

Mailing Date: SEP 24 2008

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 07-2151 &
LIQUOR CONTROL ENFORCEMENT	:	07-2664
	:	(consolidated for hearing
	:	purposes)
	:	
v.	:	Incident No. W06-355729
	:	W06-362906
	:	
	:	LID - 55938
CASEMANS NEW SHORE ACRES,	:	
INC.	:	
5647 RT. 87 HWY.	:	
WILLIAMSPORT, PA 17701	:	
	:	
	:	
LYCOMING COUNTY	:	
LICENSE NO. R-AP-SS-14986	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Andrew J. Lovette, Esquire

For Licensee
Michael A. Caseman
PRO SE

ADJUDICATION

BACKGROUND:

Citation No. 07-2151

This proceeding arises out of a citation that was issued on September 14, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against CASEMANS NEW SHORE ACRES, INC., License Number R-AP-SS-14986 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)] in that on December 17, 2006, Licensee, by its servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one female minor, and one male minor, nineteen years of age.

The investigation which gave rise to the citation began on June 7, 2007 and was completed on July 02, 2007; and notice of the violation was sent to Licensee by Certified Mail on August 16, 2007. The notice of violation was received by Licensee.

Citation No. 07-2664C

This proceeding arises out of a citation that was issued on November 21, 2007, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against CASEMANS NEW SHORE ACRES, INC., License Number R-AP-SS-14986 (hereinafter "Licensee").

The citation charges Licensee with violation of Section 493(1) of the Liquor Code [47 P.S. §4-493(1)] in that on October 10, 2007, Licensee, by its servants, agents or employes, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one male minor, nineteen years of age.

The investigation which gave rise to the citation began on October 10, 2007 and was completed on October 12, 2007; and notice of the violation was sent to Licensee by Certified Mail on October 22, 2007. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on February 5, 2008 in the PA Department of Agriculture, 2130 County Farms Road, Montoursville, Pennsylvania.

Upon review of the transcript of this hearing, we make the following Findings of Fact and reach the following Conclusions of Law:

CITATION NO. 07-2151

FINDINGS OF FACT:

1. D.L. was born on October 19, 1987, and, on December 17, 2006, he was under 21 years of age (N.T. 13).
2. C.L. was born on October 11, 1987, and, on December 17, 2006, she was under 21 years of age (N.T. 21).

3. On December 17, 2006, D.L. and C.L. entered the licensed premises together (N.T. 15 and 22).

4. Upon entry, the aforementioned minors went to the bar where they both ordered beer (N.T. 15 and 24).

5. Both of the aforementioned minors were served alcoholic beverages while on the licensed premises (N.T. 15 and 25).

6. Neither of the aforementioned minors was asked for identification while on the licensed premises (N.T. 16 and 24).

CONCLUSION OF LAW:

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

CITATION NO. 07-2664C

FINDINGS OF FACT:

7. On October 10, 2007, a male patron whose date of birth is November 1, 1987, and who was under 21 years of age entered the licensed premises at 6:15 p.m. (N.T. 13-14).

8. The aforementioned minor approached the bar. When the bartender asked what he wanted he said, "Miller". The bartender obtained a glass and filled it from the tap and brought it back to the minor (N.T. 14).

9. The bartender told the minor that the cost of the beer was \$1.50. The minor gave the bartender a \$20.00. The bartender took the \$20.00 and brought back change to the minor (N.T. 14).

10. The minor took physical possession of the beer and then put it down on the bar and left the premises (N.T. 15).

CONCLUSION OF LAW:

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

PRIOR RECORD:

Licensee has been licensed since January 27, 2006, 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 \$1,000.00 or more than \$5,000.00 or both for violations of the type found in this case.

That Section further provides for mandatory compliance with Liquor Code Section 471.1 [47 P.S. §4-471.1], pertaining to Responsible Alcohol Management when, as in this matter, Licensee has been found to have violated Section 493(1) as a first offense as it relates to sales to minors or sales to a visibly intoxicated patron.

Under the circumstances of this case, the penalty imposed shall be as follows:

Citation No. 07-2151 - \$1,250.00 fine and mandatory RAMP training
Citation No. 07-2664 - \$1,250.00 fine and mandatory RAMP training

ORDER

THEREFORE, it is hereby ordered that Licensee CASEMANS NEW SHORE ACRES, INC., pay a fine of \$2,500.00 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.

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. 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.

Failure to comply with this Order will be grounds for modification of penalty in this case. Failure to comply may also constitute grounds for issuance of a new citation as authorized by Section 471(d) of the liquor Code [47 P.S. §4-471(d)].

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

Dated this 17th day of September, 2008.

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

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

Citation No. 07-2151 &
07-2664
Casemans New Shore Acres, Inc.