

Mailing Date: MAY 18 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-1469
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-330057
v.	:	
	:	LID - 12669
DUTCHMAID MOTEL, INC.	:	
222 NORTH READING RD.	:	
EPHRATA, PA 17522-1649	:	
	:	
	:	
	:	
LANCASTER COUNTY	:	
LICENSE NO. R-AP-7320	:	

**BEFORE:** JUDGE THAU

APPEARANCES:

For Bureau of Enforcement  
Andrew J. Lovette, Esquire  
Pennsylvania State Police  
3655 Vartan Way  
Harrisburg, PA 17110

For Licensee  
Stephen W. Cody, Esquire  
53 N. Duke Street  
Suite 420  
Lancaster, PA 17602-2859

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on June 22, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Dutchmaid Motel, Inc. (Licensee), License Number R-AP-7320.

The citation<sup>1</sup> charges Licensee with a violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)]. The charge is that on May 5, 2006, Licensee, by servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to two (2) visibly intoxicated male patrons.

An evidentiary hearing was conducted on April 18, 2007 at Brandywine Plaza, 2221 Paxton Church Road, Harrisburg, Pennsylvania.

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 March 28, 2006 and completed it on May 23, 2006. (N.T. 8)

2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on June 2, 2006. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 7)

3. On May 5, 2006, a Bureau Enforcement Officer entered the premises at 12:10 a.m., in an undercover capacity. The Officer observed a customer who was displaying signs of visible intoxication. He was slow and sluggish. His head was down. He was mumbling and wavering. At 12:25 a.m., the customer ordered a draft beer. Later, the bartender poured approximately 1 ½ ounces of Jagermeister into four plastic drink glasses. The bartender topped the remainder of the drinks off with Red Bull. The customer took one of the plastic shot glasses and drank it all in a single gulp. At 12:45 a.m., the customer ordered another draft beer. At 12:50 a.m., the customer ordered another shot of Jagermeister and Red Bull. (N.T. 10-13)

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

4. The customer began banging his fists on the bar. He then became still for a moment and wavered on his barstool. The Officer watched as the customer deteriorated from the quiet demeanor to one becoming more and more loud and boisterous. At 1:05 a.m., the customer ordered another draft beer as well as a shot of Jagermeister and Red Bull. Between 1:05 a.m. and 1:10 a.m., the customer drank the entire beer and the mixed drink. After he finished his drinks, the customer pushed away from the barstool and stumbled backwards. Several other customers helped him to regain his balance. He went from one group of customers to another, speaking with each group. As he walked through the crowd, he bumped into people. Every time he did so, he changed his direction. When the customer got near the Officer, the Officer was able to observe his eyes were bloodshot and barely open. He was swaying. The customer passed by the Officer a second time, banging into her back. He stumbled backwards. He was swaying left and right while approaching two men who were playing darts. He stood between the two men and the dart board. He went up to the two, placed his arms around their shoulders and dropped his weight on them. The two hoisted the customer back up. The customer returned to his seat at the bar. He held up two fingers and asked for two more drinks. The bartender served the customer a shot of Jagermeister at about 1:20 a.m. (N.T. 14-17)

5. The customer continued to display obvious and clear signs of intoxication. The customer was drinking from other people's beer at a table. He departed the premises staggering. (N.T. 17-19)

6. The Officer observed a second customer enter the premises at about 1:15 a.m. The customer was flushed, red in the face. When he walked into the door, he walked directly into the door jamb hitting it with his shoulder. The Officer watched as the second customer staggered towards her taking a seat to her right. He was served a bottle of beer. His eyes were bloodshot. The customer said something that was completely inaudible to the Officer. As he went to pay for the beer, he pulled out some crumbled bills from his pocket and placed them onto the bar. At 1:30 a.m., he pushed the empty beer bottle towards the bartender. The customer was served a second twelve ounce bottle of beer. At 1:40 a.m., the bartender announced last call. The customer had finished one-half of the second beer. The bartender asked if the customer wanted another beer to which the customer replied that he had one too many. (N.T. 19-21)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.
2. The citation is **sustained** as charged.

DISCUSSION:

I find Licensee's staff continuing to serve these two customers to be an outrageous disregard for appropriate standards. It is quite clear Licensee's staff is doing Licensee a great disservice. Serving a customer six drinks in an hour and twenty minutes certainly speaks of an operation which is in great need of help.

PRIOR RECORD:

Licensee has been licensed since May 26, 1969, and has had two prior violation(s) since July 1, 1987, the date of establishment of the Office of Administrative Law Judge, (Commonwealth Exhibit No. C-3):

Adjudication No. 96-1797. 1 day suspension.  
Sales to a visibly intoxicated person.

Adjudication No. 98-0367. Fine \$200.00.  
Not a bona fide restaurant in that food items  
and eating utensils were insufficient.

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.

The Bureau requested that I impose a rather severe fine because of the severity of the conduct in question. I choose not to do so as Licensee has been successful in avoiding a similar violation in eleven years. Furthermore, it was Licensee's staff that engaged in the conduct. I suspect the true cost of this proceeding, including counsel fees, time off from work and etc., is well in excess of the Bureau's recommendation.

Accordingly, I impose a \$1,500.00 fine. I also order Licensee to comply with the requirements set forth in Liquor Code Section 471.1 [47 P.S. §4-471.1], pertaining to Responsible Alcohol Management, for a period of one year.

ORDER:

**Imposition of Fine**

THEREFORE, it is hereby ordered that Licensee pay a fine of \$1,500.00 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, 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

**R.A.M.P. Requirements**

IT IS FURTHER ORDERED that Licensee shall comply with the requirements set forth in Liquor Code Section 471.1 pertaining to Responsible Alcohol Management in the following manner. Licensee is directed to initiate contact with The Bureau of Alcohol Education, Pennsylvania Liquor Control Board (Toll Free Telephone No.: 1-866-275-8237; Web Site: [www.lcb.state.pa.us](http://www.lcb.state.pa.us); Email Address: [LBEducation@state.pa.us](mailto:LBEducation@state.pa.us)), within 30 days of the mailing date of this Adjudication for assistance in the compliance process. Licensee must receive Certification within 90 days of the mailing date of this Adjudication. Licensee must remain in compliance for a period of one year from the date such Certification was issued.

**Retaining Jurisdiction**

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 14th day of May, 2007.

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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.**