

Mailing Date: APR 08 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-2307
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-412603
v.	:	
	:	LID - 57470
VICTORS OF YORK, LLC	:	
554 S. OGONTZ ST.	:	
YORK, PA 17403-5709	:	
	:	
YORK COUNTY	:	
LICENSE NO. R-AP-SS-18939	:	
	:	
	:	

BEFORE: JUDGE THAU
BUREAU COUNSEL: John H. Pietrzak, Esquire
LICENSEE: Mark Sindicich – Member
Samuel Yost – Member

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on October 28, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Victors of York, LLC (Licensee), License Number R-AP-SS-18939.

The citation¹ charges Licensee with a violation of Section 5.32(a) of the Pennsylvania Liquor Control Board Regulations [40 Pa. Code §5.32(a)]. The charge is that on May 20, 2010, Licensee, by servants, agents or employes, used or permitted to be used on the inside of its licensed premises, a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

1. Commonwealth Exhibit No. C-2, N.T. 26.

An evidentiary hearing was conducted on March 4, 2011 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. Licensee was represented by its Members, Mr. S. and Mr. Y.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. The Bureau began its investigation on May 7, 2010 and completed it on October 5, 2010. (N.T. 26)
2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on October 19, 2010. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 25)
3. On the date charged, at approximately 9:35 p.m., a Bureau Enforcement Officer arrived in the area of the premises. He departed at 10:10 p.m. to do a sound check to see if the amplified music provided by a live band within the premises could be heard outside. The Officer heard the amplified music coming from the premises as far away as 150 feet. (N.T. 33-37)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. The citation is **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since January 17, 2007, and has had no prior violations (N.T. 45).

PENALTY:

Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or 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.

During a lengthy investigation, which included multiple undercover visits where no violations were found, only one violation was uncovered. Further, Licensee installed soundproofing within its facility. Licensee also placed a line of thirty Arborvitae (evergreens), each approximately eight feet tall to act as a sound barrier (N.T. 41-45).

Accordingly, I impose a \$100.00 fine.

ORDER:

Imposition of Fine

THEREFORE, it is hereby ordered that Licensee pay a fine of \$100.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee's license shall be suspended or revoked.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 1ST day of April, 2011.



Felix Thau, A.L.J.

pm

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

Citation No. 10-2307
VICTORS OF YORK, LLC