

Mailing Date: JUN 29 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-1413
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-325006
v.	:	
	:	LID - 46214
RODNEY & MOE'S, INC.	:	
T/A RODNEY & MOE'S DEAD DOG	:	
SALOON	:	
55 E. HANOVER ST.	:	
BONNEAUVILLE	:	
GETTYSBURG, PA 17325-7755	:	
	:	
ADAMS COUNTY	:	
LICENSE NO. R-AP-SS-15970	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Thomas M. Ballaron, Esquire

For Licensee
Frank C. Sluzis, Esquire

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on June 15, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against RODNEY & MOE'S, INC., License Number R-AP-SS-15970 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 5.32(a) of the Liquor Control Board Regulations [40 Pa. Code §5.32(a)] in that on February 4, 5, April 15 and May 12, 2006, Licensee, by its servants, agents or employes, used, or permitted to be used on the inside of the licensed premises, a loudspeaker or similar device whereby the sound of music or other entertainment, or the advertisement thereof, could be heard outside.

The investigation which gave rise to the citation began on January 9, 2006 and was completed on May 12, 2006; and notice of the violation was sent to Licensee by Certified Mail on May 26, 2006. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on December 12, 2006 in the Office of Administrative Law Judge, Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, 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 February 4, 2006 into February 5, 2006 Licensee played amplified music inside the licensed premises, and that music could be heard outside the licensed premises at various distances between 80 and 100 feet (Stipulation N.T. 7-8).

2. On April 15, 2006 Licensee played amplified music on the licensed premises. The music was provided by a band which used loudspeakers. The music could be heard outside the licensed premises at distances from 90 to 350 feet (Stipulation N.T. 8).

3. On May 12, 2006 Licensee played amplified music on the licensed premises. This music was provided on a karaoke night. The amplified music could be heard outside the licensed premises at distances from 80 to 170 feet (Stipulation N.T. 8).

CONCLUSION OF LAW:

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

DISCUSSION:

At the hearing in this matter, counsel for the Bureau and counsel for Licensee stipulated to the facts establishing the violation in this case.

PRIOR RECORD:

Licensee has been licensed since August 8, 2000, and has had two prior violations:

Citation No. 05-0152. Fine \$100.00.

1. Issued worthless checks in payment for malt or brewed beverages. December 3, 2004.

Citation No. 05-0568. Fine \$200.00.

1. Issued worthless checks in payment for malt or brewed beverages. December 30 and 31, 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.

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

ORDER

THEREFORE, it is hereby ordered that Licensee RODNEY & MOE'S, 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 27th day of June, 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.