

Mailing Date: JULY 22, 1999

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 99-0180
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W2-196567
v.	:	
	:	LID - 12524
ANTHONY LABORANTI	:	
T/A NORMANDIE	:	
1225 CAPOUSE AVE	:	
SCRANTON PA 18509-2728	:	
	:	
	:	
LACKAWANNA COUNTY	:	
LICENSE NO. R-7060	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Donald K. Gardner, Esquire
Pennsylvania State Police
8320 Schantz Road
Breinigsville, PA 18031

For Licensee
Christopher T. Powell, Jr.,
Esquire
41 Adams Avenue
Scranton, PA 18503

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on February 12, 1999, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Anthony Laboranti, t/a Normandie (Licensee), License Number R-7060.

This citation contains two counts.

The first count charges Licensee with violations of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)]. The charge is that Licensee, by servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to two (2) male minors twenty (20) years of age, on January 22, 23, 1999 and three (3) unknown dates within the past year.

The second count charges Licensee with violations of Section 493(14) of the Liquor Code [47 P.S. §4-493(1)]. The charge is that Licensee, by servants, agents or employes, permitted two (2) male minors twenty (20) years of age to frequent his licensed premises, on January 22, 23, 1999 and three (3) unknown dates within the past year.

An evidentiary hearing was conducted on June 21, 1999 at the Scranton State Office Building, PUC Hearing Room 318, 100 Lackawanna Avenue, Scranton, Pennsylvania.

After review of the transcript of that proceeding, the following Findings of Fact and Conclusions of Law are entered.

FINDINGS OF FACT:

1. The Bureau began and completed its investigation on January 23, 1999. (N.T. 5).
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on January 28, 1999. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 4)

Count Nos. 1 and 2:

3. A detail of Bureau Enforcement Officers conducted an inspection of the premises on January 23, 1999. They entered at about 12:05 a.m. At 12:15 a.m., the Officers discovered two patrons who they believed to be underage. (N.T. 2-5)
4. One was twenty years old (born November 5, 1978). He entered at approximately 11:00 p.m., January 22, 1999. He ordered a draft beer which was served to him by a bartender without challenge. A second was twenty years old (born June 20, 1978). He entered with the other twenty year old. He had two beers. He was not challenged at anytime. He has been to the premises on three prior occasions. On two of those occasions, he was able to purchase beer. (N.T. 21-22)

1. Commonwealth Exhibit No. C-2, N.T. 4.

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.

Count No. 1:

2. Licensee, by servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to two male minors, twenty (20) years of age, on January 22, 23, 1999 and on two unknown dates within the past year.

3. Count No. 2 is **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since April 26, 1980 and has two prior violations (N.T. 23):

Citation No. 90-0957. Fine \$1,000.00.

1. Minors frequenting.
2. Sales to minors.

Citation No. 93-2304. Fine \$650.00.

Sales to a visibly intoxicated person.
October 16, 1993.

PENALTY:

Section 471 of the Liquor Code [47 P.S. §4-471] prescribes a penalty of license suspension or revocation or a fine of not less than \$1,000.00 or more than \$5,000.00 or both for violations of the type found in Count Nos. 1 and 2 in this case.

I merge Count Nos. 1 and 2 and impose a \$1,000.00 fine.

ORDER:

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,000.00 within 20 days of the mailing date of this Order. In the event the aforementioned fine is not paid within 20 days from the mailing date of this Order, Licensee's license shall be suspended or revoked.

The fine must be paid by Treasurer's Check, Cashier's Check, Certified Check or Money Order. **Personal checks, which include business-use personal checks, are not acceptable.** 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, Pennsylvania 17110-9661

Dated this 16th day of July, 1999.

Felix Thau, A.L.J.

pm