

Mailing Date: OCT 15 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 05-1462
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W06-305247
v.	:	
	:	LID - 19664
COLONIAL HOUSE INN, INC.	:	
T/A RIVERSIDE LOUNGE	:	
125 S. MAIN ST.	:	
MONTGOMERY, PA 17752-1453	:	
	:	
	:	
LYCOMING COUNTY	:	
LICENSE NO. R-AP-SS-18748	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Thomas M. Ballaron, Esquire

For Licensee
NO APPEARANCE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on July 28, 2005, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against COLONIAL HOUSE INN, INC., License Number R-AP-SS-18748 (hereinafter "Licensee").

The citation charges Licensee with violation of Sections 401(a) and 407 of the Liquor Code [47 P.S. §§4-401(a) and 4-407] in that on February 26, 2005, Licensee, by its servants, agents or employes, sold malt or brewed beverages in excess of 192 fluid ounces in a single sale to one person for consumption off premises.

The investigation which gave rise to the citation began on February 1, 2005 and was completed on June 27, 2005; and notice of the violation was sent to Licensee by Certified Mail on June 27, 2005. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on January 18, 2007 in the PA Dept. of Agriculture, 2130 County Farms Road, Montoursville, Pennsylvania. No one appeared at the hearing on behalf of Licensee. A citation hearing notice was sent to Licensee(s) at its address of record, 125 S. Main St., Montgomery, PA 17752-1453 by certified mail, return receipt requested and by first class mail on December 5, 2006. The notice set forth the date and time of the hearing as January 18, 2007 at 10:30 a.m., and the place of hearing as PA Dept. of Agriculture, 2130 County Farms Road, Montoursville, PA 17754-9685.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

FINDINGS OF FACT:

1. On February 26, 2005 an officer of the Bureau entered the licensed premises at about 7:30 p.m. (N.T. 8).
2. At 9:21 p.m. the officer observed a couple enter the licensed premises consisting of one male patron and one female patron. They approached the bar. The male patron requested two 12 packs of 12 ounce bottles of Rolling Rock beer. He then requested two six packs of Bacardi Razz in 12 ounce bottles. Bacardi Razz is a malt beverage (N.T. 8-9).
3. The bartender rang up the total for the entire purchase consisting of 288 fluid ounces. The total came to \$29.00 (N.T. 9).
4. The male patron handed the bartender an undisclosed amount of cash. The bartender went to the cash register, made change and handed the change to the patron (N.T. 9).
5. With the aforementioned transaction completed, the officer departed the premises at 9:40 p.m. (N.T. 9).

CONCLUSION OF LAW:

The charge in the citation is **sustained**

PRIOR RECORD:

Licensee has been licensed since July 9, 1986, and has had three prior violation(s) since July 1, 1987, the date of establishment of the Office of Administrative Law Judge:

Citation No. 92-1921. Fine \$350.00.

1. Permitted entertainers to contact or associate with patrons.
2. Discounted the price of alcoholic beverages between 12:00 midnight and 2:00 a.m.

Citation No. 97-0879. Fine \$300.00.

1. Possessed or operated gambling devices or paraphernalia or permitted gambling or lotteries, poolselling and/or bookmaking on the licensed premises (sports pool).

Citation No. 02-1819. Fine \$1,000.00.

1. Sales after the restaurant liquor license expired on August 31, 2002 and had not been renewed and/or validated.

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 \$50.00 or more than \$1,000.00 or both for violations of the type found in this case.

Under the circumstances of this case, the penalty imposed shall be a fine of \$250.00.

ORDER

THEREFORE, it is hereby ordered that Licensee COLONIAL HOUSE INN, INC., pay a fine of \$250.00 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 or Certified Check. **Personal checks, which includes business-use personal checks, are not acceptable.** Make 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

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 28th day of September, 2007.

Daniel T. Flaherty, Jr., J.

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MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER IN THE OFFICE OF ADMINISTRATIVE LAW JUDGE AND REQUIRE A \$25.00 FILING FEE. A WRITTEN REQUEST FOR RECONSIDERATION MUST BE SUBMITTED WITH THE FILING FEE.