

Mailing Date: AUG 12 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-2237
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-415221
	:	
BIG FACES INC.	:	
800 W. VENANGO ST.	:	LID - 46943
PHILADELPHIA PA 19140-4425	:	
	:	
	:	
PHILADELPHIA COUNTY	:	
LICENSE NO. R-AP-SS-13497	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

JAMES E. DAILEY, ESQ.

FOR THE LICENSEE:

EDWARD B. McHUGH, ESQ.

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on October 26, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Big Faces, Inc., License Number R-AP-SS-13497 (hereinafter "Licensee").

An Administrative hearing was held on Thursday, February 3, 2011, pursuant to requisite and appropriate hearing notice. The parties stipulated to the service and receipt of the notice letter and the citation.

The citation charges Licensee with violation of Section 5.32(a) of the Liquor Control Board Regulations, 40 Pa. Code §5.32(a), in that on September 12, 2010, Licensee, by its servants, agents or employes, used, or permitted to be used on the inside of the licensed premises, a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

FINDINGS OF FACT:

1. An officer from the Bureau of Enforcement conducted an investigation of the licensed premises. He visited the premises on September 12, 2010 in conjunction with that investigation at approximately 12:50 a.m. The officer parked the state vehicle about twenty-five feet away from the premises. When exiting the car, the officer heard music coming from the premises. The officer then walked five feet further away from the premises and she could no longer hear the music (N.T. 5-6).

2. The officer then walked towards the premises approximately thirty feet. The officer then entered the premises. She did not recall anyone on duty at that time (N.T. 7).

3. When the officer was inside the premises, she noted that there were approximately twenty patrons. There were two female bartenders on duty. The officer observed a disc jockey located in the rear of the premises behind the pool table. The disc jockey was playing music through amplification and there were speakers throughout the premises (N.T. 7-8).

4. The officer remained inside the premises for approximately forty minutes. During that time, the officer did not purchase any alcoholic beverages. She departed the premises at 1:30 a.m. When she departed the premises, she heard the sound of music approximately twenty-five feet away as she walked back to her car coming from the premises (N.T. 9).

CONCLUSIONS OF LAW:

On September 12, 2010, Licensee, by its servants, agents or employes, used, or permitted to be used on the inside of the licensed premises, a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside, in violation of Section 5.32(a) of the Liquor Control Board Regulations, 40 Pa. Code §5.32(a).

PRIOR RECORD:

Licensee has been licensed since December 7, 2000, and has a record of prior violations as follows:

Citation No. 03-0398. \$500.00 fine and Verification conditions corrected.

1. Operated the licensed establishment without a valid health permit or license.
January 6, 2004.
2. Failed to keep records on the licensed premises.
January 6 and February 11, 2003.

Citation No. 05-0920. \$300.00 fine. Fine not paid and License suspended one day and thereafter until fine paid.

1. Sold, furnished or gave liquor for consumption off premises.
March 18 and April 1, 2005.
2. Used loudspeakers or devices whereby music could be heard outside.
March 18 and April 1, 2005.

Citation No. 07-3061. \$2,000.00 fine and 60 days suspension.

1. Aided, abetted or engaged in the traffic in or sale of a controlled substance on the licensed premises.
September 25, 26 and 27, 2007.
2. Possessed a controlled substance on the licensed premises.
September 25, 26 and 27, 2007.

Citation No. 09-2362. \$500.00 fine.

1. Operated the licensed establishment without a valid health permit or license.
August 23, 2009.

DISCUSSION:

The Licensee had a prior violation involving loudspeakers in 2005. In more recent years, Licensee had had other violations of a very serious nature. The Court notes that this violation occurred on only one occasion and noise could be heard at no more than thirty feet from the premises.

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

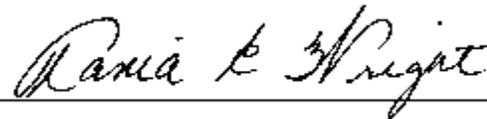
Big Faces, Inc.
Citation No. 10-2237

ORDER:

THEREFORE, it is hereby Ordered that Licensee, Big Faces, Inc., License Number R-AP-SS-13497, pay a fine of Five Hundred Dollars (\$500.00) 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.

Jurisdiction of this matter is retained.

Dated this 8TH day of AUGUST, 2011.



Tania E. Wright, J.

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 filing an appeal, it must be received within 30 days of the mailing date of the Administrative Law Judge's Order. Mail to or contact the PA Liquor Control Board, Office of Chief Counsel, Room 401, Northwest Office Bldg., Harrisburg, PA 17124-0001. Phone No. 717-783-9454.

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Big Faces, Inc.
Citation No. 10-2237

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

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