

Mailing Date: MAR 08 2011

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

PENNSYLVANIA STATE :  
POLICE, BUREAU OF : Citation No. 10-2047  
LIQUOR CONTROL ENFORCEMENT :  
 : Incident No. W01-415806  
 :  
 v. :  
 : LID - 36153  
 :  
 SOUTH STREET EATERY INC :  
 301 SOUTH ST :  
 PHILADELPHIA PA 19147-1518 :  
 :  
 PHILADELPHIA COUNTY :  
 LICENSE NO. R-AP-SS-EHF-11265 :

JUDGE SHENKLE  
BLCE COUNSEL: Erik S. Shmukler, Esq.  
LICENSEE COUNSEL: Edward B. McHugh, Esq.

**ADJUDICATION**

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on September 28, 2010. The citation alleges that Licensee violated §5.32(a) of the Liquor Control Board Regulations, 40 Pa. Code §5.32(a), on July 7, 2010, by permitting the use on the inside of the licensed premises of a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

A hearing was held on January 13, 2011, in Plymouth Meeting, Pennsylvania. The parties stipulated to the timely service of the notice letter and citation.

FINDINGS OF FACT:

1. On July 7, 2010, liquor enforcement officers visited the licensed premises at about 10:40 p.m. There were two bartenders serving about ten patrons inside the premises. There were also about fifteen patrons in an outside seating area. At about 11:30 p.m. a patron approached the touch screen juke box in the premises. He put money into it and selected music, which began playing through a number of small loudspeakers throughout the establishment (N.T. 5-7)

2. About five minutes later the officers left the licensed premises and walked to a point 20 to 25 feet south of it, at 524 South Third Street. At that location, where there was a cigar shop with three apartments upstairs, the officers heard music coming from Licensee's loudspeakers (N.T. 7).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since January 24, 1996, and has had prior violations as follows:

Citation No. 04-1125. \$300.00 fine.

1. Loudspeakers could be heard outside. May 19, 28 and June 12, 2004.

Citation No. 06-1717. \$400.00 fine.

1. Loudspeakers could be heard outside. May 25, June 10 and 17, 2006.

Citation No. 06-2506. \$800.00 fine.

1. Loudspeakers could be heard outside. September 7, 2006.
2. Furnished more than one free drink per patron. September 20, 2006.
3. Sex discrimination. September 20, 2006.

Citation No. 07-0046. \$2,300.00 fine and R.A.M.P. – certification mandated.

1. Loudspeakers could be heard outside. October 18 and 19, 2006.
2. Sales to a visibly intoxicated patron. October 18, 2006.
3. Sales after license expired. November 16, 17, 30 and December 6, 2006.

Citation No. 07-2052C. \$2,000.00 fine and R.A.M.P. – certification mandated.

1. Sales to minors. May 28 and July 12, 2007.
2. Minors frequenting. May 28 and July 12, 2007.

Citation No. 08-0357. \$2,800.00 fine.

1. Sales after license expired and had not been renewed and/or validated.  
November 2, 21, December 5, 2007, January 7 and 10, 2008.
2. Loudspeakers could be heard outside. September 21 and October 21, 2007.

Citation No. 08-2007. \$200.00 fine.

1. Failed to comply with order mandating R.A.M.P. – certification.  
June 23 through July 23, 2008.

Citation No. 09-1019. Suspension of license for three days.

1. Served alcohol to a visibly intoxicated person. April 3, 2009.

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, South Street Eatery, Inc., License No. R-AP-SS-EHF-11265, shall pay a fine of eight hundred dollars (\$800.00) 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 1<sup>ST</sup> day of February, 2011.



David L. Shenke, 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

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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. 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