

Mailing Date: OCT 19 2012

[Appeal](#)

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

PENNSYLVANIA STATE	:	
POLICE, BUREAU OF	:	In Re: Citation No. 11-0545 LIQUOR
CONTROL ENFORCEMENT :	:	
	:	
v.	:	BLCE Incident No. W01-426906
	:	
ROOSEVELT CLUB	:	
STORE E 16 B BASEMENT	:	PLCB LID - 2565
WOODLYN SHOPPING CENTER :	:	
RIDLEY TWP.	:	
WOODLYN PA 19094-2005	:	PLCB License No. CC-5614
	:	
DELAWARE COUNTY	:	

APPEARANCES:

FOR THE BUREAU OF ENFORCEMENT:

**ERIK S. SHMUKLER, ESQ.**

FOR THE LICENSEE:

**JOHN J. McCREESH, III, ESQ.**

**BEFORE: JUDGE WRIGHT**

ADJUDICATION

BACKGROUND:

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This proceeding arises out of a citation that was issued on April 12, 2011, by the Bureau of Liquor Control Enforcement of the Pennsylvania State Police (hereinafter "Bureau") against Roosevelt Club, License Number CC-5614 (hereinafter "Licensee").

Administrative hearings were held on Thursday, December 8, 2011, Tuesday, January 24, 2012 and Thursday, January 26, 2012, 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 471 of the Liquor Code, 47 P.S. §4-471, in that on May 23, 29, June 27, July 11, 18, 24, 25, 31, August 8, 15, September 12, October 3, 16, 24, 30, December 5, 2010, February 19 and 20, 2011, the licensed establishment was operated in a noisy and/or disorderly manner.

FINDINGS OF FACT:

1. An officer from the Bureau of Enforcement testified that he was familiar with the licensed premises, which is located in the Woodlyn Shopping Center in Ridley Township of Delaware County. In September of 2010, the officer was assigned to investigate the licensed premises, which led to the issuance of a citation. The officer conducted a subsequent investigation of the licensed premises, which began February 22, 2011 and ended March 5, 2011 (N.T. 8-9 and Exhibit B-1, December 8, 2011).

2. In September of 2010, the officer attempted to gain entry into the licensed premises and was met by an Anne Jowder. He was denied entry in that he was not a member. He did not identify himself at that time as an officer of the Bureau. The officer began making surveillance visits and noted that the later his visits, the more activity he observed (N.T. 9-10, December 8, 2011).

3. On October 24, 2010 at approximately 2:15 a.m., an officer from the Bureau of Enforcement arrived in the vicinity of the licensed premises and saw numerous cars in the parking lot. He estimated that there were approximately 82 cars. The officer also noted four police cars and officers on the telephone (N.T. 11, December 8, 2011).

4. The Enforcement officer identified himself to a local police officer on the scene. After speaking to the local police, he terminated his surveillance and left the area approximately fifteen minutes after he arrived. While there, he observed a group of people in front of the premises and a group of people exiting the premises. He noted that they were talking extremely loud, joking and arguing. Some people had drinks in their possession (N.T. 12-13, December 8, 2011).

5. On Sunday, November 14, 2010 at approximately 1:45 a.m., the officer arrived at the licensed premises and saw a group of approximately forty people gathered in front of the

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premises. They appeared to be trying to enter the premises, but the door was closed and locked. The crowd was extremely loud (N.T. 13-14, December 8, 2011).

6. The officer described the persons as being boisterous and unruly. Someone who appeared to be from the premises was using an electronic device to make announcements. The crowd did not wish to listen and became more and more unruly. At approximately 2:15 a.m., the officer heard a voice electronically amplified over what he described as a bullhorn indicating that the premises was closed. In response, some people walked toward their cars, but others stayed in front of the premises and continued to be loud and yell (N.T. 16-17, December 8, 2011).

7. The officer was approximately fifty feet away and could not hear exactly what the crowd was yelling, but they were speaking in very drastic tones. The officer was very concerned that something was going to happen during his surveillance of the premises. The officer observed two Ridley Township police cars arrive at the premises at different times (N.T. 17, December 8, 2011).

8. The officer heard the voice from the electronically amplified source tell the crowd to form one line. In response, the crowd became more aggressive (N.T. 18, December 8, 2011).

9. The officer also observed patrons getting in their cars, however, when they drove away they were spinning their tires aggressively and were speeding through the parking lot. At 10:45 a.m., the officer departed the area (N.T. 18-19, December 8, 2011).

10. The officer described the parking lot as being a very large parking lot of a shopping center, which he believed consisted of approximately fifteen stores. There were two other liquor licensees in the shopping center; about 75 to 100 yards away from the licensed club (N.T. 20, December 8, 2011).

11. During the time that the officer was there, he noted that the door to the premises would open slightly and a patron would be admitted. At that time, several patrons would try to bombard the door. The officer does not know whether the persons being permitted to enter were patrons or employees (N.T. 21-22, December 8, 2011).

12. The two other licensed premises included a pizza shop and a premises known as Bootleggers. The officer did not notice patrons of the pizza place, but did note patrons leaving the establishment known as Bootleggers. As the patrons were leaving Bootleggers at 1:45 a.m., persons were trying to enter the licensed club. People were both leaving the parking lot and entering the parking lot (N.T. 22-23, December 8, 2011).

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13. There was no crowd around the other licensed establishments (N.T. 23, December 8, 2011).

14. Based on his observations, the officer was concerned and made an appointment to speak with an officer of the club on Saturday, December 4, 2010. The officer arrived at 7:00 p.m. and conducted a routine inspection. At that time, he requested records, but the records were not at the licensed club. However, they did later get them to the officer. During the inspection, Ms. Jowder and a Mr. John Marisco were present, as was the head of security (N.T. 24-25, December 8, 2011).

15. The officer discussed concerns about the club. The officers indicated their intent to put more security measures in place (N.T. 25, December 8, 2011).

