

Mailing Date: JUN 10 2009

[Appeal](#)

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-1926
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W02-376828
	:	
v.	:	LID - 58487
	:	
TRAILSIDE INN, LLC	:	
RR 3 BOX 3249 AA	:	
FACTORYVILLE, PA 18419-9301	:	
	:	
	:	
	:	
WYOMING COUNTY	:	
LICENSE NO. R-AP-SS-EHF-13406	:	

BEFORE: JUDGE FLAHERTY

APPEARANCES:

For Bureau of Enforcement
Craig A. Strong, Esquire

For Licensee
Joseph Watkins, PRO SE

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on August 22, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against TRAILSIDE INN, LLC, License Number R-AP-SS-EHF-13406 (hereinafter "Licensee").

The citation contains two counts.

The first count 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 8, 2008, Licensee, by its servants, agents or employes, 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 second count charges Licensee with violation of Section 471 of the Liquor Code [47 P.S. §4-471] and Section 955 of the Pennsylvania Human Relations Act [43 P.S. §955] in that on July 8, 2008, Licensee, by its servants, agents or employes, engaged in unlawful discrimination, in that it provided alcoholic beverages to female patrons at a reduced price while charging full price to male patrons.

The investigation which gave rise to the citation began on June 26, 2008 and was completed on July 9, 2008; and notice of the violation was sent to Licensee by Certified Mail on July 22, 2008. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on March 19, 2009 in the Scranton State Office Building, 100 Lackawanna Avenue, Scranton, 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:

COUNTS 1 AND 2

1. On July 8, 2008, a female officer of the Bureau accompanied by a male officer of the Bureau entered the licensed premises at approximately 10:00 p.m. (N.T. 9).
2. Upon entry the officer observed 12 patrons with the principal officer of Licensee, Mr. Watkins sitting on the far left side of the bar (N.T. 9).
3. The officers conversed with a barmaid heard to be called Dee. Dee informed the officers that it was ladies night, and mixed drinks were reduced for ladies. These drinks included Margaritas and Daquiris (N.T. 9).
4. The female officer ordered a rum and coke mixed drink at a cost of \$2.50. A short time later the male officer ordered the same drink and paid \$3.00 for his (N.T. 9).
5. Later on in the evening, the female officer ordered another rum and coke at a cost of \$2.50. Fifteen minutes later the male officer ordered one. The drink cost him \$3.00 (N.T. 910).

6. During the course of the evening, karaoke was taking place in a large room on the left side of the licensed premises. Patrons were going up and singing songs accompanied by prerecorded music. The music was amplified by speakers which were approximately 18" x 24" in diameter (N.T. 10).

7. The officers left the licensed premises and could hear music emanating from the licensed premises at a distance of 350 feet from the premises (N.T. 10-11).

CONCLUSIONS OF LAW:

Counts 1 and 2 of the citation are **sustained**.

DISCUSSION:

At the hearing in this matter, Licensee handed up a properly executed Waiver, Admission and Authorization form.

PRIOR RECORD:

Licensee has been licensed since July 9, 2007, and has had three prior violations:

Citation No. 07-2830X. Fine \$150.00. Fine not paid and license suspended one day and thereafter until fine paid.

1. Issued worthless checks in payment for malt or brewed beverages. September 26, 2007.

Citation No. 08-0329X. Fine \$150.00. Fine not paid and license suspended one day and thereafter until fine paid.

1. Issued worthless checks in payment for malt or brewed beverages. October 25, December 1 and 14, 2007.

Citation No. 08-0563X. Fine \$150.00. Fine not paid and license suspended one day and thereafter until fine paid.

1. Issued worthless checks in payment for malt or brewed beverages. January 28, 2008.

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 as follows:

Count 1 - \$250.00 fine

Count 2 - \$250.00 fine

ORDER

THEREFORE, it is hereby ordered that Licensee TRAILSIDE INN, LLC, pay a fine of \$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.

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

Dated this 28TH day of May, 2009.



Daniel T. Flaherty, Jr., J. an

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

TRAILSIDE INN, LLC
CITATION NO. 08-1926

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Trailside Inn, LLC