

Mailing Date: JAN 14 2014

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

PENNSYLVANIA STATE	:	In re Citation No. 13-1466
POLICE, BUREAU OF	:	
LIQUOR CONTROL ENFORCEMENT	:	BLCE Incident No. W09-458649
	:	
v.	:	PLCB LID No. 65298
	:	
JIMMY O'S SPORTS BAR, LLC	:	PLCB License No. R-AP-SS-3645
101 S. LINE ST.	:	
FRACKVILLE, PA 19731-1902	:	

JUDGE SHENKLE
BLCE COUNSEL: Roy Harkavy, Esq.
LICENSEE COUNSEL: James Conville, Esq.

ADJUDICATION

BACKGROUND:

The Bureau of Liquor Control Enforcement of the Pennsylvania State Police issued this citation on July 19, 2013. The citation alleges that Licensee violated §493(34) of the Liquor Code, 47 P.S. §4-493(34), on June 7 and 8, 2013, 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 beyond licensee's property line.

A hearing was held on November 22, 2013 in Allentown, Pennsylvania. The parties stipulated to the timely service of the notice letter and citation.

FINDINGS OF FACT:

1. On June 7, 2013, a liquor enforcement officer arrived in the area of the licensed premises at 11:45 p.m. At the place where he parked his car, about 100 feet from the licensed premises, he heard music. Upon entering the licensed premises the officer saw that the source of the music was a performance of J&J Acoustic Show, which included the use of a microphone and loudspeakers. When the officer left the premises, at 12:30 a.m. on June 8, 2013, he again heard the music coming from the loudspeakers outside, at a place 50 paces beyond the center of the highway on which the licensed premises is located (N.T. 6-8, 13).

2. Between the date this investigation was assigned, March 14, 2013, and the date of the visit described in the previous finding, other liquor enforcement officers visited the premises and found no violations (N.T. 10).

3. In response to a previous noise violation, Licensee made modifications to the licensed premises intended to contain the sound. Licensee has received no sound complaints from neighbors or the police. When they present live entertainment, it ends at 10:00 p.m. (N.T. 15-20).

CONCLUSIONS OF LAW:

Licensee violated §493(34) of the Liquor Code, 47 P.S. §4-493(34), on June 7 and 8, 2013, by permitting the use on the inside of the licensed premises of a loudspeaker whereby music could be heard beyond licensee's property line.

PRIOR RECORD:

Licensee has been licensed since August 29, 2011, and has had prior violations as follows:

In re Citation No. 12-0127. \$200.00 fine.

1. Loudspeakers could be heard outside. December 2 and 3, 2011.

In re Citation No. 12-0609. \$1,000.00 fine.

1. Sales between 2:00 a.m. and 7:00 a.m. February 18, 2012.

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, Jimmy O's Sports Bar, LLC, License No. R-AP-SS-3645, shall pay a fine of two hundred fifty dollars (\$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.

Dated this 10TH day of January, 2014.



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; Note Citation Number on Check

The fine must be paid by cashier's check, money order, or a check drawn on the business or trust account of an attorney licensed in Pennsylvania. **Personal and business checks are not acceptable unless bank certified.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail it, along with any required documentation, to:

PLCB-Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg PA 17110-9661

In re Citation No. 13-1466
Jimmy O's Sports Bar, Inc.