

Mailing Date: AUG 10 2007

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 06-1882
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W07-327734
v.	:	
	:	LID - 19544
AL-JAN, INC.	:	
T/A PATTI'S RESTAURANT	:	
552 PHILADELPHIA ST.	:	
INDIANA, PA 15701-3928	:	
	:	
	:	
INDIANA COUNTY	:	
LICENSE NO. R-AP-SS-18607	:	

BEFORE: JUDGE THAU

APPEARANCES:

For Bureau of Enforcement
Nadia L. Vargo, Esquire
Pennsylvania State Police
313 Mt. Nebo Road
Pittsburgh, PA 15237-1305

For Licensee
Christopher S. Welch, Esq.
836 Philadelphia Street
Indiana, PA 15701

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on August 11, 2006, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (Bureau) against Al-Jan, Inc., t/a Patti's Restaurant (Licensee), License Number R-AP-SS-18607.

The citation¹ charges Licensee with a violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)]. The charge is that on March 31, 2006, Licensee, by servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one (1) visibly intoxicated male patron.

An evidentiary hearing was conducted on July 19, 2007 at the Hampton Inn, 180 Charlotte Drive, Altoona, 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 13, 2006 and completed it on July 14, 2006. (N.T. 9)

2. The Bureau sent a notice of an alleged violation to Licensee at the licensed premises by certified mail-return receipt requested on July 19, 2006. The notice alleged a violation as charged in the citation. (Commonwealth Exhibit No. C-1, N.T. 8)

3. On March 31, 2006, a Bureau Enforcement Officer entered the licensed premises in an undercover capacity at about 8:50 p.m. The Officer took a position at the bar and began a conversation with a customer seated immediately to his right. The Officer noticed the customer's speech was slurred. His eyes were half closed and bloodshot. During a conversation, he jumped from one subject to another. He was drinking from a glass of beer. After he finished his beer, the customer pushed the glass to the bar. He leaned over the bar and waved a dollar bill at the bartender. The bartender came to the customer's position. The customer said: "I'll have another one." The bartender looked at him, looked at the Officer, poured draft beer into a glass and brought it to the customer saying: "This is your last one and you're done." (N.T. 10-13)

4. The customer continued to manifest signs of visible intoxication. He finished his beer. At approximately 9:30 p.m., the customer departed the premises. (N.T. 13-17)

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.

1. Commonwealth Exhibit No. C-2, N.T. 8.

PRIOR RECORD:

Licensee has been licensed since September 12, 1986, and has had eight 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. 91-2792. Fine \$1,000.00.
Sales to a minor.

Adjudication No. 92-0011. Fine \$500.00.
1. Used loudspeakers or devices whereby music could be heard outside.
2. Noisy and/or disorderly operation.

Adjudication No. 92-1197. Fine \$2,000.00 and 3 days suspension.
Sales to minors.

Adjudication No. 92-1373. Fine \$500.00 and 2 days suspension.
Used loudspeakers or devices whereby music could be heard outside.

Adjudication No. 97-1476. Fine \$1,200.00.
Sales to a minor.
January 21 and 22, 1997.

Adjudication No. 98-2147. Fine \$1,500.00.
Sales to a minor.
July 9, 1998.

Adjudication No. 01-2262. Fine \$350.00.
1. Failed to require patrons to vacate the premises not later than one-half hour after the required time.
October 6, 2001.
2. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 A.M.
October 6, 2001.

Adjudication No. 05-2359. Fine \$750.00.

1. Failed to require patrons to vacate the premises not later than one-half hour after the required time. October 9, 2005.
2. Permitted patrons to possess and/or remove alcoholic beverages after 2:30 A.M. October 9, 2005.

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.

I impose a \$1,200.00 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 \$1,200.00 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

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; Email Address: 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 is issued.

Retaining Jurisdiction

Jurisdiction is retained to ensure compliance with this Adjudication.

Dated this 9th day of August, 2007.

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.