

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 11-0070
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-419297
v.	:	
	:	LID - 57583
OLDE CITY GROUP LLC	:	
132 CHESTNUT ST	:	
PHILADELPHIA PA 19106-3009	:	
PHILADELPHIA COUNTY :	:	
LICENSE NO. R-AP-SS-13599	:	

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 January 19, 2011. There are two counts in the citation.

The first count alleges that Licensee violated §§406(a)(3) and 493(16) of the Liquor Code, 47 P.S. §§4-406(a)(3) and 4-493(16), on December 12, 2010, by selling, furnishing and/or giving alcoholic beverages between 2:00 a.m. and 11:00 a.m.

The second count alleges that Licensee violated §5.32(a) of the Liquor Control Board Regulations, 40 Pa. Code §5.32(a), on October 30, 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.

At the hearing scheduled for December 1, 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 September 14, 2010, through January 3, 2011, and sent it written notice of the results on January 5, 2011 (N.T. 10-11, Ex. B-1).

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2. A copy of this citation was mailed to Licensee on January 19, 2011 (N.T. 11, Ex. B-2).

3. A Notice of Hearing was mailed to Licensee on October 12, 2011.

4. A liquor enforcement officer arrived in the area of the licensed premises at about 10:00 p.m. on October 30, 2010, and heard music emanating from it at a distance of 25 feet. He entered and found that the source of the music was a DJ, who was using loudspeakers on the walls of the dance floor area (N.T. 12-15).

5. On December 12, 2010, a liquor enforcement officer entered the licensed premises at about 1:40 a.m. There were about 30 patrons. The officer bought beer. At 2:08 a.m. a bartender served bottles of Heineken and Coors Light beer to two patrons. At 2:10 a.m. a woman went behind the bar and prepared a Grey Goose vodka and Sprite mixed drink for herself. At 2:12 a.m. a bartender served a bottle of Yuengling beer to a patron, and collected \$3 for it (N.T. 5-9).

CONCLUSIONS OF LAW:

Licensee violated §§406(a)(3) and 493(16) of the Liquor Code, 47 P.S. §§4-406(a)(3) and 4493(16), on December 12, 2010, by selling, furnishing and/or giving alcoholic beverages between 2:00 a.m. and 11:00 a.m.

Licensee violated §5.32(a) of the Liquor Control Board Regulations, 40 Pa. Code §5.32(a), on October 30, 2010, by permitting the use on the inside of the licensed premises of a loudspeaker, whereby music could be heard outside.

PRIOR RECORD:

Licensee has been licensed since April 18, 2007, and has had prior violations as follows:

Citation No. 10-1797. \$500.00 fine.

1. Loudspeakers could be heard outside. June 18, 2010.
2. Failed to adhere to a conditional licensing agreement. June 18, 2010

Citation No. 10-2217X. \$100.00 fine.

1. Bad checks for malt or brewed beverages. July 23, 2010.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. §4-471, prescribes a penalty of license suspension or revocation or a fine, or both, for violations of the type found in this case. For violations of the type found in Count No. 1 any fine must be in the \$1,000.00 to \$5,000.00 range. For violations of the type found in Count No. 2 any fine must be in the \$50.00 to \$1,000.00 range. Penalties are assessed as follows:

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Count No. 1 – a fine of \$1,000.00.
Count No. 2 – a fine of \$600.00.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Olde City Group, LLC, License No. R-AP-SS-13599, shall pay a fine of one thousand six hundred dollars (\$1,600.00) 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 18TH day of January, 2012.



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

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