

Mailing Date: JUL 12 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-0677
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-309745
v.	:	
	:	LID - 50218
TONY & MARY'S TAVERN, INC.	:	
T/A LABORANTI'S BAR & GRILL	:	
532-534 PITTSTON AVE.	:	
SCRANTON, PA 18505-1133	:	
	:	
	:	
LACKAWANNA COUNTY	:	
LICENSE NO. R-14629	:	

**BEFORE:** JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement  
Craig Strong, Esquire

For Licensee  
Christopher C. Powell,  
Esquire

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on April 5, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against TONY & MARY'S TAVERN, INC., License Number R-14629 (hereinafter "Licensee").

The citation charges Licensee with violation of Sections 471 and 611 of the Liquor Code [47 P.S. §4-471 and 6-611] in that on February 2, 2006, under your stipulation of No. 2942, 2005, in the Court of Common Pleas of Lackawanna County, you, after the licensed establishment had been ordered closed under a temporary restraining order as a common nuisance and public nuisance at law, were permanently enjoined from using the licensed premises for a period of one year from July 26, 2005.

The investigation which gave rise to the citation began on April 18, 2005 and was completed on February 9, 2006; and notice of the violation was sent to Licensee by Certified Mail on February 17, 2006. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on January 11, 2007 in the Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Pennsylvania.

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 July 26, 2005, the Court of Common Pleas of Lackawanna County issued a preliminary injunction temporarily enjoining and restraining Licensee from utilizing and operating the licensed premises (N.T. Exhibit C-4).

2. On February 2, 2006 the Court of Common Pleas of Lackawanna County ordered and decreed that the temporary restraining order signed by the Court on July 26, 2005 was to become permanent and effective until July 26, 2006 (N.T. C-3).

CONCLUSION OF LAW:

The charge in the citation is **sustained**.

PRIOR RECORD:

Licensee has been licensed since October 8, 2002, and has had two prior violations:

Citation No. 05-0853. Fine \$2,350.00. Fine not paid and license suspended 3 days and thereafter until fine paid.

1. Not a bona fide restaurant in that food items were insufficient and/or failed to provide food upon request. August 17, October 5, November 20, 2004 and April 7, 2005.
2. Sales to minors. August 24, September 16 and 23, 2004.
3. Minors frequenting. August 13, 24, September 2, 9, 16, 23, December 7, 2004 and April 7, 2005.
4. Sold alcoholic beverages on credit in contravention of the provisions of the Liquor Code and Title 40 of the Pennsylvania Code. April 7, 2005.

Citation No. 05-1236. Fine \$1,000.00.

1. Aided, abetted or engaged in the traffic in, or sale of, a controlled substance on the licensed premises. April 18, May 6, 11 and 13, 2005.
2. Possessed a controlled substance on the licensed premises. April 18, May 6, 11 and 13, 2005.

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 this case.

Under the circumstances of this case, the penalty imposed shall be a fine of \$1,000.00.

ORDER

THEREFORE, it is hereby ordered that Licensee TONY & MARY'S TAVERN, INC., 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 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 10<sup>th</sup> day of July, 2007.

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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.**