

Mailing Date: JAN 25 2011

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	Citation No. 10-0172
LIQUOR CONTROL ENFORCEMENT	:	
	:	
v.	:	Incident No. W01-403314
	:	
PLACEMATS INC.	:	
15 N. WALNUT ST.	:	LID - 61185
WEST CHESTER PA 19380-3154	:	
	:	
	:	
CHESTER COUNTY	:	
LICENSE NO. R-AP-SS-10005	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

JAMES E. DAILEY, ESQ.

FOR THE LICENSEE:

**HARRY FRENCH
PRO SE**

BEFORE: JUDGE WRIGHT

ADJUDICATION

BACKGROUND:

This proceeding arises out of a citation that was issued on February 2, 2010, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Placemats, Inc., License Number R-AP-SS-10005 (hereinafter "Licensee").

This matter was heard *ex parte* on June 1, 2010. However, it was discovered that at that time the license was in safekeeping and notice was sent to the premises, but not to the address of the corporate officer. Upon finding that inadvertent error, we rescheduled the matter to September 29, 2010. At that time, Harry French, the president of the licensed premises appeared and stipulated that the Office of Administrative Law Judge could enter findings of fact from the testimony of the June 1, 2010 hearing. Mr. French offered mitigating testimony in the transcript of September 29, 2010.

Administrative hearings were held on Tuesday, June 1, 2010 and again on Wednesday, September 29, 2010, pursuant to requisite and appropriate hearing notice. The parties stipulated to the service and receipt of the notice letter and the citation.

The citation charges Licensee with violation of Section 13.102(a)(3) of the Liquor Control Board Regulations, 40 Pa. Code §13.102(a)(3), in that on December 31, 2009, Licensee, by its servants, agents or employes, sold and/or served an unlimited or indefinite amount of alcoholic beverages for a fixed price, in that unlimited draft beers and bottom shelf liquor were served for the set price of \$20.00.

FINDINGS OF FACT:

1. In November of 2009, an officer from the Bureau of Enforcement began an investigation of the licensed premises based on an anonymous complaint stating that on New Year's Eve the premises was running an unlimited drink special for \$20.00. The complaint directed the Bureau to a website for the licensed premises. The information on the website indicated that there was a New Year's special at the cost of \$20.00 for an open bar from 9:00 p.m. to midnight (N.T. 6-7).

2. On December 31, 2009, the officer arrived at the premises at 9:00 p.m. accompanied by a second officer. As they approached the premises, they were greeted by two doormen who were wearing staff shirts. They conversed with the individual who checked their identification and stated that there was a twenty dollar charge for the open bar (N.T. 6-8).

3. The officers paid the cover charge and were permitted to enter the premises. There were two floors on the premises and there were approximately fifty patrons. At the time the officers entered, there was one bar in operation and two bar personnel working (N.T. 8-9).

4. The officer ordered a Miller Light draft beer and rum and coke from a male bartender and the second officer ordered a Miller Light beer and a whiskey and coke. They were not charged any additional monies for the drinks (N.T. 9).

5. The bartender was questioned as to how long the open bar would continue and the bartender indicated that it would continue until midnight. All alcoholic beverages were available to them for the twenty dollar fee, except top shelf liquor (N.T. 9).

6. The officers ordered more drinks at 9:30 p.m. At this time, one officer ordered Yuengling draft beer and vodka and cranberry and the second officer ordered Yuengling draft beer and a rum and coke. Again, they were not charged any additional monies for the drinks (N.T. 9-10).

7. At approximately 9:30 p.m., there were approximately 75 patrons on the premises. The officers noted that patrons would walk up to the bar and order beer and/or other alcoholic beverages and no money was exchanged (N.T. 10).

8. The officers left at approximately 9:40 p.m. (N.T. 11)

CONCLUSIONS OF LAW:

All statutory prerequisites for notice to the Licensee were satisfied.

On December 31, 2009, Licensee, by its servants, agents or employees, sold and/or served an unlimited or indefinite amount of alcoholic beverages for a fixed price, in that unlimited draft beers and bottom shelf liquor were served for the set price of \$20.00, in violation of Section 13.102(a)(3) of the Liquor Control Board Regulations, 40 Pa. Code §13.102(a)(3).

PRIOR RECORD:

Licensee has been licensed since July 14, 2009, and has no record of prior violations.

DISCUSSION:

The president of the licensed premises, Harry French, appeared on September 29, 2010 on behalf to offer mitigation. He indicated that he had for many years successfully operated licensed establishments. He indicated that he had entered into an agreement for a ten year lease on the building, which houses the licensed bar. He was in the process of transferring the business. After seeing the tenants future plans for the establishment, Mr. French found it necessary to dissolve the relationship. Mr. French indicated that when the tenants vacated the building, they practically destroyed the premises in the process. During this period, Mr. French was not involved with the day to day operations of the premises. He did not approve of the New Year's Eve drink special. Mr. French is now refurbishing the establishment at great cost so that he can reopen it.

Under the circumstances, a moderate monetary penalty shall be imposed. Mr. French appears to be making sincere efforts to rectify this situation.

PENALTY:

Section 471 of the Liquor Code, 47 P.S. Section 4-471, prescribes a penalty of suspension or revocation of license or imposition of 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.

Placemats, Inc.
Citation No. 10-0172

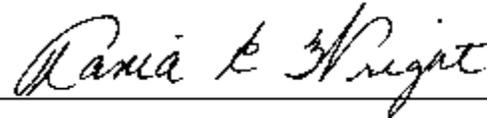
Accordingly, we issue the following

ORDER:

THEREFORE, it is hereby Ordered that Licensee, Placemats, Inc., License Number R-AP-SS-10005, pay a fine of Two Hundred Dollars (\$200.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

In order to insure compliance with this Order, jurisdiction of this matter is retained.

Dated this 12TH day of January, 2011.



Tania E. Wright, J.

NOTE: 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.

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Detach Here and Return Stub with Payment

The fine must be paid by Cashier's Check, Certified Check or Money Order. **Personal and business checks are not acceptable unless bank certified.** Please make your guaranteed check payable to the Commonwealth of Pennsylvania and mail, along with any required documentation, to:

PLCB - Office of Administrative Law Judge
Brandywine Plaza
2221 Paxton Church Road
Harrisburg, PA 17110-9661

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