16. The officer informed them that there were complaints against them was for after hour sales and minors. He went over procedures with regard to sales to nonmembers and time for the cessation of the sale of alcoholic beverages (N.T. 25, December 8, 2011).

17. The officer discussed the club's responsibilities with regard to the parking lot (N.T. 25-26, December 8, 2011).

18. The officer met with personnel from the licensed club for approximately two hours, which also included the routine inspection (N.T. 26-27, December 8, 2011).

19. The officer made no further visits to the premises after December 4, 2010 relative to the initial investigation (N.T. 27, December 8, 2011).

20. The officer was assigned to the current investigation on February 22, 2011 relative to a shooting at the RS Club. In addition, there was a complaint with regard to sales to nonmembers (N.T. 27, December 8, 2011).

21. The officer contacted Ms. Jowder to discuss the shooting. The officer asked her to send a list of all members in an attempt to assist the Ridley Township Police in identifying the shooter. That club cooperated with the Ridley Township Police (N.T. 27-29, December 8, 2011).

22. The officer contacted a Katherine Howley with the Ridley Township Police to review police reports. The officer reviewed the reports in order to determine whether the report indicated disorderly operations on the part of the Roosevelt Club (N.T. 29).

23. The officer also spoke with officers who were mentioned in the report (N.T. 29, December 8, 2011).

24. As a result, the officer issued a citation (N.T. 29-30, December 8, 2011).

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25. When the officer visited the premises in September of 2010, he attempted to enter the premises, but was denied entry because he was a nonmember. He went downstairs and found the door locked. He then rang the buzzer. Ms. Jowder met him in the middle of the steps and he informed her that he was meeting someone there. She asked their name and went to the computer. She asked him to wait outside until they came (N.T. 31-32).

26. On October 24, 2010, the officer was at the Roosevelt Club for approximately fifteen minutes making observations. During that visit, the officer saw at least one person he believed to be a security personnel (N.T. 32-33 and 35, December 8, 2011).

27. The officer indicated that he did not recall whether they had a security camera, but they did show him metal detectors and metal wands. He did see the metal wand in person (N.T. 37, December 8, 2011).

28. The club retains pictures of the members along with the application and some biographical information (N.T. 38-39, December 8, 2011).

29. Officer Scanlan is employed by the Ridley Township Police Department and has been so employed for approximately seven years. He has been a Corporal for a year or more prior to the hearing. He is assigned to the Patrol Unit and also has supervisory and administrative duties (N.T. 40-41, December 8, 2011).

30. The officer explained that Ridley Township is an inside district and an officer is assigned to each district. At the time of hearing, there were only four people assigned to the five districts. The officer explained that they have been short-handed for the past several years (N.T. 41-42, December 8, 2011).

31. The population of Ridley Township is approximately thirty thousand people and it is primarily residential (N.T. 42, December 8, 2011).

32. The licensed club, the RS Club, is in the 25<sup>th</sup> District of Ridley Township (N.T. 42, December 8, 2011).

33. Officer Scanlan has been assigned to the 22<sup>nd</sup> District of Ridley Township since he was hired. Because they were short-handed, he was asked to cover the 25<sup>th</sup> District (N.T. 43, December 8, 2011).

34. On May 23, 2010, Officer Scanlan received a call that the bar was letting out. The officer arrived and there was a large crowd out front. The bouncer at the door was unable to handle the crowd in that there were too many people trying to get in. As a result, the police officer and several other officers assisted in moving the crowd at approximately 3:13 a.m. (N.T. 43-44, December 8, 2011).

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35. Officer Scanlan described the crowd as being very large and disorderly. He also indicated that the club is a business front in a shopping center. In order to access the club, one has to go down a flight of steps to get into the actual establishment. As soon as you go inside the outer door, there is a small platform. You have to go down the steps to get into the establishment. There were customers coming up the steps and a large crowd outside that was trying to get into the establishment (N.T. 44-45, December 8, 2011).

36. On May 23, 2010, the officer noted that there were about 100 people outside the club (N.T. 46, December 8, 2011).

37. The officer indicated that whenever a call was given to the club more than one officer always responds (N.T. 46, December 8, 2011).

38. A second officer from Ridley Township was also at the premises on May 23, 2010. Two of the four officers that make up the Ridley Township Police were present at the premises (N.T. 47, December 8, 2011).

39. Officer Scanlan visited the club on June 27, 2010 while on routine patrol (N.T. 48-50, December 8, 2011).

40. As soon as the officer turned off of Macdade Blvd. into the shopping complex, he observed a large fight outside the licensed club. At this time, that was the only business open. At approximately 3:21 a.m., the officer pulled into the parking lot and observed a large fight out front. The officer was initially by himself. Once he called in and reported that there was a fight, the three other officers that were working at Ridley Township responded as well as officers from Chester Police Department and Eddystone Police Department, which are nearby towns (N.T. 50-51, December 8, 2011).

41. The officers were able to break up the fight and determine that a cell phone had been stolen inside the club. The individual who stole the cell phone ran outside and threw the cell phone into a trash can and went back into the club. Numerous people followed her out of the club and tried to chase her back into the club. The officer was able to retrieve the cell phone from the trash can and place the female into custody who had stolen the phone (N.T. 51, December 8, 2011).

42. On the morning of June 27, 2010, there were approximately sixty people waiting in line to get into the club. There were about twenty people involved in the altercation (N.T. 52, December 8, 2011).

43. Those that were not involved in the fight were hooting and hollering. Most of them appeared to have been drinking (N.T. 52-53).

44. The altercations took approximately five minutes to resolve (N.T. 53, December 8, 2011).

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45. The officer took the female back to the police station. Other officers remained on the scene for some time (N.T. 53, December 8, 2011).

