

Mailing Date: SEP 16 2011

[Appeal](#)

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

| | | |
|----------------------------|---|-------------------------|
| PENNSYLVANIA STATE | : | |
| POLICE, BUREAU OF | : | Citation No. 10-1380 |
| LIQUOR CONTROL ENFORCEMENT | : | |
| | : | |
| v. | : | Incident No. W01-413730 |
| | : | |
| 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:

ERIK S. SHMUKLER, ESQ.

FOR THE LICENSEE:

EX PARTE

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

Caden, Inc.
t/a Caden's Irish Pub Citation
No. 10-1380

This proceeding arises out of a citation that was issued on July 13, 2010, 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 Thursday, January 20, 2011, 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 charges Licensee with violation of Section 437 of the Liquor Code, 47 P.S. §4-437, and Section 5.41 of the Liquor Control Board Regulations, 40 Pa. Code §5.41, in that on May 22 and 23, 2010, Licensee, by its servants, agents or employes, operated the licensed establishment without a valid health permit or license, which expired on April 30, 2009.

FINDINGS OF FACT:

1. The Bureau of Enforcement conducted an investigation of the licensed premises which began on May 22, 2010 and ended on June 16, 2010. A notice of violation letter dated June 17, 2010 was sent to the licensed premises by certified mail, return receipt requested. The mailing was signed as received. A citation dated July 13, 2010 was sent to the licensed premises by certified mail, return receipt requested. That certified mailing was signed as received on August 2, 2010. The Office of Administrative Law Judge sent a citation hearing notice to the licensed premises on December 2, 2010 by certified mail, return receipt requested, and by first class mail. That certified mailing was signed as received at the licensed premises on December 4, 2010 (N.T. 10-11 and Exhibits B-1 and B-2).

2. An officer from the Bureau of Enforcement arrived at the licensed premises at approximately 11:35 p.m. on May 22, 2010. When the officer entered the premises, there were approximately thirty-five patrons. The bar was operational and there were bartenders on duty. The officer was accompanied by representatives from the Department of Licenses and Inspections and the Philadelphia Police Department. They entered the premises and identified themselves to a Mr. James Ross who indicated he was the president of the licensed premises. They informed him that they would be conducting an open inspection of the premises (N.T. 7).

3. As a result of the investigation, the officer noted that they had no health permit, that is to say no Food Preparing License from the city of Philadelphia (N.T. 7).

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

Caden, Inc.
t/a Caden's Irish Pub Citation
No. 10-1380

On May 22 and 23, 2010, Licensee, by its servants, agents or employes, operated the licensed establishment without a valid health permit or license, which expired on April 30, 2009, in violation of Section 437 of the Liquor Code, 47 P.S. §4-437, and Section 5.41 of the Liquor Control Board Regulations, 40 Pa. Code §5.41.

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.
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.

Citation No. 09-2448. Revocation.

1. Minor frequenting.
August 14 and 15, 2009.
2. Possessed or operated gambling devices or permitted gambling on the licensed premises. August 15, 2009.

Caden, Inc.
t/a Caden's Irish Pub Citation
No. 10-1380

DISCUSSION:

Certified records from the city of Philadelphia, Department of Licenses and Inspections, indicate that the premises had no valid Preparing and Serving Food License on May 22, 2010 nor the early morning hours of May 23, 2010. The records also indicate that the renewal bill was paid on May 28, 2010. It is noted that Licensee had a prior violation in 2007 for operating without a valid health permit of license.

Under the circumstances, a \$350.00 penalty 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 this case.

Accordingly, we issue the following

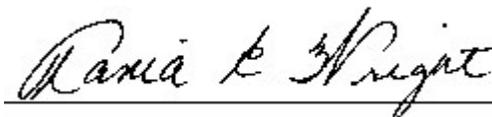
ORDER:

THEREFORE, it is hereby Ordered that Licensee, Caden, Inc., t/a Cadens Irish Pub, License Number R-AP-4865, pay a fine of Three Hundred Fifty Dollars (\$350.00) 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.

IT IS ALSO ORDERED that Licensee, Caden, Inc., t/a Cadens Irish Pub, License Number R-AP-4865, submit a copy of a current and valid health permit within twenty (20) days from the mailing date of this Adjudication. If said documentation is not submitted within twenty (20) days from the mailing date of this Adjudication, Licensee's license shall be suspended for one (1) day and **continuing thereafter** until such documentation is received.

Jurisdiction of this matter is retained.

Dated this 12TH day of September, 2011.



Tania E. Wright, J.

Caden, Inc.
t/a Caden's Irish Pub Citation
No. 10-1380

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.

If you wish to appeal the decision of the Administrative Law Judge's Order, the appeal must be filed within 30 days of the mailing date of the Order. Please contact Chief Counsel's Office at 717-783-9454.

mm

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:

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

Citation No. 10-1380 Caden,
Inc.