

Mailing Date: NOV 04 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 11-0913C
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W01-430074
v.	:	
	:	LID - 63047
TAVA LLC T/A FRESCA PIZZERIA	:	
WOODLYN SHOPPING CTR	:	
1936 MACDADE BLVD	:	
WOODLYN PA 19094-2005	:	
	:	
DELAWARE COUNTY	:	
LICENSE NO. E-SS-2161	:	

JUDGE SHENKLE  
BLCE COUNSEL: James Edward Dailey, Esq.  
LICENSEE COUNSEL: Francis G. Pileggi, Esq.

**ADJUDICATION**

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on May 24, 2011. The citation alleges that Licensee violated §493(1) of the Liquor Code, 47 P.S. §4-493(1), on April 28, 2011, by selling, furnishing, and/or giving or permitting such sale, furnishing or giving of alcoholic beverages to one minor, nineteen years of age.

At the hearing scheduled for September 27, 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 on April 28, 2011, and sent it written notice of the results on May 12, 2011 (N.T.12, Exhibit B-1).
2. A copy of this citation was mailed to Licensee on May 24, 2011 (N.T. 13, Exhibit B-2).
3. A Notice of Hearing was mailed to Licensee's attorney on August 10, 2011.
4. On April 28, 2011, a liquor enforcement officer entered the licensed premises at about 7:54 p.m. A couple of minutes later a young man whose birth date was November 2, 1991, entered

the premises, took a can of beer from a cooler, and approached the counter with it. The counter person asked for identification. The young man showed his valid Pennsylvania driver's license. The counter person looked at it briefly, handed it back, and requested \$2.75 for the beer. The minor paid and left the premises with the beer (N.T. 4-9, Exhibit B-3).

5. Outside the premises, another liquor enforcement officer took possession of the beer and then entered the establishment and informed the counter person that he had sold beer to a minor (N.T. 14).

CONCLUSIONS OF LAW:

Sustained as charged.

PRIOR RECORD:

Licensee has been licensed since March 8, 2010, and has had prior violations, as follows:

Citation No. 10-2191X. \$100.00 fine.

1. Bad checks for malt or brewed beverages. July 27, 2010.

Citation No. 11-0187X. \$150.00 fine. License suspended 1 day for late payment.

1. Bad checks for malt or brewed beverages. November 30, 2010.

Citation No. 11-0539. License suspended 1 day.

1. Sales after license expired. February 19 and 24, 2011.

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. Mandatory R.A.M.P. – certification is required by 47 P.S. §4-471(d) in these circumstances.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Tava, LLC, t/a Fresca Pizzeria, License No. E-SS-2161, shall pay a fine of one thousand two hundred fifty dollars (\$1,250.00) 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 Licensee shall comply with the requirements set forth in Liquor Code Section 471.1, pertaining to Responsible Alcohol Management in the following

manner. The Licensee is directed to contact the Bureau of Alcohol Education, Pennsylvania Liquor Control Board (toll free telephone: 1-866-275-8237; [www.lcb.state.pa.us](http://www.lcb.state.pa.us)) within thirty (30) days of the mailing date of this adjudication in order to receive assistance in the compliance process. Licensee must receive certification within ninety (90) days of the mailing date of this adjudication. Licensee must remain in compliance for a period of one year from the date such certification is issued. The Bureau of Liquor Control Enforcement is further directed to monitor compliance with this adjudication.

Failure to comply with this order will be grounds for modification of penalty in this case. Failure to comply may also constitute grounds for issuance of a new citation as authorized by Section 471(d) of the Liquor Code, 47 P.S. Section 4-471(d).

Dated this 18<sup>TH</sup> day of OCTOBER, 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