46. On July 18, 2010, the officer received a dispatch call with regard to a fight out in front of the club. At that time, the officer, along with a second officer who was sitting across the street in a shopping center, were able to view the front door of the club. Both officers were able to see that there was no fight outside. The report was made at approximately 2:35 a.m. in the morning (N.T. 54, December 8, 2011).

47. Any time that there is a call for a bar fight, the officers respond in a group because of the potential for intoxicated persons and flying beer bottles (N.T. 55, December 8, 2011).

48. The officers observed people coming out of the front door, but did not see a fight (N.T. 55-56, December 8, 2011).

49. The officers observed approximately 100 people in the crowd. The officer noted that they were disorderly, yelling and screaming, but there was no fighting. The manager who was on duty asked the officers to clear the crowd (N.T. 56-57, December 8, 2011).

50. The manager advised the officers that they had made the call and that she wanted him to clear the crowd. She indicated that she had advised the bouncers to call to ask the police to clear the crowd. The officer advised her that officers were not employees of the club and that they were not there to be bouncers and that their presence there had become a costly habit. Other officers appeared on the scene responding to the report of a fight (N.T. 57-58, December 8, 2011).

51. The officer indicated that in each of the incidents, the bouncer was letting certain people in at certain times. As soon as the door would open, there was a stampede to get into the front door. Then the fights would ensue. As soon as the door would open whether someone was leaving or entering, there was an absolute stampede to enter (N.T. 59, December 8, 2011).

52. The officer observed people in the parking lot where the car doors were open and the radios playing. The officers attempted to keep patrons from drinking outside the premises in the parking lot (N.T. 60, December 8, 2011).

53. On September 12, 2010, the local police officers visited the licensed establishment after receiving a call for a disorderly group in front of the club. The bouncer appeared to be choosing persons to leave and enter the club. He would pick out various people in the line and allow them to enter the club, which would infuriate the people in front of them. As soon as the door opened, there was a stampede to get into the premises. On September 12, 2010, the officer responded to a call at 2:15 a.m. relative to a disorderly group. The officers observed approximately 100 people outside the premises (N.T. 61-63, December 8, 2011).

54. The officer indicated that he did not believe that the bouncer was choosing the patrons who entered the club based upon membership because eventually all of the patrons were

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allowed to enter the premises. He was not certain who were members and who were not (N.T. 91-92, December 8, 2011).

55. The crowd was pushing and shoving in attempting to enter the premises. The officers also had to control the crowd in the parking lot. The officer directed the crowd to line up on the sidewalk. There were cars entering and leaving the parking lot. The officers noted the usual yelling and screaming and intoxicated persons. No one was arrested (N.T. 64-65, December 8, 2011).

56. The officers remained on the scene until the crowd dispersed and continued to monitor the parking lot until the business closed (N.T. 68, December 8, 2011).

57. On December 5, 2010, the officer again visited the licensed premises after receiving a 911 call for a domestic situation at the club. This was not an anonymous call, rather it came from a customer at the establishment (N.T. 68l, December 8, 2011).

58. On December 5, 2010, the officers arrived and noted that there was no fight, but yelling and screaming and pushing and shoving outside of the establishment in the parking lot. There was a crowd out front the officers described as large, but he was not sure of the number of people. A woman indicated that someone who she used to date pulled a gun on her and fled towards Highway 476. The officers attempted to locate the car (N.T. 70-71, December 8, 2011).

59. Officer Sean Brydges is employed by the Ridley Township Police Department and has been so employed for approximately five years. He indicated that when the police are not responding to calls, they do active police work. This officer is assigned to the area where the licensed premises is located. He is assigned to the Crum Lynne, Woodlyn and Ridley Park area and is familiar with the licensed club. On July 17, 2010, he arrived at the club at approximately 2:43 a.m. after receiving a call for a fight at that location (N.T. 97-98, December 8, 2011).

60. Other officers from the Township also responded to the call. When the officer arrived at the location, he spoke to several individuals that were in the parking lot and outside of the club. The patrons indicated that the fight was over and the people had already left the area. There were approximately fifty to seventy-five people in the area at the time of the officers' arrival. He received a call at 2:43 a.m. and arrived just a minute or so after the call. Although the club is not in his district where he is assigned, he responded because the other officers were not available (N.T. 98-99, December 8, 2011).

61. Officer Brydges has had other occasions to respond to police calls at that location and has been required to sit outside of the premises just to insure that there are no problems (N.T. 99, December 8, 2011).

62. In this case, the incident report indicates that the officer received a call at 2:43 a.m. and that the incident was cleared at 2:49 a.m. When the officer arrived, there were sixty to seventy people either lined up at the door or in the parking lot of the premises. No arrests were made on that night (N.T. 99-100, December 8, 2011).

63. Officer Edmond Kienzle is employed by the Ridley Township Police Department. He has been a patrol officer in Ridley Township since approximately 2006. As a patrol officer, he works twelve hour shifts answering calls that come into the Ridley Township Police. He is also assigned to a SWAT team. The officer is familiar with the licensed club (N.T. 101-103, December 8, 2011).

64. On August 15, 2010, he arrived at the premises at approximately 2:55 a.m. He observed patrons leaving the licensed club. While he was watching the patrons leave the bar, he watched about twenty persons gather and noted that there was a fight taking place in the middle of the crowd of the twenty or so people. There were approximately 100 people who were leaving the bar at this time. The officer was there on a routine patrol and not in response to a call. He had been across the street observing the parking lot (N.T. 103-104, December 8, 2011).

65. When the officer saw the fight taking place, he called in on the radio and indicated that there was a fight at the Woodlyn Shopping Center. The officer pulled into the parking lot and a good twenty people or so who had been involved in the fight started to disburse upon seeing the police car. A woman who had been involved in the fight was in the center of the crowd and was still standing there yelling and screaming. Her friends were holding her back and she was flailing her arms trying to get away from her friends but continued fighting. The officer took her into custody for disorderly conduct (N.T. 104-105, December 8, 2011).

