

Mailing Date: MAR 14 2012

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

PENNSYLVANIA STATE :
POLICE, BUREAU OF : Citation No. 11-1293
LIQUOR CONTROL ENFORCEMENT :
 : Incident No. W09-430116
 :
 v. :
 : LID - 62389
 :
FREDDY'S PUB LLC :
14-16 MAUCH CHUNK ST :
TAMAQUA PA 18252-1405 :
 :
SCHUYLKILL COUNTY :
LICENSE NO. R-AP-SS-EHF-2649 :

JUDGE SHENKLE
BLCE COUNSEL: Roy Harkavy, Esq.
LICENSEE: Larry Fredrick

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on July 25, 2011. The citation alleges that Licensee violated §5.32(a) of the Liquor Control Board Regulations, 40 Pa. Code §5.32(a), on May 27, June 24 and 25, 2011, 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.

A hearing was held on Friday, February 3, 2012, in Allentown, Pennsylvania. The parties stipulated to the timely service of the notice letter and citation.

FINDINGS OF FACT:

1. On May 27, 2011, a liquor enforcement officer arrived in the area of the licensed premises at 10:15 p.m. and heard music emanating from it. She entered the premises and found that the source of the music was a live band, which was using loudspeakers. At 11:45 p.m. the officer left the premises and continued to hear the music outside, at a distance of 100 feet (N.T. 24-25).

2. On June 24, 2011, the officer again heard music outside the premises at the same distance, produced in the same way, at 11:40 p.m. When she left the premises at 12:35 a.m. on June 25, 2011, she could still hear the band outside, at a distance of 160 feet (N.T. 26-27).

CONCLUSIONS OF LAW:

Licensee violated §5.32(a) of the Liquor Control Board Regulations, 40 Pa. Code §5.32(a), on May 27, June 24 and 25, 2011, 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 January 12, 2010, and has had prior violations as follows:

Citation No. 10-1111. \$1,300.00 fine and R.A.M.P. – certification mandated.

1. Sales to a visibly intoxicated person. April 2, 2010.
2. Loudspeakers could be heard outside. April 4 and 15, 2010.

Citation No. 10-2241C. \$1,250.00 fine.

1. Sales to a minor. August 12, 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 \$50.00 to \$1,000.00 range, or both, for violations of this type.

ORDER

THEREFORE, it is hereby ORDERED that Licensee, Freddy's Pub, LLC, License No. R-AP-SS-EHF-2649, shall pay a fine of three hundred fifty dollars (\$350.00) 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 2ND day of MARCH, 2012.



David L. Shenle, J.

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