

Mailing Date: JUNE 24 2011

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

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|------------------------------|---|-------------------------|
| PENNSYLVANIA STATE | : | |
| POLICE, BUREAU OF | : | Citation No. 10-2571C |
| LIQUOR CONTROL ENFORCEMENT | : | |
| | : | Incident No. W01-418520 |
| v. | : | |
| | : | LID - 44979 |
| DOC'S UNION PUB INC | : | |
| 1843 S 2 nd ST | : | |
| PHILADELPHIA PA 19148-1946 | : | |
| | : | |
| PHILADELPHIA COUNTY | : | |
| LICENSE NO. R-AP-SS-EHF-8197 | : | |

JUDGE SHENKLE
BLCE COUNSEL: James E. Dailey, Esq.
LICENSEE: no appearance

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on December 14, 2010. The citation alleges that Licensee violated §493(1) of the Liquor Code, 47 P.S. §4-493(1), on October 28, 2010, by selling, furnishing, and/or giving or permitting such sale, furnishing or giving of alcoholic beverages to one male minor, eighteen years of age.

At the hearing scheduled for Thursday, April 21, 2011, in Plymouth Meeting, Pennsylvania, there was no appearance for the Licensee; therefore, the case was heard *ex parte*.

FINDINGS OF FACT:

1. The Bureau investigated Licensee during the period July 29 through November 9, 2011, and sent it written notice of the results on November 17, 2010 (N.T. 11, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on December 14, 2010 (N.T. 11, Ex. B-2).
3. A Notice of Hearing was mailed to the Licensee on March 3, 2011.
4. On October 28, 2010, a man whose birth date was November 2, 1991, who was participating in the Bureau's Age Compliance Check program, entered the licensed premises and ordered a can of beer, which was served to him without question. The man then left the premises and a liquor enforcement supervisor immediately entered and informed the bartender that he had served an alcoholic beverage to a minor (N.T. 13-23).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since December 23, 1999, and has had six prior violations:

Citation No. 01-1545. \$400.00 fine.

1. Operated without a health permit. April 28, 2001.

Citation No. 03-0871. \$1,000.00 fine.

1. Sales to minors. February 8 and March 29, 2003.
2. Minors frequenting. February 8 and March 29, 2003.

Citation No. 06-2848C. \$1,500.00 fine.

1. Sales to a minor. September 21, 2006.

Citation No. 07-0778C. \$2,000.00 fine, mandatory R.A.M.P. – certification, 1 day suspension.

1. Sales to minors. November 17 and December 21, 2006.
2. Minors frequenting. November 17 and December 21, 2006.

Citation No. 09-2929. 3 days suspension.

1. Sales on Sunday after 2:00 a.m. and 11:00 a.m. November 29, 2009.
2. Failed to require patrons to vacate premises by the required time. November 19, 2009.
3. Permitted patrons to possess alcoholic beverages after 2:30 a.m. November 29, 2009.

Citation No. 10-0735. \$250.00 fine. Verification of compliance, 4 days suspension, mandatory R.A.M.P. – certification.

1. Operated without a valid health permit. January 15, 22 and February 27, 2010.
2. Sales to minors. January 22, 2010.
3. Minors frequenting. January 22, 2010.

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 \$1,000.00 to \$5,000.00 range, or both, for violations of the type found in this case. Since this is Licensee's fourth violation in a three year period of a provision mentioned in 47 P. S. §4-471(b), the law requires that the penalty include license suspension or revocation.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Doc's Union Pub, Inc., License No. R-AP-SS-EHF-8197, shall pay a fine of three thousand dollars (\$3,000.00) 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.

IT IS FURTHER ORDERED that the Restaurant Liquor License of Licensee, Doc's Union Pub, Inc., License No. R-AP-SS-EHF-8197, shall be suspended for a period of five (5) days BEGINNING at 7:00 a.m. on Saturday, August 27, 2011, and ENDING at 7:00 a.m. on Thursday, September 1, 2011. Jurisdiction is retained.

Licensee is directed on Saturday, August 27, 2011, at 7:00 a.m. to place the enclosed placard of notice of suspension (identified as Form No. PLCB-1925 and as printed with red and black ink) in a conspicuous place on the outside of the licensed premises or in a window plainly visible from outside the licensed premises and to remove said license from the wall and place it in a secure location.

Licensee is advised if replacement placards are needed for any reason they are available at all Pennsylvania Liquor Stores/Wine & Spirits Shoppes.

The Bureau is directed to visit and monitor the premises for compliance with this order.

Licensee is authorized on Thursday, September 1, 2011, at 7:00 a.m. to remove the placard of suspension and return the license to its original wall location.

Dated this 22ND day of JUNE, 2011



David L. Shenkle, 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.

WHETHER OR NOT RECONSIDERATION HAS BEEN REQUESTED, AGGRIEVED PERSONS MAY APPEAL TO THE PLCB, NORTHWEST OFFICE BUILDING, HARRISBURG, PA 17124 WITHIN 30 DAYS AFTER THE MAILING DATE OF THIS ORDER.

THE PLCB CHIEF COUNSEL'S TELEPHONE NUMBER IS 717-783-9454.

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