66. When he arrived, the officer described the scene as chaotic. Besides the twenty people that were involved in the altercation, the rest of the crowd was leaving the bar and there were other disturbances going on in the lot. Other officers responded to the incident and were directed to handle those disturbances (N.T. 105, December 8, 2011).

67. Approximately ten other officers arrived for backup, which included almost all of Ridley Township police officers (N.T. 106, December 8, 2011).

68. The officer indicated that there were two officers from the Eddystone Police Borough and two from the Nether Providence Police Department (N.T. 106, December 8, 2011).

69. The crowd dispersed after arrival of the police officers (N.T. 106-107, December 8, 2011).

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70. The people who were coming into the parking lot were yelling and screaming, some were intoxicated, starting their cars, turning on loud stereos and yelling at the police (N.T. 107, December 8, 2011).

71. On October 3, 2010 at 2:37 a.m., the officer received a call regarding a fight at the licensed club. When he arrived, he saw no fight, but he did see the bar letting out. Again, there were about 100 unruly people entering the parking lot area, exiting the premises and entering the parking lot area. The officer indicated that they were required to deal with the crowd almost every night that the premises was open (N.T. 108, December 8, 2011).

72. Also, Ridley Township Police officers were on duty as well as police from Eddystone Borough, who had come to assist because they did not have sufficient officers (N.T. 109).

73. The officer was on the premises for approximately thirty minutes (N.T. 110, December 8, 2011).

74. On October 30, 2010, the officers were at the licensed club sitting in the parking lot to insure that there were no problems. About 3:06 a.m., the officer saw a crowd of forty to fifty people gather around a big circle in the parking lot. There was a fight in the middle of the crowd of about forty to fifty people and several people were fighting in the center and the rest of the crowd was either yelling or screaming or pushing. The officer called for more police officers to respond in that he was unable to handle the crowd of forty to fifty people and the fight. About ten police cars showed up with their lights and sirens on and the crowd started to disperse. The officers came from Ridley Township Police, two officers from Nether Providence Police Department, two officers from Eddystone and two officers from the Ridley Park Borough Police Department. Ridley Township is approximately 5.1 square miles and they are typically made up of five districts with four officers covering those districts (N.T. 110-113, December 8, 2011).

75. On February 20, 2011, the officer was on duty. On that occasion, there were five officers on duty in Ridley Township. The officer received a call for a fight at the licensed club. The officers were dispatched for a shooting that occurred at the licensed club (N.T. 114-115 December 8, 2011).

76. When the officer arrived at the premises, there was mayhem in the parking lot. He described it as a combat zone. One woman was shot and jumped in a police car, because she was scared for her life and feared that she was going to be shot again. She was driven to Crozer Hospital by Corporal Smith. The officer had no idea how many shooters there were or who the shooter or shooters were. The officer got out of his police vehicle with his patrol rifle and went to an area where he could watch the parking lot. The officer stood behind his car (N.T. 115-117, December 8, 2011).

77. The officer remained in that position for several minutes until more police officers showed up. When the police officers were inside, this officer remained outside. The officer

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indicated that there were more than twenty police officers who responded from various areas (N.T. 116-117, December 8, 2011).

78. The officer remained outside where the crowd was yelling and screaming and crying. He attempted to clear the crowd out from the parking lot (N.T. 118, December 8, 2011).

79. The officers looked around to see if any firearms had been left behind from the shooter. He checked the cars that were in the lot and under the cars. He then went back on patrol. The police were tied up on this matter until 7:43 a.m. (N.T. 119, December 8, 2011). December 8, 2011).

80. Officer Edward Howley is employed by the Ridley Township Police Department and is a patrolman. He responds to calls for service and assistance in emergency calls. He deals with traffic and criminal investigations. He is familiar with the licensed club (N.T. 131-132, December 8, 2011).

81. On October 24, 2010, the officer was patrolling in another district when he was called to the licensed premises with the report of a large disorderly group at the front door. He was called by an officer who was at the area investigating an indecent assault at another bar in the same area. When he arrived, there were a number of officers from other police departments on the scene. The officer arrived at approximately 2:24 a.m. (N.T. 133-135, December 8, 2011).

82. The officer noted a large group of approximately thirty to fifty people waiting at the front door trying to get into the licensed establishment. There was a crowd gathering; they were hollering and banging on the door attempting to get in. They were also ringing the doorbell and shouting (N.T. 133-134, December 8, 2011).

83. As someone would exit, others would rush the door. The bouncers were closing the door to limit the number of people who were inside (N.T. 134-135, December 8, 2011).

84. The officer remained on the premises for approximately fifty-six minutes. He was there calming and disbursing the crowd (N.T. 136, December 8, 2011).

85. On February 19, 2011, the officer was monitoring the parking lot as patrons entered and exited the licensed club. He arrived at approximately 2:30 a.m. He noted that a fight had erupted in the parking lot on that night (N.T. 137-138, December 8, 2011).

86. The officer heard several glass bottles breaking so he called for assistance from other police officers who responded to help disburse the group on February 19, 2011 (N.T. 138, December 8, 2011).

87. There were from thirty to fifty people in the crowd and it took sixteen minutes for the officers to disburse the crowd (N.T. 140, December 8, 2011).

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88. On February 20, 2011, the officer was stationed at the licensed club due to the high number of fight calls and service calls at that location. He indicated that he had arrived sometime around 2:00 a.m. During the time he was at the premises, he received a call for a possible fight inside the bar and was dispatched to a shooting inside the bar (N.T. 141, December 8, 2011).

89. The officers made their way to the front door and saw a large group exiting from the doorway of the bar. People were saying there was shooting inside. The officer described the scene as chaotic. People were running through the front door as they were trying to make their way through the location to the area that the victims were located (N.T. 141-142, December 8, 2011).

