

Mailing Date: JAN 26 2010

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 08-1995
LIQUOR CONTROL ENFORCEMENT	:	
	:	Incident No. W06-375975
v.	:	
	:	LID - 57646
ANTHONY PAUL, INC.	:	
T/A ANTHONYS BAR AND GRILL	:	
31 CANTON ST.	:	
TROY, PA 16947-1417	:	
	:	
BRADFORD COUNTY	:	
LICENSE NO. R-AP-SS-16991	:	

**BEFORE JUDGE FLAHERTY
BUREAU COUNSEL BALLARON
LICENSEE: HAROLD G. CALDWELL, ESQUIRE**

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on September 18, 2008, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against ANTHONY PAUL, INC., License Number R-AP-SS-16991 (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 July 18, 2008, Licensee, by its servants, agents or employees, sold, furnished and/or gave or permitted such sale, furnishing or giving of alcoholic beverages to one visibly intoxicated male patron.

The investigation which gave rise to the citation began on June 10, 2008 and was completed on July 29, 2008; and notice of the violation was sent to Licensee by Certified Mail on August 8, 2008. The notice of violation was received by Licensee.

An evidentiary hearing was held on this matter on April 28, 2009 in the PA Dept. 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:

FINDINGS OF FACT:

1. On July 18, 2008, an officer of the Bureau entered the licensed premises at 8:50 p.m. Upon entry, she took a seat at the bar and ordered a 12 ounce bottle of Miler Lite beer (N.T. 10-12).

2. At approximately 9:30 p.m. a patron named Chris Hubler entered the bar. The officer recognized him from a previous investigation at the establishment. On the previous occasion, Hubler had been quiet and calm. On this occasion he was loud, boisterous and his speech was slurred (N.T. 12-13).

3. Hubler came to the bar beside the officer. He attempted to order two shots of Jagermeister liquor from the bartender. His speech was slurred and he had to ask two or three times. The bartender asked Hubler what he said two or three times, and eventually served Hubler two shots of Jagermeister at 10:14 p.m. (N.T. 13).

4. As he was standing at the bar ordering the Jagermeister, the officer noticed that Hubler's eyes were bloodshot, watery and glassy (N.T. 15).

5. At 10:37 p.m. Hubler came up to the bar again and tried to order a shot of Bacardi 151 rum. The bartender told Hubler that that particular rum is made for mixing drinks and was a "nasty shot." Hubler then asked for two shots of Jim Beam whiskey. His speech was again slurred and he asked two or three times before the bartender understood that he was ordering Jim Beam.

6. At 11:07 p.m., Hubler ordered and received a shot of Jagermeister liquor before leaving the licensed premises (N.T. 19).

CONCLUSION OF LAW:

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

DISCUSSION:

The record discloses that the patron in question displayed slurred speech and glassy eyes while ordering Jagermeister and Jim Beam whiskey. It is clear that the patron in question was exhibiting clear signs of intoxication when he was served alcoholic beverages. Consequently, I conclude that the charge in the citation is sustained.

PRIOR RECORD:

Licensee has been licensed since January 5, 2007, and has had one prior violation:

Citation No. 07-2805X. Fine \$150.00.

1. Issued worthless checks in payment for malt or brewed beverages. August 25, 2007.

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.

This office takes notice that Licensee became RAMP certified effective April 6, 2009.

Under the circumstances of this case, the penalty imposed shall be a fine of \$1,250.00 and Licensee must remain RAMP certified.

ORDER

THEREFORE, it is hereby ordered that Licensee ANTHONY PAUL, INC., pay a fine of \$1,250.00 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.

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 must remain in compliance until **January 18, 2011**.

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

Dated this 15TH day of January, 2010.



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

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Anthony Paul, Inc.