

Mailing Date: SEP 12 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-2035
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W03-357897
v.	:	
	:	LID - 58068
RED BOND, LLC	:	
T/A ROLLING MILL TAVERN	:	
11657 BUCHANAN TRAIL E	:	
WAYNESBORO, PA 17268-9437	:	
	:	
	:	
FRANKLIN COUNTY	:	
LICENSE NO. R-AP-SS-17543	:	

**BEFORE:** JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement  
Andrew J. Lovette, Esquire

For Licensee  
Clinton Barkdoll, Esquire

**ADJUDICATION**

BACKGROUND:

This proceeding arises out of a citation that was issued on August 30, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against RED BOND, LLC, License Number R-AP-SS-17543 (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 July 21, 2007, Licensee, by its servants, agents or employees, 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 July 20, 2007 and was completed on July 21, 2007; and notice of the violation was sent to Licensee by Certified Mail on August 15, 2007. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on February 11, 2008 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 July 21, 2007 at 7:30 p.m., an officer of the Bureau arrived at the licensed premises. Upon pulling into the parking lot the officer heard the sound of music coming from the rear portion of the licensed premises (N.T. 8).

2. The officer drove through the parking lot of the licensed premises to the rear portion of the premises where he observed outside of the premises an elevated stage. There was a band performing on this stage which consisted of an electric guitarist, an electric keyboardist, an electric bassist and a drummer (N.T. 8-9).

3. The officer also observed that all of the members of the band were singing into microphones. The music that was being produced was amplified through loudspeakers (N.T. 8-9).

4. The officer drove his vehicle back to the front of the parking lot for the licensed premises. He reset the trip odometer of his vehicle, and drove 4/10 of a mile to the parking lot of a Walmart store where he could still hear music emanating from the licensed premises (N.T. 10).

5. The officer then returned back to parking lot of the licensed premises, reset his trip odometer and drove 2/10 of a mile in a southerly direction where he was still able to hear music from the band that was performing (N.T. 10).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since May 11, 2007, and has had no prior violations. Licensee is, therefore, entitled to be treated as a first time offender.

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 RED BOND LLC, 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.

Jurisdiction is retained pending final resolution of the penalty in this matter.

Dated this 27th day of August, 2008.

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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.**

**Detach here and submit stub with payment**

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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

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