90. The officers had to force their way through the crowd. Once inside, they saw two victims lying on the ground. One had a gunshot wound on the outer thigh and the other one had a gunshot wound to the upper thigh. Medical personnel responded and transported the victims to the hospital (N.T. 141-142, December 8, 2011).

91. One victim was sitting on the floor right in front of the bar and another was about ten feet away in front of the bar on the dance floor. The officers noted that both victims had a large amount of blood on their pants leg. There was a t-shirt on the floor that was covered with blood. Both victims indicated that they had been shot (N.T. 142-143, December 8, 2011).

92. The officers secured the crime scene until the detectives responded. The officers observed three shell casings (N.T. 143, December 8, 2011).

93. The officers remained on the premises at least an hour to maintain the crime scene (N.T. 143-144, December 8, 2011).

94. Officer Robert Ruskowski is employed as a patrolman for the Ridley Township Police Department. He was on duty on July 10, 2010 at approximately 2:30 a.m. On that day, he was assigned to District 25 in Ridley Township. The licensed club is located in a shopping center within that district (N.T. 5-6, January 24, 2012).

95. On July 10, 2011 at 2:30 a.m., the officer was positioned on the other side of Woodlyn Shopping Center on West MacDade Blvd., which is across the street from the licensed premises. He could observe the premises from that position. The officer was there when he received a call for a disorderly group in the parking lot in front of the licensed premises. At that time, there was no disorderly group (N.T. 6-7, January 24, 2012).

96. The officer went to the licensed premises to patrol the parking lot. He was only there for a few minutes, but long enough to observe that there was no problem or anything which appeared to require intervention (N.T. 6-7, January 24, 2012).

97. On July 11, 2010, the officer was patrolling in the area of the licensed premises at 3:00 a.m. in the morning. At that time, there was a call for another disorderly group in the parking lot. The call indicated that there was a group attempting to enter the front door of the premises (N.T. 7, January 24, 2012).

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98. Again the officer was on the other side of the parking lot on MacDade Blvd. observing the area. He noted that there was a crowd standing outside, but at the time it was not disorderly (N.T. 8, January 24, 2012).

99. The officer estimated the crowd had approximately fifteen to twenty people. Although he could observe the parking lot from his parked position, he went to the licensed club and patrolled the parking lot for fifteen to twenty minutes. Ten to twenty people were simply standing in line (N.T. 9, January 24, 2012).

100. He responded to a call, but it was made by Bootlegger's, another licensed establishment in the area (N.T. 10-11, January 24, 2012).

101. Officer Brian Judge is employed by the Ridley Township Police Department as a patrolman. On the morning of July 31, 2010, he was dispatched to the licensed premises regarding a disorderly group. At the time, he was at Bootlegger's, another establishment, about fifty yards away, handling a separate incident regarding indecent exposure (N.T. 11-13, January 24, 2012).

102. Prior to being called to Bootlegger's, the officer observed several patrons waiting outside the door of the licensed premises. He noted one individual urinating in between two vehicles about thirty feet from the door of the licensed establishment. The officer noted that the individual was intoxicated. When he spoke with her, her speech was slurred and he could smell a strong odor of alcoholic beverages coming from her breath. She was taken in custody for public drunkenness and was cited and released when she was deemed to be sober (N.T. 13-15, January 24, 2012).

103. Around 2:00 a.m., while he was at Bootleggers, his attention was drawn to a large crowd of thirty to fifty gathering outside the front door of the licensed club. The crowd was loud and disorderly. He called other officers to respond to the crowd at the licensed club (N.T. 15-16, 32-33, January 24, 2012).

104. In that there was only one officer at the licensed club, the officer left Bootleggers to assist Officer Howley in dispersing the crowd outside of the licensed club (N.T. 16, January 24, 2012).

105. At some point, the officer entered the licensed premises. He noted that there were two to three individuals at the bottom of the stairs pushing and shoving one another. Upon entering the door, the officer observed a five foot landing. Individuals were standing right at the bottom stairs pushing and shoving one another. At the time, the officer noted just two security personnel, one at the top who directed him down the stairs and another one at the bottom of the steps. The officer drew his Taser and advised some individuals involved in an altercation to break it up and separate. They didn't disperse. While he was dealing with this conflict, a scuffle broke out at the entrance to the bar. The officer noted that there were 100 to 150 patrons on the premises (N.T. 16-20, January 24, 2012).

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106. At this time, other police officers arrived at the scene. The crowd became hostile and began screaming at the officers. A pushing and shoving match started in the bar room. There was no security inside the bar area (N.T. 20-21, January 24, 2012).

107. Officers arrived from Collwyn, Eddystone, Ridley Park, Nether Providence and Swarthmore, as well as Ridley Township (N.T. 21, January 24, 2012).

108. The crowd was required to exit the bar and clear the area. There were few employees who assisted in dispersing the crowd. It took the officers approximately fifteen to twenty minutes to clear the bar. However, the crowd assembled in the parking lot, blaring their radios and refusing to leave the area (N.T. 21-22, January 24, 2012).

109. The officer indicated that there were approximately 200 to 250 people in the parking lot area at 2:00 a.m. on October 24, 2010 (N.T. 26-27, January 24, 2012).

110. Corporal Smith is employed by the Ridley Township Police Department and has been so employed for approximately fourteen years. On August 8, 2010, Corporal Smith was assigned to the Twenty-First District of the Ridley Township Police. It is a quarter of a mile from the licensed club (N.T. 34-35, January 24, 2012).

111. As a matter of routine, the officer would drive through the parking lot of the licensed club, especially around closing time to make certain that there were no problems. On August 8, 2010, during a sweep of the parking lot, the officer noted Mr. E. urinating openly in the first row of cars parked outside the licensed premises. The officer spoke to Mr. E. at that time. The officer saw twenty-five to thirty people coming out of the licensed club, making their way to the vehicles as he was clearly out in the open urinating in front of the officer and other members of the public (N.T. 36-37, January 24, 2012).

