. \$4,000.00 fine.

1. Sales to a minor. March 14, 2008.

Citation No. 10-0523. \$250.00 fine.

1. Discounting in excess of two hours in a business day. February 24, 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 \$50.00 to \$1,000.00 range, or both, for violations of this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Kildare's West Chester, Inc., License No. R-AP-SS-9557, shall pay a fine of three hundred fifty dollars (\$350.00) 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 15TH day of November, 2010.



David L. Shenle, 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