

Mailing Date: MAR 02 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-1818
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-335017
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 THAU

APPEARANCES:

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

For Licensee  
Frank C. Sluzis, Esquire  
2148 Deodate Road  
Elizabethtown, PA 17022

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on August 3, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Rodney & Moe's, Inc., t/a Rodney & Moe's Dead Dog Saloon (Licensee), License Number R-AP-SS-15970.

The citation<sup>1</sup> charges Licensee with a violation of Section 499(a) of the Liquor Code [47 P.S. §4-499(a)]. The charge is that on June 25, 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.

An evidentiary hearing was conducted on January 17, 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 June 22, 2006 and completed it on June 25, 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 July 14, 2006. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 6)

3. A Bureau Enforcement Officer was a customer at the premises on June 25, 2006, in an undercover capacity. He arrived at approximately 1:05 a.m. Last call was announced at 1:50 a.m. The Officer departed the premises at 2:10 a.m., with six people remaining. The Officer took a position across the street in his unmarked State vehicle to conduct surveillance. From 2:13 a.m. until 2:40 a.m., the Officer noted two people exited the premises. The Officer returned to the premises at 2:43 a.m. All doors were locked. The Officer placed his ear to the large metal kitchen door. He heard voices inside. He knocked on the door at 2:45 a.m. He attempted to gain entry by indicating he was a patron and that he left his cell phone inside. He received no response. The Officer identified himself in an official capacity. At 2:48 a.m., the side door was opened. The Officer introduced himself. The Officer was invited into the premises. In addition to the person who opened the door, there were three other people inside the premises. (N.T. 8-11)

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1. Commonwealth Exhibit No. C-1, N.T. 6.

4. Licensee's Corporate President Ms. B. was inside the premises. She heard the Officer attempting to get in to retrieve his cell phone. Those inside were just getting ready to leave. Typically, there are two women who depart the premises by themselves on Friday and Saturday nights. Ms. B. was concerned about the safety of her personnel. She went to look for the cell phone. The Officer then announced that he was an official. Once Ms. B. was satisfied that the individual outside was a government official, she had someone let the Officer come in. There were six people present. One was Ms. B.'s boyfriend who was helping to clean up the premises and get the customers out. Her boyfriend's daughter was also helping to clean up as well as the three remaining individuals. As there was a burglary at the premises, Ms. B. was concerned for the safety of her personnel. All six individuals intended to leave together. (N.T. 19-23)

CONCLUSIONS OF LAW:

1. The notice requirements of Liquor Code Section 471 [47 P.S. §4-471] have been satisfied.

2. The Bureau **failed** to prove that on June 25, 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.

DISCUSSION:

I find Ms. B's testimony to be credible. All six had just finished cleaning the premises and were about to leave when the Officer interrupted the process. Moreover, I find the presence of individuals for security or safety purposes, both within and immediately outside the licensed premises, to be within the definition of an "employment related activity."

ORDER:

NOW THEREFORE, it is ordered and decreed that Citation No. 06-1818, issued against Rodney & Moe's, Inc., t/a Rodney & Moe's Dead Dog Saloon, License No. R-AP-SS-15970, is DISMISSED.

Dated this 22<sup>nd</sup> day of February, 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.**