112. The officer placed him under arrest for disorderly conduct and transported him back to headquarters where he was processed. This took approximately forty-five minutes. At that point, he returned to routine patrol (N.T. 37, January 24, 2012).

113. On February 20, 2011, the officer was working from 7:00 p.m. to 7:00 a.m. At around 2:00 a.m., the Corporal and other officers were sitting in the parking lot of the licensed club to insure that there were no problems. Routinely people refused to leave the outside of the premises, after the bar closed and remained in the parking lot and continuing to party with loud music and drinking (N.T. 38-39, January 24, 2012).

114. On February 20, 2011, there were five officers in the area of the licensed premises at 2:00 a.m. By the large number of cars that were parked in the parking lot, the officers were able to determine that the club had a substantial crowd. At approximately 3:05 a.m., the police received a call of a fight inside the establishment. At that time, they were sitting to the east of the parking lot.

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When the call came in, the officers fanned out and made their way towards the entrance. The officer later received the information that shots had been fired (N.T. 40-41, January 24, 2012).

115.The Corporal went up the right side of the parking lot. There was a lot of chaos with people coming out of the premises. When he was four or five yards away from the front door, he was approached by four females who were frantic, obviously upset and crying. The one woman showed him that she had been wounded by a gunshot to her arm. She appeared to be fading in and out of the consciousness. The officer put her in the back of his vehicle along with one of her friends and quickly tried to ascertain what was going on. When there were sufficient officers on the scene, the officer took the injured woman to the Crozer emergency room (N.T. 41-42, January 24, 2012).

116.The officer later returned to the licensed club to control the crowd and secure the scene (N.T. 43, January 24, 2012).

117.When the officer returned, there were still people milling around the parking lot. The officer returned approximately forty minutes later (N.T. 43-44, January 24, 2012).

118.The officer indicated that Chester was having a state of emergency. Chester borders Ridley Township. There were a lot of problems with homicide and things of that nature and as a result, a state of emergency with curfew at 9:00 p.m. had been enacted. There appeared to be larger crowds at the licensed club in Ridley Township (N.T. 45-46, January 24, 2012).

119.With the state of emergency in Chester, there appeared to be larger crowds and more traffic in Ridley Township (N.T. 46, January 24, 2012).

120.Shawn McGee is an officer employed with the Ridley Township Police Department and has been so employed for approximately five years. On February 20, 2011, he was assigned to the Twenty-Second District of Ridley Township. During the early morning hours of February 20, 2011 at approximately 3:05 a.m., his duties took him to the parking lot of the licensed premises. The officer indicated that they have had numerous problems in recent months with fights, public urination, public drunkenness, loud radios, bottles being broken, open containers and what he described as a “complete disregard for the law.” He indicated that this entire department had been required to go to the club on numerous occasions (N.T. 50-52, January 24, 2012).

121.On February 20, 2011 at 2:30 a.m., all the officers were in the parking lot of the licensed club. There was a large crowd in the parking lot. He initially saw an individual urinating in the public parking lot. As the officer was making the arrest, they received a call from the radio dispatcher indicating there was a fight and shooting inside the bar (N.T. 52-53, January 24, 2012).

122.The officer then placed the individual who was urinating in public in the back of the police van, secured him and attempted to enter the bar. He did see a lot of people running out towards him. Many of the people exhibited hostility toward him, grabbing him and trying to push him down the steps and punching him (N.T. 53, January 24, 2012).

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123. As the officer made his way into the bar, the two people who had been shot were laying on the floor of the bar. There were pools of blood where the third shooting victim had been shot prior to the officer coming into the bar. A number of people in the bar continued sitting, standing and drinking beer (N.T. 53-54, January 24, 2012).

124. The officers went to persons who identified themselves as a security guard and the other as a bartender (N.T. 54, January 24, 2012).

125. The officer repeatedly told the persons inside the bar to leave as this was a crime scene (N.T. 54-55, January 24, 2012).

126. The officers continued to speak to personnel in an attempt to identify the shooter (N.T. 55, January 24, 2012).

127. At some point, the officer went back outside to help control the crowd. The officer heard a lot of commotion outside. After the crime scene had been secured and the medics had arrived and were working, he went out to help with the crowd control. He described the scene as chaotic. He estimated that there were 200 to 250 people outside the premises (N.T. 58-59, January 24, 2012).

128. After forty to forty-five minutes of strong verbal commands from the police and pushing from the crowd, the crowd was finally disbursed. All the available officers came from Ridley Township, Tincum Township, Norwood Police, Nether Providence Police and Upland Borough. There were a total of 15 to 20 officers on the scene (N.T. 59-60, January 24, 2012).

129. Officer Leo Doyle has been employed as a police officer for Ridley Township for approximately two years. On February 20, 2011, he was working the night shift and was called to the licensed premises. He was approximately six to seven miles from the area. Around the time the licensed premises was to close, he received multiple calls of a shooting. One of the officers was already present dealing with the matter of public urination. The officer continued to the licensed premises (N.T. 65-67, January 24, 2012).

130. The officer also described the scene as being utter chaos with approximately 200 people in the parking lot. Many of the people were attempting to return to the premises (N.T. 68, January 24, 2012).

131. When the officer arrived, he took out his rifle because of the nature of the call. Eventually, the people left. Once the officer saw that the crowd was under control, he went into the licensed club and interviewed a security officer and a second individual (N.T. 69-70, January 24, 2012).

132. The officer noted a couple of pools of blood and people still sitting around drinking. By the time that he arrived, the last person was being placed in the ambulance (N.T. 70, January 24, 2012).

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133. Captain Charles Howley is employed by the Ridley Township Police Department. The Captain was involved in a meeting with the District Attorney's office and the Bureau of Liquor Control Enforcement relative to an incident on February 20, 2011 at the licensed club where three people were shot (N.T. 7-8, January 26, 2012).

