

Mailing Date: SEP 17 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-1066
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W06-330171
v.	:	
	:	LID - 50290
PANZER HOLDINGS, INC.	:	
T/A PINE GROVE INN & ANGEL	:	
KARE	:	
316 SR 442	:	
P.O. BOX 112	:	
MILLVILLE, PA 17846	:	
	:	
COLUMBIA COUNTY	:	
LICENSE NO. R-AP-SS-19632	:	

**BEFORE:** JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement  
Andrew J. Lovette, Esquire

For Licensee  
NO APPEARANCE

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on May 4, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against PANZER HOLDINGS, INC., License Number R-AP-SS-19632 (hereinafter "Licensee").

The citation contains two counts.

The first count charges Licensee with violation of Section 499(a) of the Liquor Code [47 P.S. §4-499(a)] in that on March 25, 2006, Licensee, by its servants, agents or employes, failed to require patrons to vacate that part of the premises habitually used for the service of alcoholic beverages not later than one-half hour after the required time for the cessation of the service of alcoholic beverages.

The second count charges Licensee with violation of Section 499(a) of the Liquor Code [47 P.S. §4-499(a)] in that on March 25, 2006, Licensee, by its servants, agents or employes, permitted patrons to possess and/or remove alcoholic beverages from that part of the premises habitually used for the service of alcoholic beverages after 2:30 a.m.

The investigation which gave rise to the citation began on March 25, 2006 and was completed on March 25, 2006; and notice of the violation was sent to Licensee by Certified Mail on April 4, 2006. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on October 31, 2006 in the PA Department of Agriculture, 2130 County Farms Road, Montoursville, Pennsylvania. No one appeared on behalf of Licensee. A citation hearing notice was sent to Licensee(s) at its address of record, 316 SR 442, PO Box 112, Millville, PA 17846 by certified mail, return receipt requested and by first class mail on September 14, 2006. The notice set forth the date and time of the hearing as October 31, 2006 at 2:30 p.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:

COUNTS 1 AND 2

1. On March 25, 2006 at 3:15 a.m. an officer of the Bureau was driving past the licensed premises. He observed all the exterior and interior lights of the licensed premises were still on. He counted 11 cars in the parking lot (N.T. 7).

2. The officer turned his automobile around and went back to go inside the licensed premises. He spent approximately five minutes looking through the window and counting the vehicles. While looking in the windows, he observed that the bar was open as it would be for normal business. There were 12 patrons inside, eight of which were seated at the bar. All eight were consuming beverages, while seated at the bar. Two patrons were still playing pool and one patron was at the jukebox, choosing music and playing music inside (N.T. 7).

3. The officer observed that no one was doing any cleaning or work on the premises. The premises was operating as if it was open during normal hours (N.T. 7-8).

4. The officer attempted to enter through the front door which was unlocked. As he opened the door, another patron was coming out, carrying buckets of what appeared to be oyster shells. As the officer tried to go in, he was stopped by the individual carrying the oyster shells. He told the officer he could not go in as the premises was closed. The officer made the comment that it didn't look like the premises was closed, and the other individual told him well he wasn't coming in, they were closed (N.T. 8).

5. The officer identified himself showing his badge. At this point the other individual backed away from the door and let the officer go inside. The officer identified himself to everybody inside the premises and told them he was there because of the fact it was after 3:00. He asked for the bartender or the manager, whoever was there (N.T. 8).

6. As the officer identified himself a female named Georgiana Lynn Brunt came from the kitchen area. As she came through the kitchen door, she had a bottle of Coors Light in her hand, and was consuming out of it (N.T. 8).

7. Brunt asked the officer what he was doing and the officer identified himself to her. She asked the officer if he was joking and he told her no. He then told her he needed to see identification from her and everyone else inside the licensed premises (N.T. 8-9).

8. Eventually Brunt gave the officer her identification. At that point the officer asked Brunt what everybody inside the premises was doing. She said they were all employees. The officer asked to see time cards for these individuals and she admitted that they were not employees. She said they were "a bunch of friends." She also indicated that they were "hanging out," having a quiet time, relaxing and doing whatever (N.T. 9).

9. As the officer was talking to Brunt he counted the beers on the bar. There were five draft beers on the bar. These were beverages the officer had seen people holding. He found five unidentified draft beers, two mixed drinks all of which had the smell of alcohol in them. The two mixed drinks were Captain Morgan rum and Coca Cola. Brunt had her bottle of Coors Light beer that she was consuming from (N.T. 9-10).

10. The officer left the premises at 3:30 a.m. with Brunt the only individual remaining on the licensed premises (N.T. 10-11).

CONCLUSIONS OF LAW:

Counts 1 and 2 of the citation are **sustained**.

PRIOR RECORD:

Licensee has been licensed since October 25, 2002, and has had one prior violation:

Citation No. 04-1510. Fine \$1,250.00.

1. Sales to a visibly intoxicated person. July 29, 2004.

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.

Counts 1 and 2 of the citation arise from the same facts and address the same enforcement interests. They will, therefore, be merged for purposes of imposing a penalty.

Under the circumstances of this case, the penalty imposed shall be a fine of \$500.00.

ORDER

THEREFORE, it is hereby ordered that Licensee PANZER HOLDINGS, INC., pay a fine of \$500.00 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 7<sup>th</sup> day of September, 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.**