

Mailing Date: APR 28 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-2325
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-417516
v.	:	
	:	LID - 55377
3A ENTERPRISE/KIM JOINT	:	
VENTURE	:	
T/A WASABI JAPANESE STEAK	:	
HOUSE	:	
1070 CARLISLE ST.	:	
HANOVER, PA 17331-1101	:	
	:	
YORK COUNTY	:	
LICENSE NO. H-AP-SS-6029	:	

**BEFORE JUDGE FLAHERTY  
BUREAU COUNSEL PIETRZAK  
LICENSEE: NO APPEARANCE**

**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 (hereinafter "Bureau") against 3A ENTERPRISE/KIM JOINT VENTURE, License Number H-AP-SS-6029 (hereinafter "Licensee").

The citation charges Licensee with violation of Sections 401(a) and 406(a)(1) of the Liquor Code [47 P.S. §§4-401(a) and 4-406(a)(1)] in that on August 15, 2010, Licensee, by its servants, agents or employes, sold, furnished and/or gave alcoholic beverages on a portion of the premises not covered by the license.

The investigation which gave rise to the citation began on August 12, 2010 and was completed on October 5, 2010; and notice of the violation was sent to Licensee by Certified Mail on October 19, 2010. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on March 10, 2010 in the Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. No one appeared at the hearing on behalf of Licensee. A citation hearing notice was sent to Licensee(s) at its address of record, 1070 Carlisle Street, Hanover, PA 17331-1101 by certified mail on January 28, 2011. The notice set forth the date and time of the hearing as March 10, 2011 at 2:30 p.m., and the place of hearing as Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, PA 17110-9661.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. Administrative notice is hereby taken that, as of August 15, 2010, the licensed premises for this Licensee consisted of the second floor of the building located at 1070 Carlisle Street, Hanover, PA, and not the first floor.
2. On August 15, 2010, an officer of the Bureau entered the first floor of the building located at 1070 Carlisle Street, Hanover, PA (N.T. 9).
3. Upon entry, the officer observed, on the first floor a female bartender rendering service to 25 patrons. This service was taking place on the first floor (N.T. 9).
4. The officer asked the bartender if any alcohol was available. The bartender stated that all that was available was Corona beer (N.T. 9).
5. The officer ordered a Corona beer. The bartender supplied a 12 ounce bottle of Corona beer and asked for \$5.00 (N.T. 9).
6. After paying for the beer, the officer asked the bartender if he could order any food. The bartender stated that they did not serve food "down here." (N.T. 9).
7. The officer walked over to a portion of the premises that was being used as a dance floor on that evening. He observed patrons in possession of Corona beer. The dance floor was also on the first floor (N.T. 9-10).

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

PRIOR RECORD:

Licensee has been licensed since November 21, 2005, and has had one prior violation:

Citation No. 08-1881. Fine \$100.00.

1. Refused and/or failed to provide the Board with information regarding the involvement of Samm Hotel in the operation of the licensed premises. May 17, 2007 to July 16, 2008.

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.

Under the circumstances of this case, the penalty imposed shall be a fine of \$300.00.

ORDER

THEREFORE, it is hereby ordered that Licensee 3A ENTERPRISE/KIM JOINT VENTURE, pay a fine of \$300.00 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.

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 7<sup>TH</sup> day of April, 2011.



Daniel T. Flaherty, Jr., J.

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**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 submit 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.** Make 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

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3A Enterprise/Kim Joint Venture