134. The manager of the licensed premises asked the police department to provide a police car in front of the premises. Because the original complement of forty officers was down to thirty-two officers and there were only four officers on the shift whereas there used to be seven, they were unable to do it. They told the manager that they were not going to be one of the bouncers at the licensed club (N.T. 8-9, January 26, 2012).

135. The officer did offer him police services at a cost of \$35.00 to \$40.00 an hour (N.T. 9, January 26, 2012).

136. The Captain indicated he had calls on two or three occasions in which an angry crowd outside the licensed club required county-wide assistance from other police departments (N.T. 10, January 26, 2012).

137. The Captain also reiterated that Chester was under a state of emergency and that many afterhours clubs had been closed in Chester. The club did not have a big influx at first, but that at one point, the licensed club was *advertising* for people to come (N.T. 16, January 26, 2012).

138. Corporal Michael Bongiorno is employed by the Ridley Township Police Department and has been so employed for approximately twenty-one years. He has been a corporal for six to seven years. He is familiar with the licensed club (N.T. 17-18, January 26, 2012).

139. Corporal Bongiorno was working during the early morning hours of July 24, 2010. He was in the parking lot about 2:00 a.m. and noticed a crowd of twenty to twenty-five people in line outside the club. He questioned them as to why the people were there (N.T. 18-19, January 26, 2012).

140. The officer remained in the parking lot to insure that everything was okay. There were no problems at the time. At 2:25 a.m., he received a call for a domestic problem and had to go back up the Sergeant who was working that district (N.T. 19-20, January 26, 2012).

141. The officer had been on the scene of the domestic incident for approximately thirty seconds when he received a call and had to return to the licensed club. The officer noted that the lights at the door were off and there were approximately ten people outside in line. He told the people that the club was closed and that they had to go. They began disbursing what was left of the crowd. Although he had received a call that there was a flash mob, there was no disorderly crowd (N.T. 21-23, January 26, 2012).

142. One individual refused to leave the area and one was arrested for disorderly conduct (N.T. 23, January 26, 2012).

143. Corporal Anthony D'Ambrosio is employed by the Ridley Township Police Department and has been so employed for approximately sixteen years. He has been a corporal for about six years. He was working during the early morning hours of July 25, 2010. On July 25, 2010, he was on routine patrol when he received a call for a possible disorderly group in the parking lot of the licensed club. He was already in the parking lot when the call came at 2:30 a.m. Before the call came, there were people coming into the parking lot to go to the establishment. He responded to the call by telling them he was already on location and he did not see a problem other than a normal group of people trying to get into the establishment. He immediately cleared the call (N.T. 25-28, January 26, 2012).

144. He did note that there was another establishment in the area, but that it closes at 2:00 a.m. and people were leaving that establishment. He could see both establishments from his location. Neither crowd appeared to be disorderly (N.T. 28, January 26, 2012).

145. Officer James Gieder is employed by the Ridley Township Police Department and at the time of the hearing has been so employed for over four years. He was working the early morning hours of October 16, 2010 and is familiar with the licensed establishment (N.T. 29-31, January 26, 2012).

146. On October 16, 2010, he was patrolling at approximately 2:09 a.m. in the parking lot in front of the licensed establishment. As he drove past in his vehicle, he noticed an individual exposing himself by urinating between two parked vehicles, approximately forty to fifty feet from the establishment. He approached the individual and identified himself and took the man into custody (N.T. 32-33, January 26, 2012).

147. The people who accompanied the man indicated that they were just arriving and had not yet gone into the club (N.T. 34-35, January 26, 2012).

148. Ann Marie Jowder is the club secretary and manager. The night of the shooting, she was at the licensed establishment and in fact made the 911 call. She heard an argument and then what sounded like balloons popping, but when she realized they were not balloons, she called 911. She did not, however, see the shooting. The argument occurred only seconds before the shooting. She then heard loud voices and subsequently gun shots (N.T. 36-38, January 26, 2012).

149. According to Ms. Jowder, the premises was locked. As a member left, two people rushed in and passed her while the door was open for the patrons to leave (N.T. 40-41, January 26, 2012).

150. She claims that the two people that rushed passed her were the ones involved in the shooting (N.T. 42, January 26, 2012).

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151.The shooter was not a member of the licensed club according to Ms. Jowder (N.T. 42, January 26, 2012).

152.According to Ms. Jowder, the membership of the club increased greatly after the curfew and problems in Chester (N.T. 43-44, January 26, 2012).

153.Ms. Jowder indicated that neither the neighbors nor the business ever complained, so the township never told her that there was a problem (N.T. 45, January 26, 2012).

154.Ms. Jowder indicated that she in fact had called the police on several occasions and requested cars to come through the parking lot, but denies that she ever indicated that there was an emergency (N.T. 48-50, January 26, 2012).

155.Membership period at the club is one year (N.T. 57, January 26, 2012).

156.In December of 2010, the number of bouncers increased from four to six at the suggestion of an Enforcement officer (N.T. 60, January 26, 2012).

157.In July of 2010, Mr. Jowder indicated that they began using a wand, and prior to that they patted patrons down for weapons (N.T. 60, January 26, 2012).

#### CONCLUSIONS OF LAW:

On May 23, 29, June 27, July 11, 18, 24, 25, 31, August 8, 15, September 12, October 3, 16, 24, 30, December 5, 2010, February 19 and 20, 2011, the licensed establishment was operated in a noisy and/or disorderly manner, in violation of Section 471 of the Liquor Code, 47 P.S. §4-471.

#### PRIOR RECORD:

Licensee has been licensed since November 5, 1962, and since July 1, 1987, the date of establishment of the Office of Administrative Law Judge, has had a record of prior violations as follows:

In Re:

Citation Nos. 94-0823 and 94-1819, As Consolidated. \$750.00 fine and ten days suspension.

