

Mailing Date: DEC 28 2006

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-1195
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-324316
v.	:	
	:	LID - 55152
MOLLY'S PUB, INC.	:	
T/A MOLLY'S PUB	:	
253 E. CHESTNUT ST.	:	
LANCASTER, PA 17602-2742	:	
	:	
	:	
LANCASTER COUNTY	:	
LICENSE NO. R-AP-SS-8779	:	

**BEFORE:** JUDGE THAU

APPEARANCES:

For Bureau of Enforcement  
Thomas M. Ballaron, Esquire  
Pennsylvania State Police  
3655 Vartan Way  
Harrisburg, PA 17602-2742

For Licensee  
Anthony J. Maglietta  
President

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on May 18, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Molly's Pub, Inc., t/a Molly's Pub (Licensee), License Number R-AP-SS-8779.

This citation<sup>1</sup> contains four counts.

The first count charges Licensee with a violation of Sections 406(a)(2) and 493(16) of the Liquor Code [47 P.S. §4-406(a)(2) and §4-493(16)]. The charge is that on March 30, 2006, Licensee, by servants, agents or employes, sold, furnished and/or gave alcoholic beverages between 2:00 A.M. and 7:00 A.M.

The second count charges Licensee with a violation of Section 499(a) of the Liquor Code [47 P.S. §4-499(a)]. The charge is that on March 30, 2006, Licensee, by 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 third count charges Licensee with a violation of Section 499(a) of the Liquor Code [47 P.S. §4-499(a)]. The charge is that on March 30, 2006, Licensee, by 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 fourth count charges Licensee with violations of Section 471 of the Liquor Code [47 P.S. §4-471]. The charge is that on January 4 and March 30, 2006, Licensee's licensed premises sold cigarettes without the necessary permit required by law.

An evidentiary hearing was conducted on November 15, 2006 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania. Licensee was represented by its President, Mr. Anthony J. Maglietta.

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 its investigation on December 22, 2005 and completed it on March 30, 2006. (N.T. 7-8)
2. The Bureau sent a notice of alleged violations to Licensee at the licensed premises by certified mail-return receipt requested on April 21, 2006. The notice alleged violations as charged in the citation. (Commonwealth Exhibit No. C-2, N.T. 7)

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1. Commonwealth Exhibit No. C-2, N.T. 7.

Count Nos. 1, 2 and 3:

3. On March 30, 2006, at approximately 12:43 a.m., a Bureau Enforcement Officer entered the licensed premises in an undercover capacity. Licensee's President, Mr. M., was present. Mr. M. advised the Officer the premises was closed. There were three individuals sitting at the bar with drinks watching television. The Officer departed the premises. At 2:00 a.m., the Officer returned to the premises to conduct a surveillance. At 2:45 p.m., the Officer noticed there were two males inside the premises still seated at the bar, watching television with drinks in front of them together with Mr. M. At 2:47 a.m., the Officer entered the premises through an unlocked door and displayed his credentials. The alcoholic beverages in front of the patrons were served at 2:30 a.m. (N.T. 10-15)

Count No. 4:

4. On the dates charged, Licensee sold cigarettes without the required permit. (N.T. 17-18)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. Count Nos. 1, 2, 3 and 4 are **sustained** as charged.

PRIOR RECORD:

Licensee has been licensed since August 2, 2005, and has had no prior violations.

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 No. 1 and 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 Count Nos. 2, 3 and 4 in this case.

As Licensee has since acquired the necessary permit to sell cigarettes, I impose:

- Count Nos. 1, 2 and 3 – merged - \$1,000.00 fine.
- Count No. 4 - \$200.00 fine.

ORDER:

**Imposition of Fine**

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,200.00 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

**Retaining Jurisdiction**

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 19<sup>th</sup> day of December, 2006.

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Felix Thau, A.L.J.

pm

**MOTIONS FOR RECONSIDERATION MUST BE RECEIVED WITHIN 15 DAYS OF THE MAILING DATE OF THIS ORDER TO 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.**