1. Sales to nonmembers without prior arrangement.
2. Discounted the price of alcoholic beverages for a period or periods other than a consecutive period of time not to exceed 2 hours in a business day.
3. Discounted the price of alcoholic beverages between 12:00 midnight and 3:00 a.m.
4. Served an unlimited or indefinite amount of alcoholic beverages for a fixed price.

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5. Engaged in unlawful discrimination in that Licensee provided alcoholic beverages to female patrons at a reduced price while charging full price to male patrons.
6. Sales between 3:00 a.m. and 7:00 a.m.
7. Sales to minors.

Citation No. 02-0128. \$350.00 fine.

1. Improper admission of members.
2. Failed to maintain records in conformity with Title 40 of the Pennsylvania Code.

Citation No. 11-0037. \$600.00 fine.

1. Sales to nonmembers.  
November 13 and December 5, 2010.
2. Failed to maintain a photostatic or certified copy of the charter on the licensed premises.  
December 4, 2010.

#### DISCUSSION:

Licensee is charged with operating in a noisy and/or disorderly manner, in violation of Section 471 of the Liquor Code, 47 P.S. §4-471. The burden of proof is on the Bureau to show by a clear preponderance of the evidence that a violation of the Liquor Code occurred. *Pa. Liquor Control Board v. PPC Circus Bar, Inc.* 506 A.2d 521 (Pa. Cmwlth. 1986); *In Re: Omicron Enterprises*, 449 A.2d 857 (Pa. Cmwlth. 1982). The phrase *preponderance of evidence* has been defined as evidence which is of greater weight or more convincing than evidence which is in opposition to it. *Black's Law Dictionary, Fifth Edition*, West Publishing Company, Copyright 1979, Page 1064.

If a licensee's business practice facilitates or creates an environment ripe for noisy or disorderly conduct, a violation has been established. *James H. Panighetti and John A. Panighetti*, 26 Sel. OP. ALJ 32.

After numerous incidents, this situation culminated in three people being shot inside the licensed premises. The result was chaos. Following that shooting, as people were exiting there were altercations in the premises and the parking lot, as well as abuse of the responding police officers. On numerous prior occasions, individuals in the parking lot outside of the licensed premises, seemingly awaiting entrance into the licensed club or leaving in mass at the close of

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business, behaved in a noisy and disorderly fashion. The behavior included roaring engines, loud radios, loud voices, cursing, fighting, public drinking and drunkenness, and public urination. In most cases, conduct on the street is the responsibility of the local police. And here the crowds, outside *on most occasions*, responded well to the police presence. Notwithstanding, the Court is persuaded that the business practices of the Licensee, to include failure to require an acceptable standard of behavior from their own members, and failure to have adequate private security contributes greatly to the problem.

In accordance with Section 102 of the Liquor Code, 47 P.S. §1-102, a club shall hold regular meetings, conduct its business through elected officers and admit members by written application, investigation and ballot. In that this establishment is operating under a club license, the only persons who should be entering the facility are club **members** and their guests, for whom they must take personal responsibility. Members of the general public would not continue to converge nightly on the club and stand in line awaiting admittance to a club, if they did not have an expectation that they could enter the club.

The Court, therefore, believes that it is fair and accurate to presume that the unruly persons coming and going and waiting in line outside the club are in large part properly admitted club members and their guests. Clearly, the club has many more members than its capacity to contain them inside or to maintain them while waiting outside or upon egress when the club closes for the night. Clubs are required to have some knowledge as to who their patrons are and therefore some capacity to exercise control over their members and their numbers. In addition, there was testimony that the club advertised for persons to come to this location when clubs in Chester were closed because of an emergency curfew in Chester. Clearly the RS Club was not prepared or able to deal with this influx of patrons.

The police from various townships in the area testified and concluded that no other establishment in the area requires this level of police presence. That would at least suggest to this Court that there is a problem with the nature and/or operation of the business. Licensee cannot simply abdicate its share of responsibility to the local police. Licensee should not have been calling the police for routine crowd control of their patrons. On the other hand, the Licensee should not be punished for calling the police when a situation is beyond their control or to prevent a situation from getting out of control. But, Licensee should not persist in business practices that create and perpetuate situations that are a constant drain on the resources of the police department of the various local townships.

It is highly suggested that if Licensee plans to continue operating that it be mindful that it operates under a club license, with all of its privileges and restrictions. Licensee is highly advised to scrutinize its perspective new members; to carefully review and purge its membership records; establish and enforce a code of conduct; and maintain adequate security inside and immediately outside the premises, as is necessary for peaceful and orderly operations.

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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.

Accordingly, we issue the following

ORDER:

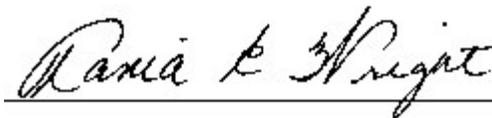
THEREFORE, it is hereby Ordered that Licensee, Roosevelt Club, License Number CC5614, pay a fine of One Thousand Dollars (\$1,000.00) within twenty (20) days of the mailing date of this Order. In the event the aforementioned fine is not paid within twenty (20) days from the mailing date of this Order, licensee's license shall be suspended or revoked.

IT IS FURTHER ORDERED that the Catering Club Liquor License of Roosevelt Club, License Number CC-5614 (including all permits and Licensee Discount Card), be suspended for a period of ninety (90) days. However, the suspension period is deferred pending the renewal of Licensee's license, at which time the suspension period will be fixed by further Order.

The Bureau of Licensing is directed to notify the Office of Administrative Law Judge of the renewal of the license so that an Order may be entered fixing the dates of suspension.

**Jurisdiction of this matter is retained.**

Dated this 11<sup>TH</sup> day of October, 2012.



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.**

**If you wish to appeal the decision on the Administrative Law Judge's Order, the appeal must be filed within 30 days of the mailing date of the Order. Please contact the Office of the Chief Counsel of the Pennsylvania Liquor Control Board at 717-783-9454.**

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Detach Here and Return Stub with Payment

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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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